Ideology and Hearings System Operations :
the Perceptions of Five Participating Groups

William Veitch

A thesis submitted for the degree of Doctor of Philosophy, University of Stirling

November 1993

Declaration

I declare that this thesis has been composed by myself, is the result of my own work and has not been included in any other thesis.

Signed ....

William Veitch

Abstract

Recent research related to the children's hearings system - Scotland's juvenile justice system - is limited. This study is an attempt to address this empirical deficiency. It examines the perceptions of members of five participating groups (guidance teachers, social workers, police officers, panel members and reporters) on the structure and practices of the hearings system in three regions of Scotland. The research involved 389 respondents in a questionnaire survey, followed by 45 semi-structured interviews with a selected sub-sample.

The study incorporated three research issues. Firstly, the groups' ideological perspectives on juvenile justice and their potential influence on attitudes towards the hearings system, secondly, the groups members' observations on present hearings system operations and thirdly the participants' convictions concerning future practice and structure.

The general conclusions drawn from the investigation indicate that support across the five groups exists for the continuation of a welfare based juvenile justice system in Scotland but that differences between groups emerge on the matter of the organisation of that system. Majorities in the police officer, guidance teacher and social worker samples were ideologically opposed to lay decision-makers in juvenile justice and most interviewees from these groups expressed reservations concerning the continuation, in its present form, of the lay panel as the decision-making body in the hearings system. Most panel members and reporters in

contrast however, and again in accordance with their ideological stances, continued to support the dominant role of lay people in the decision-making process within hearings. The research conclusions further suggest the existence of a process of ideological modification on the part of group members when translating theoretical concepts into practical settings. This process, identified as situated accounts, in some instances permitted participants to acknowledge and work with aspects and practices within the hearings system which contradicted their underlying ideological beliefs.

Acknowledgements

way. Finally, I wish to dedicate this thesis to my wife without whose support, enthusiasm and encouragement I could not have completed the study.

Contents

Chapter One : Professionals and the Hearings System

The children's hearings system has operated as Scotland's juvenile justice system since 1971. Although research in the past has been conducted into its structure and practices, no single recent study has attempted to assess the attitudes of a range of key participating agencies on the current operations of the hearings system. Equally no recent research has been undertaken which attempts to assess these groups' ideological perspectives which may in turn influence their views on operations. This study will attempt to remedy this deficiency in the field of juvenile justice research.

The study is composed of two elements: the first is concerned with establishing the participant groups' ideological affiliations in relation to juvenile justice with the realisation that group background and training may influence attitudes - a preliminary discussion concerning this aspect is given in this chapter; and a second element which attempts to determine the agencies' perceptions of present and future hearings system operations in the light of their ideological perspectives. Hearings system operations within the context of this study are defined as they appear in chapters five to eight: Discussion and Decision-making; Child and Parental Rights; The Lay Aspect; and Liaison.

With the adoption, under the 1968 Social Work (Scotland) Act, of the children's hearings system as Scotland's juvenile justice system a new dimension was created within this aspect of childcare. The condition that panels be composed of three lay people (1968: schedule two) and that these panels should have the responsibility for the decisions taken and the disposals made in relation to children requiring compulsory measures of care, could be seen to be in direct conflict with the existence of the professional and professional expertise in this area.

To comprehend and investigate this potential dilemma for the hearings system it is essential in the first instance to establish defining criteria for the concept of professionalism and then to relate these to the prevailing position within hearing operations. It is the intention in this chapter therefore, to explore the emergence of the modern profession and to attempt to identify its characteristics or motivations, then to refer these to the hearings system and to the position of the professional and lay person within the hearing process. The issues include: do professions have unique characteristics; how might these relate to their position within the hearings system; and do problems arise for the hearings system in its deliberate involvement of professionals and lay people in hearing procedures?

Pre-Industrialisation

Professional occupations in pre-industrial and post industrial Britain differ in their characteristics. Although an attempt is made later in this chapter to establish defining criteria for contemporary professions it is possible at this point to identify two main processes of change that separate the character of pre-industrial professions from those in post-industrial Britain.

These main processes of change were: the decline of privileged professionalism in which professions were relatively unimportant in the actual work they did but were the domain of the privileged or patronised classes, and conversely the rise of occupational professionalism based on specialisation of knowledge and task. Elliott elaborates:

> The first of these processes directs attention to the place which professions occupy relative to other class and status groups[...] The second focuses on the part which professionalism plays in managing the division of labour and specialisation of knowledge. (1972: 14)

In Britain the emergence of the second type of profession coincided with the growth of industry and urban expansion in the nineteenth century. Industrial growth and the development of the market economy reversed the relationship between occupation and social status. In pre-industrial society those individuals occupying high social status did not work or require to earn a living through labour (Salz, 1962). Professions in pre-industrial society then, contributed only marginally to the economy. The ideology of professionalism at this time emphasised the independence of the professional from the employer, client or from work itself. Marshall (1939) suggests the professional person before the

industrial period did not work to be paid; but was paid to permit him/her to work (1939: 325). Even by the eighteenth century there was still a large element of patronage in professional organisation. Many artists, performers and writers, for example, were affiliated to individual patrons (Lewis and Maude, 1952). Also in many of the traditional professions, including the church, appointments were still controlled by members of the nobility, gentry or universities. The outcome of this process Elliott suggests was, 'to maintain the link between these groups and the professions in the status structure. Appointment in a profession provided a niche for the younger sons of the patrons or of their friends' (1972: 24-25).

The processes of recruitment and financial dependence which bound the professions closely to the privileged classes were strengthened by the almost total absence of specialist expertise in any of the traditional professions - medicine, law, the military. Newman (1957) claims that the medical skills and learning of physicians, for example, were limited mainly to the task of writing prescriptions. They may have been well educated in the classics but Newman suggests, they depended upon the ignorance of their patients and their inspiring manner to develop a medical practice. Vocational medical education, it must be said, had developed in Edinburgh by the end of the eighteenth century. In England however, examinations only performed the function of ensuring candidates of the correct social standing were admitted to the profession. The exclusiveness of the Royal College of Physicians limited its fellowships to graduates of Oxford or Cambridge and as Reader explains, these physicians may have prided themselves 'on being learned men, but not especially on their medical learning' (1966: 18).

In industrial societies occupation is a determinant of general social status. It has as Elliott observes, 'acquired this significance as a social category because of the development of labour power as an important commodity in the exchange economy' (1972: 15). Etzioni illustrates this feature when considering the position of so called 'semi-professionals':

> One reason, it seems, they [semi-professionals] aspire to professional status is because the only alternative status is that of the non-professional employee [...]. As semi-professionals see it, they obviously are 'more' than secretaries, salesgirls, or office clerks. (1969: vi)

The growing importance of occupation as a marketable labour commodity was reflected in the professions by a tendency towards specialisation of expertise and task. During the course of the nineteenth century industrialisation and its specific work demands changed the social order in society. From being a hindrance to any claim to social status, occupation became a key indicator to social position. Carr-Saunders and Wilson (1933) indicate that responsibility for this transformation rests primarily with the mechanical and scientific developments of the industrial period. These changes, the authors suggest, heralded the creation of new occupations - engineers, surveyors, scientists - specific skilled occupations, which began to lay claim to the status of professional. Elliott suggests:

> Education became important as a mechanism of social selection at the same time as occupation became necessary as a claim to a position in the new middle class. (1972: 53)

The demands of society which aided this emergence of new professional groups and the new middle class also manifested changes in the older professions. As

Reader (1966) elucidates internal demands within these professions as well as the demands of sections of society for specialisation and expertise forced consolidation and organisation. In the case of the medical profession, for example, the nineteenth century saw the unification of the profession from three disparate occupation groups: surgeons, physicians and apothecaries, the foundation of a professional journal - the Lancet in 1824, the establishment of a licensing and controlling body - the General Medical Council in 1858, and the creation of a professional association in 1832 which became the British Medical Association in 1856. Millerson (1964) suggests that between 1800 and 1850 seven new professional associations appeared including a Society for Attorneys and Solicitors in 1825. These developments constituted the basis for specialised bodies with specific and regulated knowledge and recognised responsibilities.

Historians and sociologists - Carr-Saunders and Wilson (1933), Millerson (1964), Reader (1966), Elliott (1972) - accept that the modern concept of a profession emerged with the development of industry and the Industrial Revolution. During this period older professions, particularly law and medicine, modernised and became more systematic in their structure and organisation and new professions came into existence. The question remains however: what defines a profession - are there specific characteristics or criteria or ideological attributes that denote a profession and professionalism?

Vollmer and Mills suggest that the,

> concept of a profession be applied to an abstract model of
> occupational organisation, and that the concept of
> professionalisation be used to refer to the dynamic process whereby
> many occupations can be observed to change certain crucial
> characteristics in the direction of a profession. (1966: 7-8)

The definition of a profession would seem to be then a matter of identifying these crucial characteristics. Millerson (1964) indicates a problem with this strategy, however, and asserts, 'of the dozens of writers on the subject, very few seem able to agree on the real determinants of professional status' (1964: 15). Johnson (1972) suggests that the confusion surrounding the definition of what constitutes a profession may be tempered by dividing existing approaches into two models - the 'trait' model and the 'functionalist' model (1972: 23).

Trait Model

An example of the trait model - which attempts to identify common professional characteristics - is found in the work of Millerson (1964) within which, after close scrutiny of the prevailing literature on this subject, he defines twenty-three characteristics which have been included in definitions of the concept of profession. It is interesting to note that of the characteristics presented by Millerson, collated from twenty-one authors including Carr-Saunders (1933), Marshall (1939), Parsons (1939), Lewis and Maude (1952), no single item is accepted by all as essential in denoting a profession. Millerson's list does include

six frequently mentioned traits however: skills based on theoretical knowledge; the provision of training and education; members' competence tested; organisation; adherence to a code of conduct; altruistic service (1964: 5).

Both Johnson (1972) and Wilding (1982) see the trait theory and the disorder it generates surrounding the definition of a profession as inadequate. For those authors the model relies too heavily on an 'ideal type' from which the characteristics of professionalism are to be determined. Medicine and law are seen as the classical derivatives for this type of profession. As Johnson suggests:

> there is little attempt in the trait approach [...] to articulate
> theoretically the relationships between the elements

and as such it

> too easily falls into the error of accepting the professionals' own
> definitions of themselves (1972: 24-5)

There is also no systematic consideration given within the various professional characteristics to account for such factors as the differences in prestige and standing amongst professions. Leggatt (1970), for example, suggests that the low status of the child as a client is a significant factor in determining the relatively low prestige of teaching as a profession or as Etzioni (1969) defines it - a semi-profession.

Functionalist Model

The second approach to defining a profession is that belonging to the functionalist school. Elements of the functionalist model are limited to those which are said

to have 'functional relevance either for [...] society [...] or for the professional-client relationship' (Johnson, 1972: 33). Under this school of thought Barber (1963) suggests professional behaviour constitutes four essential aspects: a high level of general and systematic knowledge; a leaning towards community interest rather than self-interest; behaviour influenced by a code of ethics; and work related achievement awards (monetary or honorary) (1963: 672).

Although there may appear to be, at first glance, little difference between the components of this concept and some elements of the trait theory, Barber does define what he sees as the particular emphasis of the functionalist approach. He suggests the importance to the functionalist model of a high degree of generalised and systematic knowledge originates from the view that knowledge exerts a 'powerful control over nature and society [therefore] it is important to society that such knowledge be used primarily in the community interest' (1963: 672). Consequently professions should exhibit a community orientation and because only professionals understand fully the implications of their knowledge and practice they should have ultimate control over them. Under the functionalist theory this sacrifice and commitment to the community interest is recognised and rewarded by society: financially and - or through social value and prestige. As Johnson explains:

> Honour tends to be more significant to professional practitioners because it is associated with the primacy of community as against individual interest. Businessmen, being self-centred, make do with money. (1972: 34)

Rueschemeyer (1964) criticises this approach to defining professions. He determines that such a model must assume, and he suggests it is a false

assumption, that the generalised and systematic knowledge exhibited by professionals will be of equal value to all groups in society and that the outcome of this will be increased status and autonomy. Using law as an example Rueschemeyer claims that the opinion of and value placed on the principles and organisation of that profession will vary for different class or status elements in society depending on their concept of justice - some may not hold it in high regard. He also attacks the view that professional status is related to the knowledge applied by the group concerned. The claim he makes is that to a large extent lawyers engage in activities central to their role yet not necessarily dependent on a systematic body of knowledge and the same may be said of the general medical practitioner. Much of the work of both these professionals Rueschemeyer suggests relies primarily upon generalised interpersonal skills and not occupational expertise. Furthermore, Wilding (1982) poses the question: should we regard the emphasis on knowledge, training and education associated with professional activity not so much as a means of protecting clients from poor practitioners, as professionals imply, but more cynically as a way of securing a monopoly and generating a scarcity of service? (1982: 10)

Licensing too, Berlant (1975) argues, with respect to the medical fraternity in America, did not arise out of concern to protect the public interest but was introduced at the request of the profession when seeking legal privileges and security. Roth (1974) agrees with this assessment and emphasises that in licensing the crucial factor is not social need but, 'the political power of the occupational group which seeks this type of protection'. (1974: 21)

The granting of autonomy and control of an occupational area is for Wilding (1982) a sign of political abdication, 'the feeling [...] that such control should be separated from political authority and handed back to the experts' (1982: 10). Without this political alliance the power and privilege of a profession over its occupational area would be severely curtailed. For Freidson (1970) it is this occupational control that is the ultimate distinguishing feature of a profession and which separates it from other occupations. What is special about a profession, he insists, is that it is,

> an occupation which has assumed a dominant position in a division of labour, so that it gains control over the determination of the substance of its own work. (1970: xvii)

Johnson agrees with this assertion and writes:

> Professionalism, then, becomes redefined as a peculiar type of occupational control rather than an expression of the inherent nature of particular occupations. (1972: 45)

Professionals and the Hearings System

Despite the controversy surrounding a mechanism for defining the term professional, two practices associated with the concept of professionalism and significant to its consideration in relation to the hearings system are indicated by Johnson (1972).

The first aspect is a professional group's emphasis on expertise and the need to use codes, jargon and symbols to create a mystique around its work and knowledge base. Jackson observes:

11

> By virtue of their character [...] areas of knowledge [applied by
> professionals] assume a mystery, a quality of the sacred whereby
> they take on a distinct mystique which distinguishes them from
> more mundane matters. The professional becomes necessarily the
> high priest of that area of knowledge. (1970: 7)

Schumpeter (1951) sees this mystification as a form of monopoly over certain

knowledge perpetuated and controlled by the professions to suit their own

privileged ends.

The second and associated aspect identified by Johnson (1972) surrounds the

diagnostic relationship between the professional and the client and the need for

the professional's expertise to be taken for granted and accepted. Within this

framework the judgement of the professional as Halsey explains, 'may be quite

opaque to those outside the profession. The professional, by definition [then], is

absolved from justifying his decision' (1970: 25). For Greenwood (1962) and

Goode (1966) it is the use of expertise in this manner that distinguishes the

professional from other occupational groups. Greenwood uses a simple analogy

to explain this phenomenon. A non-professional occupation, he suggests, has

customers, a professional occupation has clients; the difference being that in the

case of customers they are in control and determine what they want, in a

professional-client relationship, however, professionals dictate - they determine

the medical care, legal advice, social care, their clients' need (1962: 209-10).

In their study of professionals and parents, Cunningham and Davis (1985) identify

what they define as the 'expert model'. Under this approach professionals

considered themselves to have 'total' expertise. They took control and made the

decisions. They selected the information that they thought was relevant and only obtained that information they felt was vital. In this process, Cunningham and Davis observe, consideration of parental views and feelings, the need for a mutual relationship and negotiation, and the sharing of information were not considered important by the professionals. These were regarded as irrelevant to the diagnosis and solution of the problem (1985: 10).

On both aforementioned elements the authority of the lay panel member in a hearing poses an inconsistency and contradiction. A panel member can, and, from the comments of panel members and social workers in this study, frequently does require social workers to unscramble their jargon and explain their recommendations and conclusions in 'laymen's' terms. This process can, as Johnson (1972) states, debase professional concepts and demystify professional ideas.

The decision-making authority of panel members can also impinge upon the diagnostic relationship between the professional - school teacher, social worker for example - and the client. Social workers in particular through discussion with the family and the child will arrive at a professional assessment of the case and may in turn have conveyed that professional assessment to the family concerned, thus perpetuating the powerful element of professional expertise in the professional-client relationship, only to have this professional assessment overturned or ignored by a lay panel. This process, when it occurs, undermines, as before, the mystique surrounding the work of the professional and disregards

the very codes that signify and enforce a group as a profession. As Schutz argues:

> The expert [...] knows very well [or believes he knows] that only a
> fellow expert will understand all the technicalities and implications
> of a problem in his field, and he will never accept a layman [...] as
> a competent judge of his performance. (1970: 240-1)

Yet, professionals like social workers and teachers at hearings have to do just that - a situation that some members of these professional groups in this study find difficulty resolving (chapter seven).

Prior to a hearing however, Wilding (1982) would argue, the position regarding professional discretion and power is reversed. Instead of these aspects being challenged and perhaps undermined by lay people, the nature of the hearings system, for Wilding, reinforces professional control. The reporter, as a professional, he argues, has the unchallenged capacity to decide on whether or not a child requires compulsory measures of care and this is influenced to a large degree by the social worker's report. This report also forms the main basis for discussion at the hearing and Morris and McIsaac (1978) suggest panel members are reluctant to challenge the contents of this professional document therefore implicitly re-emphasising professional authority and expertise. Paterson (1972) indeed suggests that in such cases the actions of lay panels perform the task of legitimising professional decisions.

There are two major problems with this overall assessment, however. Firstly, Wilding (1982) claims that the reporter is a professional defined as such because, 'reporters tend to be ex-lawyers or ex-social workers' (1982: 49), but no occupational criteria or qualifications have as yet (Finlayson Report, 1992: 31;

Government White Paper on Child Care, 1993: 33) officially been stipulated by the Secretary of State for Scotland for the job of reporter and therefore as such the professional attribute of an extensive knowledge base and training is not specified. Technically then the occupation of reporter under this criterion at least cannot be designated as belonging to the professions.

Secondly, with respect to the context of a hearing itself, all the panel members interviewed in this study fiercely emphasised their independence as a scrutinising body of professional recommendations and claimed the reason why many social work recommendations are accepted by panels is because they are considered the most appropriate or most readily available courses of action at that time and not because panels are unwilling to challenge them. This view was supported by the majority of the social workers and reporters who were also interviewed on this matter in the research.

A further potential area of difficulty that arises with respect to lay-professional relations within the hearings system and one which relates to the concept of professionalism and in particular the belief in professional knowledge and expertise, is the issue of juvenile justice ideology. It is possible to argue, as Asquith (1983), that professionals because of their training, their accumulated stock of knowledge and occupational ethos - frames of relevance - will be influenced in their attitudes to the concepts, functions and practices of juvenile justice and this may in turn affect their views on such matters in relation to the hearings system. The attitudes exhibited by professionals may also contrast with

those cf lay people, particularly lay panel members, who as non-professional participants in juvenile justice and through their lay frames of relevance, may approach this issue from a different ideological standpoint. (Further discussion of the concept of frames of relevance, particularly lay frames of relevance, within the context of decision-making in the hearings system is given in chapter five.)

To explore and clarify this ideological issue which relates directly to an important feature of the current research, it is essential, in the first instance, to investigate the existence of prevailing ideologies within the realms of juvenile justice and the hearings system.

Juvenile Justice and Hearings System Ideologies

As the purpose of this present study was to assess the views of five participating groups (panels members, social workers, police officers, reporters, guidance teachers) on the hearings system and its operations and as these views may be influenced by ideological adherences, it was essential firstly to establish the groups' stances on juvenile justice ideology before considering their perceptions on the hearings system.

There has been previous exploration into the realm of juvenile justice ideology and it was from two of these studies (Smith 1977; Parsloe 1978) that the categories eventually used to determine the groups' ideological positions in this study were drawn.

Smith (1977) defines the term ideology as,

> a configuration of relatively abstract ideas and attitudes, used to characterise some perfect state, in which the elements are bound together by a relatively high degree of inter-relatedness or functional interdependence. (1977: 846)

This derivation accords with the definition of ideology advanced by Miller (1973) and by Hardiker in her study of social work ideologies in the probation service, as she describes:

> Ideology [...] refers to a relatively abstract body of ideas, beliefs and interests which is systematic enough to portray an underlying attitude amongst the members of a social group who adhere to it. (1977: 132)

To place an ideology in a more concrete form, so releasing it from the abstract, Smith (1977) utilises what he calls an 'operational philosophy' (1977: 846). This is a practical means by which ideologies are applied and achieved. Operational philosophies exist at a concrete, tangible level. They are as Smith defines, 'working arrangements and are operationally situated' (1977: 858). Like ideologies, operational philosophies display coherent sets of ideas which are consistent with the ideologies they interpret at the situational level. With these working definitions of ideology and operational philosophy in mind, Parsloe (1978) believes that within the realm of juvenile justice there exist three quite separate sets of ideas or ideologies. These she describes as the welfare approach, the criminal justice approach and the community approach. As she explains, each approach provides a different explanation for human behaviour and for deviant behaviour and supports different means of bringing about change in people as well as initiating different ideas about who should be required to change (1978: 8). The three ideological positions identified by Parsloe are similar to those

indicated by Smith (1977) regarding the hearings system. The labels attached to the ideological stances are different; Smith calls them law enforcement, social work and community involvement, but the substance of each is much like that specified by Parsloe.

Criminal Justice/Law Enforcement Model

The criminal justice/law enforcement approach concentrates primarily on the continuance of a stable society, focusing particular attention on the actions of individuals which might endanger or damage this stability. From this ideological position an illegal act is perceived as a disturbance of the social equilibrium. When this situation occurs order and the rule of law on which stability depends must be enforced and this Parsloe suggests, is achieved through the justice mechanisms of trial and sentencing. By such means individual freedom, an important feature of this model, is upheld (Smith, 1977: 847; Parsloe, 1978: 9).

Under the criminal justice/law enforcement approach it is assumed that individuals are responsible for their behaviour. Breaking the law and committing a crime therefore constitutes a deliberate act freely decided upon by an individual, thus 'neither unconscious forces nor sociological influences are important' (Parsloe, 1978: 9). The justice applied by this approach is that of equal justice irrespective of personal circumstance. Only in the recognition of this and through the discomfort of a fine or imprisonment, it is argued, will rational people avoid law breaking and others, faced with the evident consequences of

18

justice, be deterred from breaking the law. Punishment is seen as fair retribution for a freely chosen criminal act and provides a controlled and just alternative to vengeance which might otherwise lead to individuals taking retaliatory action on their own behalf and thus, again threatening the stability of society. From this ideological standpoint the children's hearings system is seen as an aspect of criminal justice. As Smith describes:

> Its task is the task of law enforcement and delinquency control [...].
> The establishment of panels is an extension of the court system
> [and ...] panel members should occupy a judicial role. (1977: 847)

Welfare/Social Work Model

The welfare/social work approach, as Parsloe describes, relates to the inability of individuals in society to progress adequately therefore not realising their full potential as citizens: a failure that constitutes a loss to society as well as to the individual. It is an approach that is, 'more concerned with what people are than with what they do'. Explicit acts of misbehaviour are significant only in so far as they reflect the existence of deeper problems for the individual and it is these deeper troubles that require treatment (Parsloe, 1978: 12). Within such an approach individual rights too are of less significance. The focus is upon need and so, unlike the criminal justice/law enforcement approach, fewer rules or regulations are required to protect the client. Decisions rely upon the discretionary judgement of professionals whose role in the choice and enactment of disposals is fundamental.

Again unlike the criminal justice/law enforcement model the concept of justice within the philosophy of welfare cannot be equal. As Parsloe suggests the welfare approach views individually crafted justice as,

> the only justice which can embody ideas of fairness, because people are not equal [...]. Not only are they unequal in wealth, education, racial and religious background, but in personality, potential and resources. (1978: 15)

Rehabilitation and reformation are the primary aims of the welfare/social work approach and retribution, punishment for offences committed and the deterrence of others have no influence within it. From this philosophical standpoint Smith (1977) sees the hearings system specifically as essentially an integrated part of the broader institution of the personal social services. A children's panel then is an instrument of this wider organisation with social work personnel and the concept of welfare playing crucial roles at all stages of the hearing process.

Community Involvement Approach

The third ideology identified and described by Smith (1977) and Parsloe (1978) is the community involvement model. This approach it is admitted is much less developed than the two previous models but of growing importance to the juvenile justice debate. Within the community ideal Parsloe describes a person who breaks the law as a 'victim of society' (1978: 16). It is society that has failed the individual; it has failed to provide the correct stimulation to prevent a decline into delinquency. The community must then take responsibility for this state of affairs and it is the members of the community who should be given the task of detecting and prescribing the correct treatment for the causes of delinquency.

Whereas the ideologies of criminal justice/law enforcement and welfare differ in their overall philosophy for juvenile justice - the former emphasising appropriate punishment for an unlawful act, the latter treatment for the underlying cause - both are agreed that delinquency and compulsory care are largely professional domains that should be tackled in the main by professionals. Smith claims however, that the ideology of community involvement 'rejects this perspective'. Under this ideological framework there is an attempt to, 'challenge the professionals' claim to exclusive dealings with problems' (Smith, 1977: 848). Children's problems are seen as as much the responsibility of the community at large and its members as that of the legal or social work professions. For the hearings system this approach emphasises the lay aspect of a panel and the involvement of lay panel members in the handling of young people's problems.

The Case of Multiple Ideologies

After identifying three ideological perspectives within the overall concept of the hearings system, Smith (1977) undertook to examine the way in which these ideologies gained expression in one professional group's - social workers - interpretation of hearings system operations. It might have been expected from previous discussions that most if not all social workers in Smith's study, having had the same professional training, would have adhered consistently to one of the identified hearings system ideologies, most probably the ideology of social work. Smith discovered, however, that this was not so. Not only did the social workers split as a professional group with some members adhering to each of the three

main hearings system ideologies, but multiple ideologies were also evident amongst these same social workers who had originally adhered to one of the three overriding hearings system ideals.

Smith's findings then, at first glance, would seem to cast some doubt over the theoretical speculation that the influence of professional training and the knowledge base associated with it functions to shape the perspectives and ideological allegiances of groups. Smith however acknowledges that his empirical data on which these findings are based are 'largely suggestive' and somewhat limited making definite research conclusions questionable (1977: 850). On the other hand, Smith's findings do suggest that the ideology of law enforcement appeared less philosophically at home amongst the social workers than the other two hearings system ideals - the supporters of which seemed more inclined to move between the two in line with their welfare orientated philosophies. This pattern indicates some consistency between the ideologies of social work and community involvement probably along welfare principles - a factor which perhaps accords more readily with social work ethos and training. Furthermore, Smith's conclusions do not dispel, they indeed confirm, the proposition of ideological conflict within social systems like the hearings system. It is claimed that, when individuals who, perhaps because of their occupational background, adhere to an ideological stance and find this stance consistently displaced in a system like the hearings system, disenchantment and frustration arises. As Smith elucidates in relation to hearings system ideologies:

> competing ideologies were [...] noted amongst [...] groups; such as
> Panel Members, the Police and the Reporter too [... and] if not

shared, represented an important source of strain within the system. (1977: 853)

Chapter four attempts to explore this concept of strain further and to assess the primary ideological stances of the participating groups in the study concerning juvenile justice and how these might relate to their views of the hearings systems and its operations. This latter aspect applies equally to the other four analytical chapters.

Ideological Distinctions

In assessing the ideological positions of the participating groups in the study concerning juvenile justice, the ideological distinctions made by Smith (1977) and Parsloe (1978) provided the basis for the analytical method used. A series of ideological statements (question nine in the questionnaire - Appendix one) were constructed for the purpose of determining the groups' prevailing ideological stances. These were derived from three ideological areas similar to those expounded by Smith and Parsloe. These areas were: Justice/Law Enforcement where punishment for laws broken and the protection of society are important factors; Welfare/Professional where the treatment of a problem, not the punishment of the symptom, is decided upon by professionals; and finally, Welfare/Lay Involvement which too embraces the treatment principle but where lay people are responsible for the decisions reached and the choice of treatment to be given.

Summary

Although debate surrounds a definition for the term professional a number of characteristics attributable to professionalism appeared relevant to the particular context of the hearings system and the prominent part played in this system by both professional and lay people. These attributes related principally to the concepts of professional expertise and the professional's relationship with clients, both of which are open to scrutiny by lay panel members during the course of a hearing. The capacity of lay people in a hearing to question, challenge and seek clarification from professionals and, if appropriate, disregard professional decisions and advice, particularly when the mystique surrounding professionalism and professional decision-making is an important facet of being regarded as professional, posed an intriguing issue worthy of consideration.

A further issue, again pertinent to the existence of lay people and professionals within one system, was their ideological stances concerning juvenile justice. The concept, derived by Smith (1977) and Parsloe (1978), of three conflicting ideologies within the juvenile justice field did beg the questions as to whether or not ideological stance may be influenced by professional background, or in the case of lay panel members, a lack of such a background and whether or not this ideological stance may in turn influence attitudes to the hearings system and its operations. Smith's findings relating to the ideological position of social workers provided an interesting empirical backdrop to this theoretical consideration.

Arising from these discussions surrounding professionalism, juvenile justice/hearings system ideologies and lay/professional relations presented in this chapter, were three research issues which constituted the framework and focus of this current study. These were: the ideological perspectives of the participating groups in relation to juvenile justice and their potential influence on how respondents perceive the operations of the hearings system; the participant groups' observations on present hearings system practice; and the respondents' convictions concerning future operating practices and developments.

In contemplating and assessing these issues it was anticipated that the ideological perspectives of the five responding groups on juvenile justice, perhaps influenced by their professional or lay interpretations, may have an overriding influence on their conceptions of the structure and operating practices of the hearings system both presently and in the future. This over-arching ideological theme provided the theoretical context within which the empirical analysis of the respondents' views was based.

Chapter Two : Historical and Empirical Perspectives

Historical Perspective

The term juvenile justice implies separate justice for juveniles - a separate system for handling children and their problems. In Scotland the hearings system since 1971 has been responsible for administering juvenile justice within the context of a welfare philosophy for both the majority of child offenders and for children in need of care and protection. Under such a philosophy children are not punished for their actions, but treatment is sought to tackle the underlying causes of those actions and the desire for 'individualisation and reformation of the child' and his/her behaviour is important (Parsloe, 1978: 105).

According to Morris and McIsaac (1978) however, until the nineteenth century separate justice for children in Britain and the conceptualisation of children and their problems as different from adults and their experiences were not considered or recognised as necessary or desirable. 'Accordingly, children accused of crimes were treated as adults at both trial and disposition stages - they could be executed, transported and imprisoned' (Morris and McIsaac, 1978: 1). The age at which criminal responsibility began was seven years. The notion of reformation and treatment of problems in the diagnostic sense was not an issue. The question that must be asked therefore, if the emergence of a welfare approach to juvenile justice is to be understood, is why did a change in approach and attitude to juvenile justice occur in the nineteenth century - what motivations lay behind this

transformation?

From a historical perspective, and as an important aspect of this study concerns itself with juvenile justice ideology, it is interesting to note that two governing attitudes to the handling of juveniles within the realm of justice - the criminal justice approach and the welfare approach - have had considerable influence over motives and actions in this area of child development. Despite recognised differences between the welfare/social work and community involvement models of juvenile justice, as identified by Smith (1977) and Parsloe (1978) - chapter one - both adopt a welfare or treatment approach to the handling of children's problems. It is the contrast between this approach and the punishment orientation of criminal justice in the development of juvenile justice that will be considered here.

It is the intention of this brief examination of juvenile justice development then, to trace the advances in justice and juvenile justice in Britain and Scotland with reference to these two influencing ideological concepts of welfare and criminal justice.

Pre-Industrial and Early Industrial Society

Justice in pre-industrial societies was characterised by the spectacle of physical and symbolic punishments exemplified by such practices as whipping, hanging and public ridicule. Some confinement did take place in the later middle ages, but it

was only with the emergence of capitalism and mercantilism that imprisonment truly came into being as an option for justice (Melossi and Pavarini, 1981; Dobash, 1983; Dobash et al, 1986).

Symbolic and physical punishments performed the function of visibly demonstrating the consequences of breaking laws and committing illegal acts. They were designed to be obvious, and for some offences brutal, for the purpose of deterring and 'demonstrating the final reckoning of the evil-doer' (Dobash et al, 1986: 16). Even into the eighteenth century, a range of physical punishments was used to control behaviour and to maintain stability and order within society including the dominant social order. Pre-industrial society was patriarchal (Stone, 1979; Laslett, 1983) and any challenge to this by men, women or children was visibly punished. In an ideological context then, pre-industrial society, both in the way it handled law breakers and in the motivations behind the punishment, displayed the hallmarks of a society committed to the concept of criminal justice.

Sixteenth and Seventeenth Centuries

With the decline of feudalism and the emergence and growth of agricultural and mercantile capitalism during the course of the sixteenth and seventeenth centuries, the ties that had secured the labouring poor on the land were gradually but irreversibly dismantled (Tawney, 1912; Pound, 1971; Beier, 1974; Dickson et al, 1980). The resultant unemployed and vagrant labouring poor (Jordan, 1959; Pound, 1971) posed a threat to the stability and security of society. This threat,

acknowledged as real in the minds of the educated Elizabethan and Jacobean, existed despite the actual numbers of vagrant poor present in society at that time. Beier (1974) claims for example, that vagrants constituted only a relatively small proportion - about two per cent - of the population in England and Wales at the time of James VI, and as Pound (1971) suggests such proportions could hardly be said to constitute 'a dangerous national situation' (1971: 85).

Protestantism and in particular Calvinism, however, stressed the necessity and correctness of work and labour (Weber, 1930), and people without work were contrary to this image and ideal. An idle workforce also eroded economic efficiency and productivity. As Dobash et al express:

> Although wandering and vagabondage were economically necessary
> for the labouring poor, the propertied classes saw this behaviour as
> detrimental to their own economic interests and created harsh
> labour and penal laws intended to maintain a stable and exploitable
> labour force. (1986: 21)

Wage limits, fixed term employment and longer working hours were also enacted, as were forms of systematic confinement. Houses of correction or 'Bridewells' - named after the first house of correction at Bridewell Palace - were directed at remoulding the individual through forced labour; training the poor, idle and criminal sections in society and transforming them into ideal, responsive workers capable of serving the needs of the capitalist society. Scotland did not employ houses of correction until the middle of the eighteenth century. The Scottish government like that in England was nonetheless concerned about idleness and vagrancy and in response passed similarly harsh laws. Legislation in 1574 and 1579 allowed that idle beggars be subjected to mutilation, whipping, banishment

and imprisonment (Mitchison, 1974; Lindsay, 1975; Dobash, 1983). The administration and control of the Scottish poor, however, and to some extent the initiation of punishment, was managed and conducted by the Kirk until 1845. The Kirk, unlike the entrepreneurs who advocated and established the houses of correction in England, was less inclined towards training and disciplining a workforce. The major concern of the Calvinist Kirk in Scotland was the moral redemption of the individual, a process with less necessity for incarceration. The Kirk's control in this area coupled with a weaker economy than in England, a more widespread continuation of the feudal order and a faltering capitalist influence (Campbell, 1965) prevented a more rapid development of confinement in Scotland than in England.

Eighteenth Century

The increased economic activity of the second half of the eighteenth century in particular, compounded the upheavals within society that had begun with the emergence of capitalism during the previous two centuries. The enclosure of land and the destruction of customary agricultural rights and practices which had begun in the sixteenth century were intensified during the course of the eighteenth century (Deane, 1965; Chambers and Mingay, 1966). Land owners enclosed land and expanded the number of supervisors and gamekeepers to enforce the new order. The changes within rural society were also associated with wider social upheavals - as Melossi and Pavarini describe:

> The remarkably accelerated rate at which capital penetrated into the countryside and the consequent expulsion from it of the

peasantry [...] helped to throw an unprecedented supply of labour on the market [...]. The phenomena of urbanism, pauperism and criminality grew to proportions hitherto unknown. (1981: 36)

Although the crime rate rose during the eighteenth century (Rusche and Kirchheimer, 1939) again, as in the sixteenth and seventeenth centuries, the assumption that this was related to a **mass** unemployed landless labouring poor has been challenged. Deane (1965) and Chambers and Mingay (1966) acknowledge that rural unemployment did exist in the eighteenth century but they question its alleged massive dimensions and its origins. They claim the various agricultural changes that were initiated at the time rather than causing unemployment may indeed have been more labour intensive. The certainty of land tenure for the smaller peasant landowner was certainly reduced though and for the cottager and squatter the loss of common land rights through enclosure did leave them designated as landless labourers (Thompson, 1968). More significant than land enclosure to rural unemployment during this period however, was for Chambers and Mingay (1966) the growth in population - as the authors explain:

> Population increase, which became far more rapid in the later eighteenth century than hitherto, was expanding the labour force at a rate faster than agriculture could absorb it, and the growth of numbers, of landless and sometimes unemployable labourers, was observable both in enclosed and the still open villages. It was this natural phenomenon, the origins of which are still obscure, which lay at the bottom of unemployment and the rising poor rates. (1966: 102-3)

Rusche and Kirchheimer (1939) confirm that the growth in pauperism during the early period of the industrial revolution was coupled with an increase in crime and rebellion and

In this political and economic context, confinement especially with labour, ceased to be a significant instrument of deterrence and systematic correction. (Dobash, 1983: 6)

Houses of correction as a form of social control began to decline, especially in England. As the number of inmates increased with the growing numbers of poor and destitute these institutions became crowded, more punishment-orientated and corrupt and consequently much less inclined towards producing a malleable and productive workforce. Their purpose within the justice system and to the maintenance of social regularity therefore, became increasingly redundant. The reaction to the perceived instability within society was instead an increase in punitive measures. Dobash et al (1986) for example claim that by the end of the eighteenth century over 200 offences were punishable by death - a large number of which constituted various forms of theft. Many convictions also led to transportation and longer prison sentences. Hay et al (1975) further suggest that as well as the increasing number of capital offences and those incurring transportation, a developing system of local magistrates with powers of summary justice over a range of offences also expanded during the eighteenth century to administer local justice.

Summary

What is evident from this brief résumé of pre-industrial and early industrial society and its approaches to crime and punishment, and what is also significant in the development of prisons and systematic confinement in the later eighteenth and early nineteenth centuries, is the increasing awareness and apprehension

within the ruling and commercial sectors of society of the labouring poor and the potential problems they posed to social stability and secure economic management.

Before the emergence of capitalism and the evolution of urbanisation the use of symbolic punishment served as a means of deterring crime by visibly signalling the consequences of breaking the law. The ideals of criminal justice - punishment and perpetuating the prevailing social order - were paramount. The rise of capitalism, mercantilism and the decline of feudalism, which has its origins in the sixteenth century, and the physical and organisational changes these events engendered in the countryside and amongst the predominantly rural population released a new 'threat' to social stability and to the exploitation of the new capitalist system - an unemployed labouring poor. The physical punishments of the previous centuries were no longer practical and likely to inflame riot and rebellion rather than deter them. The demands of society, the commercial sector and the protestant work ideal necessitated the establishment of new approaches to criminality and to the unacceptable social phenomenon of idleness.

The development of the workhouse and the Bridewell, as well as the increasing number of capital offences and offences leading to transportation, were responses to, in the former cases, the need for a productive and responsive workforce and in the latter cases, a stable and secure social order. Elements of reformation - a feature of a welfare system of justice - were evident in the creation of houses of correction in particular, but these were not predicated upon a desire to reform

for the sake of the individual but instead for the success and continuance of capitalism and the market economy.

Nineteenth Century

Parsloe (1978) claims that delinquency and increased criminality, already identified in the early industrial period, intensified with the growth of towns and the urban population principally during the course of the nineteenth century. Urbanisation was a necessary accompaniment to the growth of industry and industrial production (Flinn, 1966). Evans (1983) does stress however that the pace of the shift of population from rural to urban areas should not be exaggerated. As he describes, 'The movement [...] from predominantly agricultural to predominantly industrial centres was more a drift than a flood' (1983: 121). Deane and Cole (1967) and Tranter (1973), nonetheless suggest that by 1831, 45 per cent of the total population in England and Wales lived in areas or counties of a predominantly industrial and commercial nature. Campbell (1965) indicates that the population of the industrial central area of Scotland increased from 42 per cent of the total population in the early nineteenth century to over 60 per cent by the 1870s (1965: 178). As Bédarida emphasises:

> The urban population, which just formed the majority in 1851, was very far ahead 40 years later [...] in Scotland, Glasgow leapt from [a population of] 360,000 to 920,000 [between 1851 and 1901]. (1979: 16-17)

In this movement of population however, the change was not simply numerical. The transformation was even more one of the quality of life than of mere numbers. In the course of this urbanisation as Bédarida suggests, 'a new visual

34

scene emerged together with a new system of social relations and a new lifestyle - in brief a new civilization came into being' (1979: 17). For those workers and families involved in these developments their way of life was immeasurably altered. Their timetable of life and work once controlled by nature and the seasons was replaced by the monotony of a strict, regulated and long working day, and a six day working week. The open, spacious country atmosphere now became the closed confines of the factory and the overcrowded, cramped and unhygienic tenement or back to back housing so commonly found throughout British cities (Mathias, 1969; Bédarida, 1979). These conditions, in combination with the need to earn money to survive and remain clear of destitution, had a dramatic effect on the pattern of family life for many working people.

For the first time jobs in the industrial sector meant, for a significant part of the population, a separation of work from family and domestic life. As both parents were forced out to work Perkin referring to early studies (Gaskell, 1836) suggests:

> Babies and infants were neglected, farmed out to baby-minders who fed them badly and unhygienically or not at all [...]. Older children at wages repudiated parental discipline and moral control, demanding to board at minimal charges or leaving home altogether [...]. Working wives had no time to clean and cook for and look after their families [...] (1969: 149).

Although some historians and sociologists (Smelser, 1959; Perkin, 1969; Anderson, 1971; Harris, 1983) may consider aspects of this assessment extreme, Anderson (1971) does confirm that family life for working people during the industrial period did become influenced by individualism. Foster (1974)

acknowledges Anderson's empirical judgements as to the poverty of the population and the frequency of 'critical-life situations' and their importance in shaping and controlling family life.

Conditions amongst the working classes were such that Parsloe claims, 'crime was endemic, religion almost non-existent and revolution a possibility' (1978: 107). The same situation manifested itself in the United States. Bloomfield (1979) suggests that for the first time in America the behaviour of sections of the poor was being viewed as a threat to social order and so a problem that had to be tackled. Platt (1969) refers to the reaction to this fear of growing social instability in the United States in his discussion of the child-saving movement. This movement, centred on the resolution of children's problems, not only attempted to tackle these, but in the process invented new categories of youthful misbehaviour. A similar process took place in Britain in the nineteenth century. A growing recognition of delinquency and crime, a recognition also of the potential threat it presented to society, precipitated a desire to intervene, both to preserve social order and stability and, in contrast with previous centuries' reforms, on the grounds of humanitarianism.

Early in the nineteenth century, the dominant social doctrine was that the condition of children should be improved through the general betterment of the lot of their parents. Children were not seen in a social sense as a separate group (Morris and McIsaac, 1978; Parsloe, 1978). Only in industry was this trend reversed. The industrialists and entrepreneurs of the industrial period were quick

to recognise the existence of children and women in an economic sense. Although women and children within the peasantry of pre-industrial Britain had also worked (Stone, 1979; Harris, 1983) it was the nature, condition and spectacle of employment in nineteenth century industrial society that proved different. Evans (1983) claims that children earned between one third and one sixth of their adult male counterparts. There was great incentive therefore to employ children wherever possible and to encourage workers to bring their families to work in the factory. In the late 1830s approximately 107,000 children under the age of eighteen were employed in cotton mills - 29 per cent of the total workforce - and indeed 66 per cent of the textile industries' labour force was made up of either women or children (Evans, 1983: 123).

Many working children, like their parents, were subjected to devastatingly long hours - Deane (1965) and others indicate shifts of between 12-16 hours long continuously both day and night. They also faced harsh discipline, poor food and some suffered horrific injuries because of the nature of their employment on the machines. The semi-slavery of pauper apprentices removed by poor law guardians to the charge of factory owners so that they would relieve pressure on the poor rates drew particular attention from factory reformers. The 1833 Factory Act limited working hours for children - for those aged between nine and thirteen to 8 hours per day, with no night work. It also outlawed the work of children under nine, attempted to enforce the provision of elementary schooling for nine to thirteen year olds and introduced a paid inspectorate of factories (Ward, 1962; Deane, 1965; Chambers, 1968; Mathias, 1969). Chambers (1968) suggests that

the provision of this Act and of subsequent acts - Mines Act of 1842 and the

Factory Act of 1844 for example - did exhibit the hallmarks of humanitarianism

and a genuine concern for the well being and welfare of children.

Legislation in the area of juvenile justice in the nineteenth century also

exemplified elements of humanitarianism and welfare for children but these

sentiments were mixed with those of control and punishment.

Juvenile Justice in the Nineteenth Century

At the beginning of the nineteenth century no separate system of justice existed

for children in Britain. As Parsloe (1978) indicates, juveniles were brought before

the same magistrates or judges as adults, remanded to the same prisons to await

trial and if convicted were subject to the same sentences including death,

transportation and imprisonment (1978: 109). It must be said that in practice,

however, the justice system did not function as precisely as this. Although in

theory children could be given the same sentences as adults, juries, particularly

in relation to the death penalty, were reluctant to impose such a sentence. Knell

(1965) for example indicates that of 103 children sentenced to death at the Old

Bailey between 1801 and 1836, not one was executed (1965: 199). Parsloe (1978)

suggests, however, that it would be a mistake to assume that these apparently

philanthropic attitudes in the early nineteenth century displayed any developed

sense of awarding special consideration to children. Children were still

imprisoned and transported, and conditions in prisons and on convict hulks would

indicate that the motivation behind sentencing seemed to be that of punishment. The possibility of reformation under such conditions was most unlikely while the risk of contamination was high.

Contamination

The dangers of placing children and older offenders together were recognised. As early as 1835 the third commission on criminal law considered the issue of contamination - that children may be negatively influenced in their behaviour by their association with older, more hardened criminals. It was not until 1847, however, that the first legislative change was made concerning the issue of contamination, particularly for juveniles awaiting trial. The Larceny Act extended summary jurisdiction by granting justices in England the power to try children under the age of fourteen who were charged with stealing. In 1850 the age was raised to sixteen. In 1879 the Summary Jurisdiction Act expanded the power of justices to handle children under the age of twelve for all offences and those under sixteen for stealing and fraud. Morris and McIsaac claim that after this later Act, 'most children were thereafter tried by magistrates' courts rather than at higher courts. By 1880 in Scotland most children also appeared before some petty, usually a burgh or police, court' (1978: 2-3). Furthermore, from 1866 magistrates could send children to the workhouse instead of prison to await trial - thus preventing contact with older prisoners while on remand. This power was made mandatory in the 1908 Children Act (Morris and McIsaac, 1978: 2-3; Parsloe, 1978: 114-15).

Greater risk of contamination for a child existed though in being sentenced to a

term in prison. This was identified as a possible cause of delinquency by the

Society for Investigating the Causes of the Alarming Increase in Juvenile

Delinquency in the Metropolis (1815). An early attempt by the government to

establish separate custodial institutions for children came in 1838 with the

opening of Parkhurst prison on the Isle of Wight. This was to accommodate boys

waiting transportation - it closed in 1864.

Several societies like the Philanthropic Society, which had their origins in the

eighteenth century, already provided limited alternatives to prison for some

children. The Philanthropic Society as Pinchbeck and Hewitt explain:

> changed from a voluntary organisation with a rather diffuse
> conception of rescue and reform of the young to a specialised
> organisation bent on the rehabilitation of delinquent boys. (1973:
> 429)

These organisations and their welfare orientated ideals, in association with the

motivation of individual reformers like Mary Carpenter, applied continued

pressure at this time to government to introduce reformatories for juveniles as

an alternative to incarceration in adult prisons. A Select Committee into the

Treatment of Criminal and Destitute Juveniles in 1853 reported in favour of

reformatory schools and suggested a framework for their finance. In 1854 the

Youthful Offenders Act, and its equivalent in Scotland, created a system of

reformatories and gave courts the power to commit children under sixteen to

these institutions rather than to prison. Reformatories were designed to influence

and change the behaviour of delinquent children, particularly through the

application of a disciplined, religiously orientated regime.

Although clearly this legislation and that designed to establish alternative placements for children awaiting trial were conceived with welfare ideals in mind, there were also present elements of criminal justice. The notion that by preventing contamination children may be spared from a future life of crime was conceived as much out of concern for social stability as from concerns for the well being of the children. Parsloe (1978) further demonstrates, perhaps more obviously, the tension between ideas of welfare and those of criminal justice in her discussion on the 1854 Youthful Offenders Act. In this Act she claims, and particularly in its amendment requiring that a child spend fourteen days in prison before going to a reformatory (1854 Act: 2), 'the need for punishment outweighed the risk of contamination in a fourteen-day period.' (1978: 119)

Separating Offenders and Non-offenders?

Also in 1854 the Industrial Schools Act for Scotland was passed. This Act, and the subsequent amendment Act of 1861, granted courts the power to commit to industrial schools: vagrant and destitute children under the age of fourteen, those claimed by their parents to be beyond control, those who associated with criminals and prostitutes and children under twelve who had been convicted of criminal offences. The schools were designed to train and educate children for work thus providing some basic skills to permit them to support themselves in later life. The separation of those children committed to reformatories and those sent to industrial schools followed the distinction made by Mary Carpenter. She identified two classes of unfortunates - the dangerous and the perishing classes.

Those children classified as 'dangerous' were those already involved in crime or in possession of a criminal record. Children in the perishing classes were those not yet fallen into actual crime but almost certain to do so because of social circumstance (Carpenter, 1968: 2). The legislation of 1854 and subsequent legislation which created and developed reformatories and industrial schools raised, for the first time, the issue of the criteria to be adopted in deciding which children should be referred to these institutions. It also, as Parsloe (1978) suggests, marked the beginning of the discussion as to whether or not children who commit offences should be differentiated in their treatment from other children with problems. Parsloe makes the distinction:

> If one is concerned with punishment and deterrence, then mixing criminals and non-criminals is obviously unfair and unwise. If, however, one is looking at the question within a welfare framework, then classification should depend upon the type of treatment required to meet the child's needs and not upon past behaviour. (1978: 123)

In the mid-nineteenth century the former attitude to juvenile justice remained influential, for, as Rose (1967) and Pinchbeck and Hewitt (1973) point out, reformatories were established primarily to deal with offenders, while industrial schools were designated to handle those children not yet fallen into criminal activity. As reformatories came to resemble prisons for juveniles in both character and regime this division highlights the fact that the 'punishment for offences committed' attitude - a criminal justice approach - still prevailed within the thinking surrounding juvenile justice at this time.

Pinchbeck and Hewitt (1973) and Morris and McIsaac (1978) however, identify a shift in attitude on the role of reformatories and on the criteria governing the

commitment of children to these institutions in the reports of two late nineteenth century government bodies. In 1884 the Report of the Royal Commission on Reformatory and Industrial Schools envisaged the operation of reformatory schools as a means of protecting society from delinquent children, whereas the Departmental Committee on Reformatory and Industrial Schools in 1896 stressed the importance of the child's needs and welfare as significant factors in reformatories' operations. This difference in attitude heralded an increase in the momentum for change in juvenile justice in accordance with the ideals of welfare and in the movement towards the creation of separate and independent courts for juveniles - eventually achieved through the Children Act of 1908.

Why did this attitudinal change occur?

Morris and McIsaac (1978) claim that British penal policy in the nineteenth century, like that in the rest of Europe, was influenced, although to a lesser degree, by the emergent concept of positivist criminology. This philosophy moved the responsibility for criminal acts away from the individual and individual will towards a recognition and acceptance of the fact that behaviour may be influenced by external factors beyond the control of the criminal such as unemployment and social deprivation. Crime was considered a disease, a symptom that could be cured if the causes were tackled and if treatment was applied. Under this transformation penal policy began to move away from punishment and embraced more emphatically than before the concepts of prevention and reformation - welfare ideals.

Despite this change of emphasis in justice theory and practice, however, the reforms of nineteenth century philanthropists continued to be tinged with elements more readily associated with the ideals of criminal justice. There was still the need and desire to control and influence the working population for the purpose of preserving the existing social order. Flinn (1967) suggests that the creation of charity schools and Sunday schools for example rested with the notion of developing within the poorer classes values of humility and submission to their betters. Poor children were educated to know their place and there was a necessity to create 'an education sufficient to inculcate a due sense of obedience and humility, and an absence of social or economic aspirations' (1967: 16). The same doctrine can be identified in the ideals and working practices of both reformatories and industrial schools. Morris and McIsaac (1978) claim that evidence of these views also exists in the contemporary writings of the time on the subject of the delinquent child.

> The arguments in favour of reform were founded [...] on concern
> for the delinquent child but also on the threat to society from the
> dangerous and criminal classes (1978: 7)

When commenting earlier on mid-nineteenth century legislation on reformatories Parsloe (1978) emphasised the tensions that existed between welfare concepts and those of punishment; at the end of this century contradictions and concerns around these concepts clearly still prevailed. Since the ideology of criminal justice (Smith, 1977; Parsloe, 1978) embraces both the elements of punishment and social control within the context of preserving social stability it can be concluded that the ideological conflict between welfare and criminal justice in the late nineteenth century continued, although in relation to previous centuries the

welfare ideal had undoubtedly developed and had become more prominent in both the theory and application of justice, and in particular juvenile justice, and amongst those responsible for legislation and reform.

Towards Kilbrandon

Although Priestley et al (1977) acknowledge that from the mid-nineteenth century the concepts of welfare and prevention were more prominent and although they also recognise that the powers of courts to send children to prison were being progressively eroded, they claim that a public appearance in court in itself could 'brand' a child as a criminal almost in the same way as going to prison. They suggest, 'the operation of the law itself, in other words, was recognized as a potentially contaminating influence' (1977: 3). The realisation of this has since been one of the guiding principles in juvenile justice reform. The Children Act of 1908 gave impetus to this process in that it introduced for the first time the concept of separate juvenile court jurisdiction. Murray (1983) claims, however, that despite this realisation of the need for separate juvenile justice and the legislation of 1908 and indeed the subsequent Children and Young Persons (Scotland) Acts of the 1930s which established approved schools and lay justices of the peace in juvenile courts, the actual progress made towards providing distinct juvenile jurisdiction proved limited for much of the twentieth century. When the Morton Committee (1928) reported on the treatment of young offenders in Scotland it found, for example, that the majority of juvenile cases throughout the country were still heard in sheriff courts and burgh courts; with

the exception of one county, no juvenile courts had been established in Scotland -
a situation that remained virtually unchanged for a further thirty years (table 2.1:
page 50).

The comments of the Morton Committee (1928) and the corresponding
committee in England and Wales - the Molony Committee (1927) - were also
critical of some of the operational aspects of juvenile courts, suggesting they were
less than adequately prepared for handling young people and their difficulties.
Both committees recommended that the courts should be staffed by personnel
with specific qualities: an interest in and concern for young people and the
treatment of their problems and a capacity for insight into young people's lives
and their social environment (Molony, 1927: 25; Morton, 1928: 42-43).

Although the committees stipulated that a main function of a juvenile court
should be to consider the welfare of the children concerned and to provide
appropriate treatment (Molony, 1927: 20-21; Morton, 1928: 44-5), their
acceptance of the principles of welfare justice was not all-embracing. In both
reports the delinquent child was still viewed as a criminal, responsible for his/her
actions and deserving of appropriate punishment. Nonetheless although not fully
accepted as a governing principle for juvenile justice the welfare ideal was clearly
recognised and was influential in the deliberations of these two early twentieth
century reports.

The events of the home front in World War Two and their aftermath provided

a further catalyst for interest in child welfare and concern to promote reform. The child evacuations, parental separations and the inevitable increase in the number of children left as orphans or in the care of only one parent produced social and psychological concern for the effect these events might have on the children of that time. The policy of evacuating young children from areas of danger, thereby separating them for their parents, had, it was claimed, led to an increase in both psychological and social problems. Two committees were appointed by the government - the Clyde Committee (1946) in Scotland and the Curtis Committee (1946) in England - to look into the entire area surrounding children's welfare and the possible improvement of relevant public services. These investigations and subsequent reports were rapidly followed by legislation in the form of the 1948 Children Act. This Act required local authorities to establish children's committees and to appoint children's officers and it empowered them to take into care any children under seventeen abandoned by their parents. The problems of the neglected child and of the child who offends were viewed through this legislation as being rooted in broadly similar circumstances and it was considered that by tackling neglect delinquency could also be prevented.

The 1948 Act in creating what was effectively a child care service was, according to Morris and McIsaac,

> instrumental in the gradual merging, as far as social policy and action were concerned, of the neglected child and child offender into one category: children in need of care. (1978: 16)

In reality, however, in the 1940s actual child care practice did not match the

rhetoric, as Priestley et al elucidate:

> Although procedures and dispositions had been unified to some extent there were within [juvenile justice] still three distinct jurisdictions, crime, care and truancy, each resting on separate bodies of substantive and case law (1977: 6)

- a feature that only the Kilbrandon Report (1964) sought to eradicate. Even following the Children Act of 1948 with its child care provisions, juvenile offenders were still fundamentally regarded as requiring punishment or training rather than care. As Morris and McIsaac point out, 'attendance centres were expanded during this period and in 1948 detention centres were set up to provide 'short, sharp shocks' (1978: 16). Evidently then the welfare principle was not as yet fully dominant in influencing and governing juvenile justice policy.

Furthermore, despite the initiatives of the later 1940s and the growing climate of social awareness, the incidence of social problems generally and of crime and delinquency in particular continued to increase throughout the 1950s. Successive governments established committees to investigate the problems of youth, the control of delinquency and the development of personal social services. The work of the Ingleby Committee (1960) and the McBoyle Committee (1963) led to the Children and Young Persons Act of 1963 which placed the onus on local authorities to give, 'such advice, guidance and assistance as may promote the welfare of children' and keep young offenders out of court (1963 Act: clause 1). Both committees and the subsequent Act displayed an awareness of the principles of the welfare ideal in relation to the treatment of children, but the continued retention of juvenile courts coupled with the admission that older teenage children still required punishment for offences committed indicated a continued

adherence to aspects of criminal justice. Only in the appointment and subsequent considerations of the Kilbrandon Committee in Scotland in 1961 were the principles of welfare predominant.

The Kilbrandon Committee

From the outset the overriding assumption of the Kilbrandon Committee was that the children appearing before a juvenile court for whatever reason were exhibiting symptoms of problems whose origins were often very similar.

The Committee believed the reason for a child's entry into the juvenile justice system was of little importance - nothing more than a 'symptom of personal or environmental difficulties' (1964: para 13). Under this philosophy all children - except for the minority of serious offenders - who were in trouble, offender or non-offender, were to be considered in the same way and within the same system of justice. The notion of punishment was to be disregarded and the welfare concept of individualised treatment with the purpose of reforming behaviour was accepted. The system of justice envisaged by the Kilbrandon Committee - which eventually became the hearings system - was one in which the governing principles were to be those of welfare not criminal justice.

The Committee's Deliberations

The Kilbrandon Committee, even as late as 1962, during the course of its

deliberations was confronted with no fewer than four different kinds of court

dealing with juvenile offenders in Scotland. The distribution of cases amongst

these courts is presented in table 2.1.

Table 2.1

Sheriff Courts	32%
Burgh (Police) Courts	45%
Specially Constituted Justice of the Peace Juvenile Courts	16%
Other Justice of the Peace Courts	7%

(1964: para 45)

Despite the Children Act of 1908 and subsequent legislation even by 1962 only

16 per cent of cases involving juvenile offenders were actually being handled in

juvenile courts.

It is with little surprise then that during the course of hearing evidence, the

Kilbrandon Committee encountered general agreement amongst many of the

agencies who were making representations to it on the need for greater uniformity

and standardisation in the mechanism used to deal with juvenile crime and

juvenile offenders. On the other hand though, agencies were divided on the

nature of the changes to be made. Bodies such as the County Councils and the

Sheriffs - Substitute Association, which were closely involved in the operation of

juvenile courts tended not to favour major changes in the processes for coping

with juvenile offenders, merely greater standardisation; others like the Scottish

Children's Officers Association desired a more child orientated court system;

while some like the British Psychological Society urged the total diversion of

children away from criminal justice altogether.

Despite these varying and often contradictory recommendations, the Kilbrandon

Committee unanimously opted for a new system of juvenile justice in Scotland

which removed most children, offenders and non-offenders, up to the end of

compulsory full-time education from any form of court jurisdiction. In making

this decision the Committee stated:

> we do not believe that a retention of the present system, resting as
> it does on an attempt to retain the two existing concepts in harness,
> is susceptible of modification in any way which would seem likely
> to make any real impact on the problem (1964: para 80).

Unlike England, therefore, which retained a juvenile court system, the Kilbrandon

Committee envisaged Scotland as having not a modified system of juvenile justice

but an entirely new system founded on the concept of juvenile welfare and

treatment.

The issue of contamination through association with courts and criminal justice,

both for child offenders and children in need of care (Priestley et al, 1977) was

to be avoided by the removal of children from criminal justice - a criterion

associated with the community involvement model of justice (Parsloe, 1978: 19).

Children's hearings with a welfare remit and an informal approach, not courts,

were to be the main instruments in handling children and their problems in

Scotland. The welfare - criminal justice contradiction which was evident in

nineteenth and earlier twentieth century reforms seemed finally to be resolved within Scottish juvenile justice. Punishment and control were to have no place in the governing philosophy of the hearings system. Questions arise though: Can a system operate and apply such a philosophy? Can all children in trouble, offenders and non-offenders, be treated similarly and can issues of punishment and control be eradicated from the juvenile justice process?

Some Doubts

Scott (1966) rejects the claim which is at the centre of the hearings system that essentially there is no difference between children who offend and those who require care. Sparks (1969) affirms this view and asserts that differences between the juvenile offender and the child in need of care are real, even if the only difference is that one commits offences and the other does not. Sparks (1969) also reintroduces the concept of contamination and indicates the concern over mixing non-offenders and offenders within the same regime. Ryall (1974) agrees and regards those children who break the law as distinctive. He claims that while some juvenile offenders may be emotionally disturbed, and while emotionally disturbed children may offend, to consider both groups as the same and to put both groups together for the purpose of treatment is an unjustified conceptual leap.

Morris and McIsaac (1978) suggest that some research does provide evidence to show that common factors do occur in the emergence of both delinquency and

deprivation. They also indicate however, that the degree of commonality varies (Philip and McCulloch, 1966; McAllister and Mason, 1972). Morris and McIsaac (1978) argue that any system responsible for prescribing treatment for children should at least be open enough to accept that differences may exist between children who offend and those in need of care and be prepared to handle them differently if needs be. As the authors explain:

> This equivalence of care and protection referrals and truants with offenders depends on the view that the offence is irrelevant and that offenders should not be treated as in any way more responsible for their behaviour or conduct than any deprived or neglected child. It ignores choice and denies the delinquent the meaning and purpose of his action. (1978: 56)

These authors also doubt the reality and validity of such egalitarianism and doubt whether panel members can operate and make decisions in relation to a child offender without giving some consideration to the offence committed or the related circumstances. The empirical research of Brown (1979) and Martin, Fox and Murray (1981) gives some credence to this reservation.

The hearings system in handling young people - offender and non-offender - rejects the criminal justice ideal and the concept of punishment and embraces the idea of treatment. For some, however, the notion of treatment is no different from that of punishment (Allen, 1964; Walker, 1980; Bean, 1981). Bean (1981) suggests that terms like supervision order mask the true nature of the action for, as Allen (1964) claims, whatever the motives or objectives in imposing such an order, if the measures taken result in an enforced loss of a child's liberty or the separation of a child from his/her family, the effect of the outcome on the individual is nothing less than punitive (1964: 18).

Although the methods used in the hearings system in deciding upon the treatment to be applied are essentially advice and guidance,

> with the aim of evoking in turn from the parties concerned a constructive response, based on an increased awareness and understanding of their underlying problems and responsibilities (1964: para 86)

according to Bean (1981), the outcome of a hearing can still accord with the concept of punishment. As he explains:

> what happens when no such awareness arises? The panel must [...] impose its will, and we are then back to simple punishment again. (1981: 136)

As one of the aims of the hearings system is to reduce juvenile delinquency panels in the end must impose actions to achieve this result (Campbell, 1977).

For Morris and McIsaac (1978) treatment can also mean control. The Kilbrandon Committee wrote:

> The underlying aim of all such measures must always be [...] to strengthen and further those natural influences for good which will assist the child's development into a mature and useful member of society. (1964: para 17)

For Morris and McIsaac this desire bears some resemblance to the aims of nineteenth century reformers in their bid to create a law abiding, industrious and stable society, and if accepted indicates a continuation of the conflict between the principles of welfare and criminal justice even within a self-professed single ideological system like the hearings system. Details on hearings system procedures are to be found in: Martin, Fox and Murray, 1981: 8-13; Martin and Murray, 1982: 13-23; English and Martin, 1983: 128-142, and Adler, 1985: 9, 75-79. The observations of these researchers and others on hearings system

operations that are considered relevant to this study are presented in the next section of this chapter and throughout the analysis chapters.

Hearings System Research

The review of hearings system research presented in this chapter is brief. Its main purpose is to highlight areas of interest that have been considered by other researchers or in other studies in the past and are worthy of greater exploration within the context of the present study. Further comments by researchers on these areas of interest are indicated throughout the analysis chapters when pertinent to the issues raised in this research. Six areas of interest directly related to the five research themes that constitute the framework of this study are identified (Hearings System Remit; Group Liaison; Discussion and Decision-making; Lay Attitudes; Child and Parental Rights; Ideology) and their location within the present investigation is given.

As one of the main purposes of the current study is to add to the body of knowledge on the hearings system, it is both interesting and significant to note that little recent research has been conducted solely into hearings system operations and none on the scale of the present study. This makes it difficult to find contemporary comments to draw on in reviewing and considering previous research projects, although it must be said that many of the observations made in even the early studies, for example Bruce and Spencer (1976), still appear pertinent today and to current issues.

The remit of a children's hearing regardless of action taken is to act in the best interests of the child at all times. According to the rhetoric of the hearings system as Adler states, 'the anticipated consequences of the [...] available disposals are the overriding criterion in all decisions made on behalf of children' (1985: 77). The reality however, as previous observers and researchers into hearings system operations have noted, can be very different, for often the actual decision made by a panel is, as Adler suggests, 'the only one available in the circumstances' (1985: 77). Thus it may be taken more in accordance with necessity than with suitability and more in accordance with resource availability than with resource propriety. As Martin, Fox and Murray realistically observe, 'no juvenile justice system, however sincere its commitment to welfare principles, can possibly meet all the needs of the children who come before it' (1981: 319). Murray goes on to add:

> The task of adapting the limited number of disposals available to panel members to the needs of individual children is a challenging one. Even when the members at a hearing are reasonably confident about a child's needs, they may be quite impotent when it comes to meeting them [...] (1988: 153).

Adler (1985) employs a series of case studies to illustrate a number of factors that pervade the various disposals decided upon at hearings.

One observation she makes from her case studies confirms the previous comments by Murray (1988) and those of other researchers - Bruce and Spencer (1976), Martin, Fox and Murray (1981), Lockyer (1988). Adler observes that panels

56

really have a very limited number of disposals available to them, and in some instances an option is used simply because there is no other. It is at that point, Adler claims, that the best interests of the child are relinquished. In assessing the outcomes of hearings and their suitability in meeting case demands there are two important considerations. One, as Adler (1985) and Murray (1988) have already described, is the finite number of disposals that a hearing can apply: discharging a case with no further action; placing a child under the supervision of a social worker while the child remains at home; finally, imposing a residential supervision requirement which entails removing the child from home and placing him/her in a residential establishment. It may be that cases arise where none of these alternatives are ideally suited to the case in hand and it may be that changes to the remit and powers of a hearing are required to broaden the scope of hearings system intervention. Aspects of this issue are examined with the five participating groups throughout the analysis chapters (chapters four to eight).

The second consideration most widely identified by Lockyer (1988), and related to the issue of disposals and the remit of hearings, is the question of the availability of resources within the hearings system. Lockyer (1992) suggests that the major concern related to hearings system effectiveness of 'two thirds to three quarters' of the panel members in his survey is the shortage of resources (1992: 161). The perceptions of the five participant groups (panel members, reporters, guidance teachers, social workers and police officers) involved in the current research on the availability of resources in their areas and how this may or may not affect hearing operations are explored in chapter four.

Adler's observations and the findings of Lockyer (1988, 1992) also suggest that a glaring problem exists with the autonomy of education departments. Where a child is excluded from school, a panel has no direct powers to reinstate the child or to implement an alternative placement with any school controlled by the local education authority.

Milne (1984), through her research, questions the whole position of education within the hearings system in Scotland. She claims that while the autonomy of education might be questioned by those involved in hearings system operations (Lockyer, 1988) and while there may be a desire for greater influence over education and greater participation at hearings by education, the educational professionals too feel a sense of helplessness and remoteness in their relationship with the hearings system. Milne suggests this stems from the terms of the 1968 Social Work (Scotland) Act which unequivocally granted the responsibility for the management of children in trouble to the social work departments and not to the schools or education. This development, she concludes, has resulted in teachers and senior administrators in education claiming they are, 'either prevented from or absolved of the need to work more closely with the hearings system by the limitations of the 1968 Act' (1984: 3). Consequently, Milne claims, it is fair to note that liaison and cooperation between the hearings system and social services and education operates in a mainly haphazard and piecemeal fashion - a situation that ultimately cannot aid the progress of a child socially or educationally.

Milne, and she is supported in her comments by the recent findings of the Kearney Report (1992), also points to the often wide-ranging suspicion that exists between education and social work and the persistent and mutual desire to defend their own professional domains. Challis et al (1988) has identified this 'domain claim' as a definite inhibitor in generating group or agency liaison. Asquith (1983) too considers this phenomenon within the context of his discussions on professional 'frames of relevance'.

Considering this fundamental lack of cooperation between education on the one hand and the hearings system and social work on the other, Milne suggests careful consideration must be given to involving teachers more in the planning for a child. In certain cases, Milne claims, a teacher, knowing the reasons for the referral of a child to the hearings system, might be able to contribute substantially to any proposed treatment plan. Commenting on this the Kearney Report (1992) states:

> We recommend that the Directors of Social Work and Education
> and all others concerned use their best endeavours to promote [...]
> sharing of information in any appropriate way [...] (1992: 599).

Further emphasis is given in another recent publication - the Clyde Report (1992). It emphasises:

> The discovery of sexual abuse should not be seen as the preserve
> or monopoly of any agency. [... In particular] schools should
> establish close links with their local Social Work Departments [...]
> (1992: para 15. 34-35).

Under the 1968 Social Work Act it is the responsibility of the chairperson of the panel to request the attendance of a teacher at a hearing unless the child or the

parents ask the teacher along as a friend of the family. In a system that deals predominantly with children of school age is this present position sufficient or, as Milne proposes, should teachers naturally be more heavily involved in hearings system proceedings and in the transfer of information and knowledge about children? For a discussion on the present position of education in the hearings system and on agency liaison as perceived by social workers, guidance teachers, panel members, reporters and police officers see chapters five and eight.

Discussion and Decision-Making

Another area of hearings system operations that has attracted substantial interest, particularly amongst researchers, is the concept of family involvement in the hearing process, how this operates at present and how it can be facilitated in the future. A primary feature of the hearings system is that parents and children should be freely involved in the discussions and the decisions surrounding their predicament - but is this really the case?

Martin and Murray (1984) point to some possible difficulties facing all concerned in this area of hearing operations. They emphasise the fact that the skill required to achieve a genuine dialogue is considerable, especially within the false and at times rather strained atmosphere of a hearing. Perhaps because of this and in an attempt to reduce tension, researchers (Bruce and Spencer, 1976; May, 1977; Martin, Fox and Murray, 1981; Milne and Raeburn, 1984) claim, panel members have a tendency to avoid potentially sensitive topics and to restrict their

comments and questions to less emotive and even superficial subjects. When this happens Martin and Murray suggest, child and parental involvement has little solid content and this can leave families with misleading impressions of what the panel members truly believe. This view is affirmed by the comments made by May (1977) who claims that panel members, often to avoid embarrassment, do not disclose certain information to families yet that information may form part of their decision. In instances of this nature families are omitted completely from part of the decision-making process and have no opportunity at all to present their interpretations on matters as these matters are not open for discussion.

Martin and Murray's observations, and those of May, are confirmed in the findings of an experiment reported by Milne and Raeburn (1984) involving representatives from panel areas, schools, social work offices and a reporters' department in simulated children's hearings and discussion sessions. The results of these experimental sessions show that, where panel members did not raise provocative issues contained within the reports presented to them, this ultimately prevented the family from exercising their legal and moral right to challenge accusations and the hearing 'reached a decision on the basis of incomplete information sharing'. Where panels did attempt to tackle sensitive issues by bringing them out into the open, tensions increased. The family involved usually regarded this display as an intrusion of privacy and tended to show considerable anxiety over further revelations. The hearing could therefore become, as Milne and Raeburn describe, 'a scene of anger and hostility or one of withdrawal on the part of the family' both of which, they claim, 'militate strongly against

progress towards making a decision which would have the support of the family' (1984: 11).

A major purpose of Milne and Raeburn's study was to allow both social workers and guidance teachers the opportunity to witness the difficulties created for a panel by the non-sharing of reports with families before a hearing. Milne and Raeburn argue that the presentation of reports to families prior to a hearing would aid the smoothness and progress of the forthcoming discussion considerably, as families would be aware of what may come up in the course of the proceedings and panel members would perhaps feel less inhibited when approaching delicate domestic matters. Those who played the family role in the simulations, the authors suggest, may also have received a 'small insight' into the hearing process as perceived through the eyes of the family. Milne and Raeburn claim they were perhaps able to feel, at least to some degree, 'the sense of powerlessness and frustration felt by families', who, because of a lack of knowledge about the full contents of reports are reduced to the status of 'receivers' or 'dependants' throughout a hearing rather than 'initiators' or 'givers' (1984: 11-12). This position is articulated well by a parent participating in the 'Who's Hearing' seminar initiated by the Scottish Office: 'you're not there to take part, especially if you don't know what has been written about you. You feel you're there to listen to them. It's very frustrating' (1991: 12).

While it may be argued that genuine feelings such as those above may be impossible to generate in a simulated situation like that devised by Milne and

Raeburn, the subsequent observations do raise significant questions surrounding hearing operations and the whole concept of informality leading to free and open discussion and fair disposals. The issues of informality, open discussion, access to reported information, child and parental rights, as they relate to the decision-making process in a hearing are discussed in chapters five and six through the perceptions of the five groups involved in the study.

Lay Attitudes

In his study of thirty hearings Brown (1979) also noted some interesting features concerning decision-making and the attitude of panel members to certain family types particularly in offence cases. He claims that families in their encounters with the hearings system can be divided through the reactions of panel members into two categories - 'conventional and non-conventional'. He explains:

> In the case of conventional families there was a tendency [by panel members] to avoid discussion of the families' affairs, although any mention of discipline was to be encouraged. [...] Thus the families who did exercise control [... over the child offender] did not experience much hearing intervention (1979: 22-3).

The second category contained those families who tended to exhibit or experience irregular hours, poor housing, marital problems, financial difficulties and who were emotionally expressive. This category, according to Brown, was likely to be referred to 'in critical terms both in the reports and the [...] discussion. The approach of the chairman was [more] likely to be either condescending [...] disbelieving or critical' (1979: 23). Children from this group of families were more often in difficulty at school and were more inclined to be placed on

compulsory supervision or in some form of residential care.

Brown's observations bear some similarity to those of Martin, Fox and Murray (1981). They claim that many of the children who in their study were placed on supervision tended to be those with irregular school attendance, whose behaviour in school left something to be desired and who were said to have poor relations with teachers. Some aspects of the child's social situation were also considered to have influenced the decision reached. Martin, Fox and Murray claim the child living with a single parent, for example, was more likely to be placed on supervision, as was a child whose parents were unemployed and/or facing severe financial hardship.

Panel members seem also to have been influenced in their decisions by the number of times a child had previously appeared before a hearing. Martin, Fox and Murray predict that, when a child comes before a hearing for the second time, his/her chances of being placed in some form of residential care go up from one in sixty to one in five. The proportion they claim rises to a maximum of one in three among children who have appeared on at least four previous occasions (1981: 170).

It is discretionary factors of this nature, and a desire for greater standardisation, that encouraged Bruce and Spencer, 1976: 146-47; Martin, Fox and Murray, 1981: 274; The Clyde Report, 1992: paras 19.17, 19.22; and Lockyer, 1992: 103-116, to recommend changes in training practice and a development in both pre-service

and in-service training for panel members. This training would incorporate areas such as: instruction in child care and human growth, the social services, communication and, for the more experienced panel member, training in the skills of chairing. Through this practice, it is claimed, inconsistencies and prejudices might be addressed and panel members might gain greater confidence in their own abilities to challenge professional assessments and overcome what Adler (1985) describes as the tentativeness and apprehension that seems to govern the decisions they make.

Adler and Asquith (1981) while realising lay people may find difficulty in taking professionals to task on their recommendations, argue against the proposition that increased training may improve this position especially so if it is administered by professionals. If this were to be the case, they suggest, lay people may assimilate the very professional concepts that govern professional decisions and assessments in the first place. The role of independent assessor would then be severely eroded. May (1977) doubts the validity of training lay people at all and suggests that the concept of lay and the desire to provide training are contradictory, so much so that by training layness is eliminated. Further comment and the views of the participating groups in this study on the lay concept, the role of the lay panel and the issue of training panel members are presented in chapter seven.

Child and Parental Rights

The comments and observations of Martin, Fox and Murray (1981) and Brown

(1979) earlier also serve to highlight the discretionary nature of decision-making within hearings. Asquith's (1983) findings, although not always in agreement with those of the two aforementioned studies, acknowledge also the discretionary aspect to the decisions reached at hearings. He attempts to explain this decision-making process of both professionals and lay people with reference to professional and lay frames of relevance - see chapters four and five. Discretion has been seen to lead to arbitrariness (Thomas, 1974), with a consequent erosion of individual rights. Adler and Asquith suggest that it is widely believed that only by strengthening an individual's rights - particularly legal rights - can the vagaries of discretionary decision-making be curtailed. They do cast a shadow over this assertion, however, in their discussion surrounding procedural and substantive rights, concluding that increasing legal rights and procedures for individuals may not necessarily result in improved outcomes, and so improved substantive rights. Discretion, and particularly the position of child and parental rights within the hearings system, are discussed through the views of the study sample in chapter six.

Ideology

Further comment on hearings system operations comes from McLean and Docherty (1985). They challenge a fundamental aspect of Kilbrandon philosophy. Despite its aim to 'move the emphasis of juvenile justice away from the traditional concerns of the criminal justice system' and its desire to see the young offender or the child in need of care as a patient requiring the appropriate form

of treatment, the Kilbrandon Committee allowed that prosecution might still be necessary in some circumstances where the offence was extremely serious and where public safety might be in question. Offences of this nature would include murder, rape, attempted murder or some cases of serious assault (1985: 1).

McLean and Docherty see this concept of a welfare system of juvenile justice existing side by side with a limited punitive system for serious juvenile crimes as a complete anathema. They state quite clearly that, 'the residual right of prosecution is inimical to such a welfare system, and has no practical or philosophical justification' (1985: 2). They reluctantly accept that public opinion might not readily countenance children charged with particularly serious offences being dealt with outside a court of law, but they believe that cases set aside for prosecution must be rigorously defined and must be as limited in number as possible. If a justification for prosecution is that the hearings system has limited powers, then the solution endorsed by McLean and Docherty is to extend these powers in preference to prosecuting a child in court. In order to succeed in these aims McLean and Docherty further recommend that all cases involving children, no matter how trivial or serious, should, in the first instance, be referred to the reporter to the children's panel in that area. In this way, it is claimed, all children in trouble will initially fall under the jurisdiction of the hearings system and perhaps fewer young offenders will be diverted away from welfare and into the traditional criminal justice system.

To justify their argument, McLean and Docherty cite referral figures for Scotland

from 1972 to 1982. These show the proportion of total referrals to reporters from the police declining from 88 per cent in 1972 to 59 per cent in 1982 (1990 referral rate 70 per cent), while at the same time the number of referrals from the Procurators Fiscal increase steadily from 0.4 per cent in 1972 to 22 per cent in 1982. McLean and Docherty conclude from this that the police continue to see prosecution as the main answer to juvenile crime. The authors strongly suggest that the police forces in Scotland have always viewed the hearings system and the philosophy behind it with suspicion and that by and large they still do. The ideological position of police officers and the other groups participating in this study towards juvenile justice and their attitudes towards the hearings system are explored in chapter four - as are their views on the position and treatment of offenders within the system.

Summary

To understand the existence of the children's hearings system in Scotland and the philosophy behind it, this chapter has attempted to trace the historical development of justice and juvenile justice in Britain and Scotland with reference to the ideological concepts of welfare and criminal justice.

A summary was given earlier in the chapter of the changes in justice and punishment that existed mainly prior to the nineteenth century. This brief synopsis deals with those from the nineteenth century to the adoption of the hearings system as Scotland's juvenile justice system.

The developments in juvenile justice in the nineteenth century and beyond and the associated advance of the welfare approach to justice can be seen within the context of a growing awareness generally for the well being of the child and a movement to envisage and treat children separately from adults. This movement of attitude can be seen in the industrial legislation in the nineteenth century - the Factory Acts and Mines Act for example - and to some extent and specifically related to juvenile justice, in the Youthful Offenders legislation and the Industrial Schools Acts in the mid-1800s.

Within juvenile justice however tensions between the concepts of welfare and punishment prevailed even into the twentieth century and it could be argued that it was not until the deliberations of the Kilbrandon Committee in Scotland in the early 1960s that the concept of a system of juvenile justice based exclusively on the welfare principle finally became predominant.

Since the creation of the children's hearings system in 1968, however, and its implementation in 1971 comments, doubts and criticisms have followed, some of which have cast doubt on the system's absolute adherence to the welfare ideal of justice.

The latter part of this chapter has explored some of the major issues related to the children's hearings system that have intrigued researchers in the past, and aspects of these issues have been indicated to be of interest to the current study. As Asquith comments:

> Such concerns have been around since the introduction of the system and have been the subject of continuing comment [...] they [are not] of purely conceptual interest, for they have significant implications for the actual functioning of the system in practice. (1992: 160)

The hearings system, like any public service, is influenced by the social, political and economic climate around it. Asquith suggests that the last two decades have witnessed important changes in: political ideology; in social work thinking about how to handle children and their problems; changes have occurred in the economic management of the country and of local government; and issues related to child and sexual abuse appear more on the treatment agenda today than in the past (1992: 160). With a changing backdrop of this nature issues that may have been explored in the past require re-investigation.

Asquith (1992) also astutely points to the fact that national figures related to the hearings system and its operations can conceal a variation in regional practices. As he describes:

> because of the differing regional practices, because of the differential availability of resources in local communities and because of different social work practices, it could be said that Scotland does not have one system of justice for children, but rather has a number of different systems operating on a regional basis. (1992: 161-2)

It is for these reasons, in conjunction with the fact that, as the dates of much of the previous research indicate, little if any comprehensive research involving the main participant groups has been done into hearings system operations for over ten years, that this present study was conceived. Although recent interest has been shown in part into hearings system procedures - Child Care Law Review (1990), Clyde Inquiry (1992), Kearney Inquiry (1992) - these investigations have

included other issues and aspects, not exclusive to hearing operations. A purpose of this study is therefore to make up the research deficiency that exists specifically into the hearings system and to explore with five main agencies involved with the children's hearings system, their views on its ideology and its current and possible future operating practices. Issues for investigation have already been identified with the aid of some of the previous research that exists into the panel system. A more comprehensive account of the research areas and a detailed consideration of the organisation and conduct of the present study are provided in chapter three.

Chapter Three : Methodology and Methods

Two data gathering instruments were applied in the conduct of this research. The first, a structured questionnaire is a research technique more generally associated with quantitative study and the second, the semi-structured interview, is a qualitative research technique. The question that arises is: can two instruments originating from two distinct research schools and often thought to be at different points on the research methods continuum (Douglas, 1976: 15) be applied in a single project? This chapter explores this question through an examination of the debate surrounding qualitative and quantitative research methods and the paradigmatic stances that lie behind them. It further provides, within the context of the current study, a detailed outline of the research methods used, the organisation and conduct of the fieldwork and the research themes that constitute the framework for analysis.

Quantitative Research

The debate over the use of qualitative and quantitative research methods is a fundamental issue within the realm of applied social research. Quantitative methodology and the data collection techniques affiliated to it are usually thought of as a way of conducting social research using the approaches of natural science and in particular those associated with the doctrine of positivism. Consequently attributes of objectivity, replicability and causality are highly regarded.

In defining the positivist, quantitative approach to social research Bryant states:

> positivism in sociology has come to be associated with the very idea of a social science and the quest to make sociology scientific. (1985: 1)

This view is reinforced by Halfpenny who claims positivism in sociological terms is,

> aimed at constructing a natural science of society centring on causal laws derived from or tested by observational data with the aid of statistical techniques [...]. (1982: 120)

Those who subscribe to quantitative research see it as their function therefore to investigate society in a scientific manner, applying the rigours of natural science with the purpose of achieving a clear and valid impression of society and social relations.

In utilising this approach quantitative research endeavours to uncover laws, patterns, rules, principles or causal relationships that help to make sense of society. To achieve this the data collected must be, as Durkheim states, 'external to the individual' (1964: 10) able to be presented in a causal fashion or as a social law or fact. Durkheim further stipulates:

> The determining cause of a social fact should be sought [only] among the social facts preceding it and not among the states of the individual consciousness. (1964: 110)

Such facts, therefore, ultimately constitute both the problems to be explained through social inquiry and indeed the elements of such explanations. Durkheim used his research into suicide to justify this interpretation. He maintained that if consideration be given to personal circumstances as a reason for suicide then surely the poor would have far greater motive than the rich. Yet according to

Durkheim the rich killed themselves more often than the poor. Those who commit suicide vary widely in their personal and social make-up, yet, Durkheim claims, suicide rates remain substantially similar within certain groups. (1951: 297-8) Thus, it can be argued, the only phenomenon that needs to be studied in order to obtain accurate and meaningful data is the whole and not the constituent parts.

Furthermore, although the identification and analysis of social facts are important to positivist sociology they do not constitute the entire approach to quantitative research (Kerlinger, 1969). There has to be, as Cohen states, 'a guiding idea' - a hypothesis - or as he elaborates, 'we do not know what facts to gather. Without something to prove, we cannot determine what is relevant and what is irrelevant'. (1946: 138-39)

The questionnaire survey is typically seen as one instrument of research within the quantitative tradition although techniques such as random experiments, objective tests and structured interviewing can also be applied. As Bryman (1984) explains:

> Through questionnaire items concepts can be operationalised; objectivity is maintained by the distance between observer and observed [....]; replication can be carried out by employing the same research instrument in another context; and the problem of causality has been eased by the emergence of path analysis and related regression techniques to which surveys are well suited. (1984: 77)

Riecken et al (1974) are typical proponents of quantitative methods claiming that they not only lead to clear causal inferences, but the process of their design helps to clarify the nature of the social problem under study. Proponents of

quantitative research, like Riecken et al, see qualitative research in quite a different light. It is considered subjective, open to interpretation and thus inaccurate, unreliable and unscientific.

Qualitative Research

In contrast with the objective rigours of quantitative research, within qualitative methodology with its origins usually attributed to what Halfpenny (1979) defines as the interpretive school of social research, there is a commitment to get 'close' to that which is being studied, to investigate from within and to see or experience a situation in the same way as the subject being examined. As Schwartz and Jacobs (1979) suggest, for advocates of qualitative research it is important,

> to develop ways of gaining access to the life - world of other individuals [...] it is crucial to discover the daily activities, the motives and meanings, and the actions and reactions of the individual 'actor', in the context of his daily life. (1979: 4)

Blumer in defining social interaction states:

> human beings interpret or 'define' each other's actions [...] Their 'response' is not made directly to the actions of one another but instead is based on the meaning which they attach to such actions. Thus, human interaction is mediated by the use of symbols, by interpretation, or by ascertaining the meaning of one another's actions. (1962: 180)

In brief, from a quantitative approach the prime function is the description and explanation of 'objective reality' but from a qualitative orientation there is the desire to dismantle this 'reality', to recognise individual interpretations and to explore the social world from this perspective. Instead of the positivist view of individuals being surrounded by situations and conditions that direct them and so

75

govern their behaviour, the advocate of qualitative methodology believes that individuals, through their interpretative actions, construct the reality around them. Qualitative researchers therefore wish to know and understand why people act as they do. The basic position of this orientation is that in order to comprehend social phenomena, the researcher needs to discover and attempt to understand the situation from the viewpoint of the participant (Denzin, 1970; Schatzman and Strauss, 1973; Silverman, 1985). Schatzman and Strauss summarise well the qualitative interpretation:

> The researcher must get close to the people whom he studies; he understands that their actions are best comprehended [...] in the natural, on-going environment where they live and work [...]. A dialogue with persons in their natural situation will reveal the nuances of meaning from which their perspectives and definitions are continually forged. (1973: 5-6)

Blumer in criticising quantitative research claims:

> To try to catch the interpretative process by remaining aloof [...] and refusing to take the role of the acting unit is to risk the worst kind of subjectivism - the objective observer is likely to fill in the process of interpretation with his own surmises in place of catching the process as it occurs in the experience of the acting unit which uses it. (1962: 188)

Research techniques associated with this methodology are designed to be flexible and adaptable; able to meet different circumstances and emphasising the concept of discovery. The techniques best suited to studying the social world from a qualitative standpoint include semi-structured interviewing, life histories and participant observation. Researchers who subscribe to these methods believe they produce data of great depth and relevance that permit the views and feelings of the participants to emerge. Consequently research data of a quantitative nature, in abstracting individuals from their social and cultural surroundings for the

purpose of the study, is seen as deficient providing only superficial evidence on which to base, so called, causal relationships between as Bryman puts it, 'arbitrarily chosen variables which have little or no meaning to those individuals whose social worlds they are meant to represent' (1984: 79). Weiss and Rein believe that research strategies deriving from the qualitative tradition are 'in general [...] superior' to those of quantitative design (1972: 243) and Parlett and Hamilton add that quantitative research methods are 'artificial and restricted in scope' (1976: 141). Blumer's (1956) critique of quantitative analysis epitomises these objections to positivist research.

The Paradigmatic Debate

This qualitative/quantitative debate can be seen in a broader sense however, not merely as a disagreement over the relative advantages and disadvantages of qualitative and quantitative methods but as a fundamental clash between methodological paradigms. As Rist states, 'ultimately, the issue is not research strategies, per se. Rather, the adherence to one paradigm as opposed to another predisposes one to view the world and the events within it in profoundly differing ways' (1977: 43). Those who see the debate in these terms distinguish very carefully between qualitative and quantitative paradigms. The quantitative paradigm is said to have, 'a positivistic, hypothetico-deductive, particularistic, objective, outcome-oriented and natural science world view'. While the qualitative paradigm subscribes more to 'a phenomenological, inductive, holistic, subjective, process-oriented and social anthropological world view' (Reichardt and

Cook, 1979: 9 and 10). Riechardt and Cook see the debate as resting on two basic assumptions. Firstly, it is assumed that each methodology (quantitative and qualitative) is linked to a particular view of the world, so that an allegiance to this view provides the appropriate and sole means of choosing the methodological approach and so the research techniques to be adopted. Secondly, the qualitative and quantitative paradigms are assumed to be 'rigid and fixed' and a choice between them is therefore the only choice available. Allowing for this predicament researchers might be forgiven for thinking that qualitative and quantitative methods can never be used together. This can, in turn, encourage researchers to use only those methods affiliated to their paradigmatic stance while ruling out any consideration of a combination of methods from different methodological schools even if the research generally and data collection in particular would benefit from such a course of action. Some researchers - Trow, 1957; Gans, 1967; Whyte, 1976; Reichardt and Cook, 1979 - consider the paradigmatic standpoint which promotes this incompatibility to be irrelevant to practical research and the assumption that researchers must choose between qualitative and quantitative methods to be incorrect.

This is not to say that in some instances and for some researchers the paradigmatic stance is unimportant in choosing a research method; nor is it to deny that certain research methods are usually associated with a specific philosophy. If, as Bryman (1984) suggests, a research problem is one which directly emanates from a particular philosophical position then the question of the choice and appropriateness of a research method is important, for the technique

should then reflect the paradigmatic framework upon which the research project itself is founded. If this is not the case, however, why should researchers be restricted in their choice of data gathering techniques?

Whyte (1976) has expressed his annoyance with the tendency for the conduct of research to polarise around philosophical differences and has voiced his preference for combining research strategies. He endorses the advantages of employing an integrated research approach by drawing upon his study of Peruvian village life in which both surveys and anthropological techniques were utilised. As he explained, 'my strategy calls for a weaving back and forth among methods through the various stages of research'. (1976: 216) Justifying his research strategy and in presenting the case for combining research methods, Whyte adds:

> The survey tells us [...] the differences in perceptions [but ...] If we are really interested in discovering and analyzing the behavior and social processes underlying the attitudes and perceptions which we measure with surveys, then we must rely upon the field methods of interviewing and observation. (1976: 216)

There seems no practical reason then against researchers, if they so wish and being aware of the philosophical background of the techniques they use, taking advantage of whatever research method or combination of methods they desire. In this way researchers are free to decide upon the method or methods they believe best suit the parameters and circumstances of their studies.

In considering this debate Bryman (1984) attempts to distinguish between what he sees as two completely different strands to the discussion. He readily agrees with other researchers, already cited, that a research project should, if

appropriate, benefit from a combination of data collecting techniques, but for him

this is a purely practical argument wholly separate from the philosophical aspects

of this issue. Researchers may be able to reconcile themselves to using various

research methods originating from different methodological paradigms in a single

study but the philosophical debate surrounding these methods, he suggests, cannot

be so easily reconciled. He explains:

> positivism and phenomenology [...] the two major philosophical
> strands, are far apart in terms of what they view as the proper
> stance to be taken in relation to the social world [...]. As such, the
> possibility of a reconciliation indeed seems remote. (1984: 87)

Consequently although a researcher may deploy in a study research techniques

from different paradigmatic doctrines on the basis that by so doing a more

complete picture of the problem is obtained, it cannot be assumed that

differences on a philosophical level have been as Bryman describes, 'ipso facto

reconciled [...] there may [indeed] be a case for saying that techniques are neutral

in respect of epistemological issues and debates'. (1984: 87-8)

This researcher, while accepting Bryman's assertions concerning the philosophical

debate, like other commentators cited earlier, prefers to be pragmatic in

approaching empirical research and the data gathering techniques to be applied

and is prepared to advocate a combination of methods if the research so requires.

The researcher is and all researchers should be aware of the philosophical origins

of the methods being used in a research project but this essentially abstract

paradigmatic debate need not, in most instances, influence the practical conduct

of research or govern the choice of research methods adopted - the boundaries

of the project can and should be the determinant of this aspect. As Douglas

suggests:

> Since all research methods have costs and benefits, and since they differ greatly in their particular costs and benefits, a researcher generally finds it best to use some combination or mixture of methods. (1976: 30)

Triangulation

A marriage of qualitative and quantitative methods can be achieved in a number of ways. Qualitative methods can be seen as a preparation for quantitative analysis. Qualitative research in this instance can be used in an exploratory manner and as a source of new leads to be followed up by the more structured, scientifically orientated quantitative research (Gans, 1962; Bryman, 1984).

An arrangement of this kind between quantitative and qualitative methods is clearly attractive to those engaged primarily in quantitative research. Initial qualitative study can provide a bountiful supply of leads or hypotheses which can be confirmed, rejected or qualified using a more structured format like a survey. As Gans suggests:

> Many of the hypotheses reported here [qualitative study of the West End] can eventually be tested against the results of more systematic social science research. (1962: 350)

Quantitative research too can pave the way, in the first instance, within a research project by providing the basis, through a large scale survey, for a more in-depth exploration, by qualitative means, of the issues raised (Whyte, 1976). Further, quantitative and qualitative methodologies and the methods associated with them can be mutually supportive within a research project. For example, a study might

include a social survey combined with participant observation or face-to-face interviewing. By applying this sort of combination especially overt criticism against each method and the drawbacks associated with them might be avoided. The so called subjectivity and immeasurability of the qualitative method applied can be overcome through the more controlled, scientifically orientated, objective social survey. Furthermore, the abstracted and so called insensitive aspects of the quantitative method can be countered through the application of the more personal qualitative approach. This combination, a form of triangulation, allows quantitative and qualitative methods to be used in tandem and in a complementary fashion. Furthermore, as Jick adds:

> The use of complementary methods is generally thought to lead to more valid results [...] (1983: 137)

Triangulation, whether it be as Denzin (1970) puts it ‘between (or across) methods’ as in the case of both qualitative and quantitative research techniques within one study, or of the ‘within method’ kind which stipulates that all research techniques used must come from the same methodological school or paradigm (1970: 472), can therefore, as Jick suggests, capture a more complete, holistic and contextually valid picture of the subject under study (1983: 138). As James describes, triangulation has the capability of ‘filling out the spaces’ and putting ‘meat on the bones’ of research and analysis (1977: 184, 193).

Methods

As Whyte (1976), cited earlier, explained, the social survey provides an indication of the trends which exist within a research sample on the issues concerned but to

develop and expand on these, to probe respondents on why they hold such views and to investigate existing issues further and explore new issues arising from the survey, it may be preferable to question respondents less formally and on an individual basis. This process necessitates the use of two research instruments from different philosophical schools.

With respect to this research, if statements are to be made concerning the functioning of the hearings system in Scotland and if recommendations are to be sought which relate to its development in the future - two aims of the study - then the research undertaken must be substantial, broad based and of sufficient depth to justify its comments. It is in the pursuit of this form of study that the need arises to employ two research techniques in a supporting role.

The two research methods deployed in the course of fieldwork were a structured self-administered questionnaire (essentially a quantitative technique) and the semi-structured face-to-face interview (a qualitative technique). Both methods are widely used within the field of social research, very often for different reasons but with a considerable degree of success. As two main purposes govern the conduct of this research; to contact and question a large number of respondents over a considerable part of Scotland and then to follow this initial investigation with a more in-depth study involving a smaller group of respondents distilled from the original sample, the use of both the structured questionnaire and the face-to-face interview is appropriate. The structured self-administered questionnaire is a recognised method by which information can be obtained from a large number

of respondents over a substantial distance. It clearly would be organisationally difficult and time-consuming within a large research project to question every respondent in the style of a face-to-face interview. A self-administered questionnaire, on the other hand, distributed by post or through a designated individual within a prescribed organisation, does not require any contact between researcher and respondent making this technique ideal for use with large research samples and if the structure of the questionnaire is consistent and the questions tight and precise the analysis is straightforward with statistically comparable results.

The use of the structured questionnaire as a data collecting technique can have drawbacks, however. Not only can the response rate and the quality of completed questionnaires vary enormously, but also the rigid nature of the questions necessary for consistent and easy completion by definition limits the depth the researcher can investigate and the scope within which the respondent can reply. Face-to-face semi-structured interviewing while certainly time consuming and therefore restrictive in terms of the number of participants that can realistically be interviewed in a single study, does, by its intimate nature, permit flexibility in data collection. It grants the researcher the luxury of meeting his or her respondents personally, it encourages the emergence of a rapport between the two and through this conversational style of questioning allows the researcher to formulate or reformulate questions as the interview progresses and the expertise and knowledge of the respondent becomes apparent. A more in-depth approach and more searching and open-ended questions may be operationalised through

this research technique and so more may be discovered about the research issue in hand.

Clearly both these data collecting techniques come from quite different and often opposing schools of applied research and this has to be realised and acknowledged. Clearly on their own both are suited to quite different forms of study with quite different objectives, but these two techniques can be mutually supportive and usefully compatible within one piece of research. As long as the researcher is clear about what he or she wishes from each technique the combination can and should be effective.

With a research project of this kind which attempts to examine, pass comment on and consider recommendations concerning a complex social system like the children's hearings system and which may be considered relevant to hearing operations throughout Scotland, it is vital that the results obtained should be based upon detailed perceptions from a comprehensive and relevant research sample.

To meet these requirements and to comply with the need to operate two data gathering techniques which necessitate quite different sample sizes, careful consideration was given to the sample selection procedures and to the number of respondents involved.

Questionnaire Sample

Regions

The initial sample for the questionnaire survey was determined, in the first instance, by a purposive choice of three regions or areas of Scotland which were considered to represent the geographical and social landscape facing the hearings system throughout the country. The areas chosen for the study were Central Region (composed of three districts - Stirling, Falkirk, Clackmannan). Dumfries and Galloway Region (composed of four districts - Wigtown, Stewartry, Nithsdale, Annandale/Eskdale) and the South-West District of Glasgow. These geographical areas were decided upon on the basis of their population distribution, population density (persons per square kilometre) and referral rates to the department of reporter to the children's panel (see tables A.1 and A.2 in Appendix four). These are factors which are easily measured and provide some indication of the physical, social and geographical landscape prevailing for young people in each area at any one time.

Population

Table A.1 illustrates the populations present in each area involved in the study and also the population density. It was not possible, despite considerable effort, to obtain the latter statistic for Glasgow South-West but it is hoped the overall population density of Glasgow City will serve to indicate the greater concentration

of people in this area compared with that in either of the other two regions. Due to the timescale of the study it was not feasible to involve more than one district in Glasgow - to have done so would have meant a considerable increase in the number of participants and a consequent increase in time and cost. The population densities for the three areas represent the complexities of and variations in Scottish population distribution.

Dumfries and Galloway has one of the lowest populations and population density ratios of any part of mainland Scotland indicating a rural and sparsely populated landscape. Yet Nithsdale District's person per square kilometre ratio of 40 is also indicative of the presence in this area of Dumfries and Galloway's main town of Dumfries with a population of around 31,000 people. Dumfries and Galloway has only one other major town - Stranraer - in the district of Wigtown, with a population of approximately 10,800 people. All other towns are smaller market towns the largest of which is Annan consisting of about 8,000 inhabitants, but more typically Castle Douglas with a population of 4,000 people represents the size of country town most often found throughout the Region.

The population and population density figures for Central Region as a whole are considerably larger than those for Dumfries and Galloway but the district variations are substantial encompassing a mixture of rural landscapes such as those found in Stirling District and more urban conurbations like the towns of Falkirk (population approximately 37,000), and Grangemouth (population 22,000) - both in Falkirk District, and Alloa (population 26,000) - the main town of

Clackmannan District.

Glasgow South-West District provides the study with a distinctly urban environment to complement the predominantly rural landscape of Dumfries and Galloway and the mixed rural and urban sectors within Central Region. This tapestry of regions and districts is designed to represent that to be found throughout Scotland from the urban environments of the cities of Edinburgh, Aberdeen and Dundee to the mixed rural and urban areas of Fife, Tayside and certain areas of Strathclyde and the rural districts of Borders Region and Highland Region.

Referral Rates

Table A.2 indicates the referral rates to the regional reporters as a bare statistic and also as a percentage of the population of young people aged between five and eighteen years within each geographical area. At both regional and district levels it is clear that Dumfries and Galloway has a lower referral rate than either Glasgow South-West or Central Region. This pattern, indicative of a less busy hearings system, accords with the statements made by all the groups' members from Dumfries and Galloway who have experienced hearings system activities in other areas. They were all able to endorse the relatively low referral rate and less hectic nature of the panel system in Dumfries and Galloway compared with some other regions.

Although it is acknowledged that the hearings system deals predominantly with eight to sixteen year old children, many interviewees, particularly panel members and social workers, did stress that younger children can form an aspect of their assessments and deliberations and the hearings system does extend its service to seventeen and eighteen year olds where applicable. Despite substantial effort including several communications with the Scottish Office publications department it was not possible, in any case, to obtain population figures exclusively for the eight to sixteen age range.

Central Region, apart from providing the research with a mixed rural/urban environment and a varied referral rate at district level, was also included in the study in order to capitalise on successful contacts established during an earlier research project in 1988. This previous relationship with agencies in the Region was acknowledged by some and did provide, in these instances, smooth transitional arrangements for the present study.

The Participants

The hearings system operates with the participation of many groups and agencies. Three groups are essential to the fulfilment of its duties as Scotland's juvenile justice system and these are: the panel members who as lay people are responsible for the decisions taken at hearings; the reporters who assess referrals to the hearings system and decide on the need or otherwise for compulsory measures of care and so the need to arrange hearings; and the social workers

who are responsible for not only referring cases to the hearings system (12% of all the cases in 1990), providing background information on families and recommendations for action, but also for the execution of much of the treatment carried out for the benefit of the children concerned. Two other agencies also have a substantial input to hearings system operations. Police departments were responsible for referring 70% of all cases that came to the attention of reporters in 1990 and they too provide reports for use by the reporters' departments. Education was responsible for referring nine per cent of the cases to the hearings system in 1990 and teachers too provide school reports for use by both reporters and panel members in their consideration of cases (for percentage referrals see table A.3 in Appendix four).

For these reasons it was considered essential in examining hearings system operations to involve representatives of these agencies - social workers, guidance teachers, panel members, police officers, reporters - in both the questionnaire survey and the individual interview sessions. Although it is recognised that other groups also play a part in hearings system operations - educational psychologists, intermediate treatment officers, care officers etc - the frequency of their participation at the various stages of the hearings system process is less and the time available to undertake this study in any case, necessitated a limitation on the agencies able to participate.

All members of the five aforementioned groups with knowledge and experience of hearings system operations in each area were approached to seek their

participation in the study. '

The concept of knowledge and experience of the hearings system was important particularly in the case of the police officer sample. It became evident that not all police officers had sufficient contact with and understanding of the hearings system to make it possible for them to contribute to the research. It was necessary therefore to rely upon the judgement of senior police officers in the three constabularies to identify those officers who had adequate experience of the system to complete the survey questionnaire and participate in semi-structured interviews. It transpired that all the identified officers worked in or had worked in either community involvement branches or special child/family units within the three forces. These are the areas of police operations that most readily involve contact with or input to the hearings system.

It was felt that this purposive sample of five groups in each area would be substantial enough, both to ensure sufficient returns to the questionnaire survey as well as to provide a comprehensive picture of the perceptions held by these groups on hearings system ideology and operations that could be seen as a reflection of the national scene.

The Questionnaire

The questionnaire was designed to be self-administered and apart from a separate inserted sheet which was group specific the bulk of the form was constructed in

such a way as to allow completion by all five groups. Police officers did not have to complete one section of the questionnaire which referred to discussion within hearings.

The initial questions in the questionnaire were designed to obtain factual information concerning the respondents and to identify general trends within the research sample including gender, age, years of experience and role within the hearings system, as well as to locate the respondents within the three geographical regions in the study.

The inserted sheets which were specific to each group were intended again to provide background information on the respondents including their estimated knowledge of hearings system operations, their attendance rate at hearings and in the case of guidance teachers and police officers further information on hearing attendance and on the role they play within the system.

The greater content of the questionnaire, which related to issues and aspects of hearings system operations, was derived directly from the six areas of interest indicted by the literature review. These issues were considered crucial both to assessing current hearings system practice as well as to any determination of future alterations and developments to the hearings system that may be advocated by the research sample.

As the questionnaire was to be self-administered and distributed to participants

largely without contact between the researcher and the respondents, it was necessary, to enhance consistency of response, that questionnaire complexity be minimised. Questions were therefore largely of a multi-option format, requiring the respondent to indicate his/her choice by ticking an appropriate box. On some issues where it was envisaged that respondents may have additional options not covered by those pre-designated in the questionnaire, the opportunity to stipulate these was given at the end of the question. The final draft of the questionnaire used in the survey is located in Appendix one.

Distribution

As a means of initially presenting the research and the questionnaire to the respondents, an introductory letter accompanied each questionnaire and briefly outlined the purpose and structure of the study. Before any distribution of the questionnaires could be embarked upon however arrangements had to be made concerning access to and the participation of the survey population. Considerable thought and organisation was applied to this important aspect of the research and such vigilance made the subsequent negotiations with the various regional authorities in the three areas of Scotland a relatively painless and speedy exercise.

Letters of introduction describing the research and seeking permission to contact individual respondents were sent to the directors of social work and education, to the respective police chief constables, to the regional reporters and the regional chairpersons of the childrens' panel. Only one group, the social work department

in Strathclyde Region (Strathclyde Region incorporates the City of Glasgow) refused to take part, and extra time had to be made available to one of the groups - Central Region panel members - who were already involved in another research project and understandably requested a breathing space before embarking on this study. Individual presentations were made to four groups (Central Region reporters and panel members and Strathclyde police and panel members) describing the purpose and structure of the project and these were successful in securing the groups' cooperation. All agencies in Dumfries and Galloway, perhaps because they are much less involved in research generally, displayed enthusiasm for the study and were eager to participate. This is evident from the good response rate to the questionnaire survey from all the groups in this region - table 3.1.

Three distribution methods were used for the questionnaire survey. Individual contact was made with some respondents, Glasgow South-West panel members for example, and a single questionnaire posted out to each. On occasions distribution of questionnaires was arranged through an individual within an organisation as with Dumfries and Galloway social workers. Finally questionnaires were posted or delivered by hand to district offices or schools and distributed again through a single person - senior social worker, assistant headteacher - to individual respondents. This method was used for all guidance teachers and for Central Region social workers. The completed questionnaires were either returned through the post in a pre-enclosed stamped addressed package or collected in person from a central collecting point. The distribution

and completion of the questionnaire survey took a period of seven months. It was generally the case that where an individual within an organisation took responsibility for distributing and collecting the questionnaires the response rate was improved. This was the case for Dumfries and Galloway social workers and for panel members and police officers in all three regions. The success of this distribution method did depend, however, on the vigilance and persistence of the identified individual within the organisation. Where that person pressed respondents for the return of questionnaires the overall rate of response was unquestionably higher.

Two initial drafts of the questionnaire were necessary before a pilot version was finally decided upon. This was piloted amongst a random sample of twenty respondents representing the five groups in the three areas of Scotland and including three regional panel chairpersons and two regional reporters. The regional chairpersons and reporters all had considerable experience in their posts within the hearings system and it was felt their informed comments on the questionnaire would be valuable. Those respondents who constituted the pilot sample for the questionnaire phase of the research were not re-surveyed and their opinions and comments expressed in the pilot questionnaires were not included in the final survey analysis.

The questionnaire was designed to be as easy to complete as possible and the purpose of the pilot was to gauge respondents' reactions to the questionnaire format and to identify any ambiguous or misleading questions. The structure and

nature of the questions and the layout of the form itself were generally well received by the pilot sample and only minor alterations had to be made in the production of the final draft. Two of the respondents did indicate that they felt the questionnaire did take 'quite some time' to complete but the overall reception was very positive.

The final questionnaire was similarly well received by the survey sample and only a few questions proved problematic. Five respondents suggested that they could not distinguish between the options provided in question 10 (see Appendix one) in describing hearings system operations in their area and some had difficulty ranking the job descriptions of the groups who work within the hearings system given in questions 11 to 15. A number of respondents, including six reporters, also indicated the misleading context surrounding question 22c(f) which implied that the press do not have the right at present to attend hearings - when in fact they clearly do have this legal right. It is unfortunate that this question was not identified as misleading by the pilot sample. This misrepresentation did not in fact limit the response to this question to any significant degree as the results in chapter eight demonstrate.

Response Rate

Six hundred and twenty questionnaires were distributed in total and 389 were returned - a response rate of 63%. Table 3.1 shows the actual number of questionnaires returned on a regional basis and table 3.2 displays the response

rate to the questionnaire survey.

Table 3.1 Number of Questionnaires Returned

	Central Region (Forms sent)		Dumfries & Galloway (Forms sent)		Glasgow SW (Forms sent)	
Reporters	6	(9)	3	(3)	4	(4)
Guidance Teachers	58	(89)	37	(55)	23	(56)
Police Officers	7	(8)	6	(6)	17	(20)
Social Workers	51	(118)	32	(32)	-	
Panel Members	52	(100)	46	(55)	47	(65)

Despite the absence of social workers from Glasgow South-West, whose regional

directorate, after much negotiation, felt unable to grant the study permission to

contact and seek participation of individual social workers, the response rate was

generally satisfactory and in some cases exceptional. Only two groups failed to

attain a response rate above 50% - Glasgow South-West guidance teachers (41%)

and Central Region social workers (43%). In the case of the guidance teachers

in Glasgow South-West a number of factors interfered with the return of

questionnaires from some schools. These included the fact that a number of

schools did not have much direct experience of hearing operations and so, after

seeing the questionnaire and the issues it covered, some teachers felt unable to

complete it. A few schools were also undergoing restructuring and amalgamation

and although initially this did not seem to affect their decision to participate in

the research, time allocation proved problematic and some teachers ultimately

were unable to complete their questionnaires. In one instance a batch of seven

questionnaires were lost in transit between the participating school and the University of Stirling - this, perhaps surprisingly, was the only incident of its kind.

In the case of Central Region social workers and panel members (response rate 52%) other commitments and a certain fatigue with research generally militated against their more complete participation. However, the work of individuals in a number of Central Region social work offices who distributed questionnaires on behalf of the research was immeasurable in pressing social workers for the return of forms and for achieving even the 43% response rate at the completion of fieldwork. The overall response rates were as follows:

Table 3.2 Questionnaire Response Rate

Reporters	(13 from 16 questionnaires)	Response rate	81%
Guidance Teachers	(118 from 200 questionnaires)	Response rate	59%
Police Officers	(30 from 34 questionnaires)	Response rate	88%
Social Workers	(83 from 150 questionnaires)	Response rate	55%
Panel Members	(145 from 220 questionnaires)	Response rate	66%

Once the completed questionnaires were returned - and this process was more protracted than originally planned as Central Region panel members received the questionnaires four months after other groups - the results were coded and placed on main-frame computer ready for analysis using SPSSX.

The characteristics of the survey sample in terms of age, gender and years of experience within the hearings system are illustrated in tables 3.3 to 3.5.

Age Distribution

Table 3.3 illustrates the age distribution by region.

Table 3.3

		18-24 yrs	25-34 yrs	35-44 yrs	45-54 yrs	55-64 yrs
Reporters (n=13)	Central Region		4		2	
	Dumfries & Galloway		1		1	1
	Glasgow SW		2	2		
Guidance Teachers (n=118)	Central Region		4	24	22	8
	Dumfries & Galloway		12	19	5	1
	Glasgow SW		2	10	8	3
Police Officers (n=30)	Central Region		4	1	2	
	Dumfries & Galloway		5	1		
	Glasgow SW	1	6	8	2	
Social Workers (n=83)	Central Region	1	27	16	5	2
	Dumfries & Galloway		6	18	5	3
	Glasgow SW	-	-	-	-	-
Panel Members (n-145)	Central Region		5	24	18	5
	Dumfries & Galloway		2	18	20	6
	Glasgow SW		5	18	16	8

Ninety per cent of the respondents to the questionnaire are aged between 25 and 54 years (63% of this total are in the 25-44 age range). Police officers, in

particular from Central Region and Dumfries and Galloway, Central Region reporters, Dumfries and Galloway guidance teachers and Central Region social workers have large numbers of their overall population within the younger age band, 25-34 years of age. Just over fifty per cent of panel members, however, fall within the 45-64 age range - an issue highlighted by a number of the panel members who were interviewed. They claimed there was a need to recruit more panel members from the younger age groups - 18-34 years of age. It was suggested that some of these younger people could include ex-clients who have experienced the hearings system themselves. This process, it was thought by some panel members (five from 13), would add to the breadth of panel member awareness and project a greater understanding of client anxiety and apprehension about appearing before a hearing thus helping to set families at ease and so stimulate hearing discussion. Other aspects related to panel member recruitment are discussed in chapters five and eight.

Gender

Table 3.4 displays the gender distribution of the sample across the three regions.

Table 3.4

		Central Region	Dumfries & Galloway	Glasgow SW
Reporters	M	2	3	3
(n=13)	F	4	-	1
Guidance Teachers	M	30	24	11
(n=118)	F	28	13	12
Police Officers	M	5	4	15
(n=30)	F	2	2	2
Social Workers	M	16	17	-
(n=83)	F	35	15	-
Panel Members	M	25	20	26
(n=145)	F	27	26	21

Despite 48% of the survey sample being female the across group and region representation is uneven. Only in Central Region are females substantially represented in all groups and indeed outnumber the male population, to varying degrees, in three groups. The reporters in Dumfries and Galloway and Glasgow South-West, Dumfries and Galloway guidance teachers and the overall Police sample, particularly those members in Glasgow South-West, are male dominated. It is also worth contrasting the very different composition of the Dumfries and Galloway social work sample (47% female, 53% male) with that in Central Region which has over a 2:1 ratio in favour of female social workers.

The number of years that each group member has held their role within the children's hearings system is identified in table 3.5

Table 3.5

		0-5yrs	6-10yrs	11-15yrs	16-20yrs
Reporters (n=13)	Central Region	4	-	2	-
	Dumfries & Galloway	1	2	-	-
	Glasgow SW	3	-	-	1
Guidance Teachers (n=118)	Central Region	8	20	20	10
	Dumfries & Galloway	20	12	5	-
	Glasgow SW	6	3	7	7
Police Officers (n=30)	Central Region	5	2		
	Dumfries & Galloway	2	1	2	1
	Glasgow SW	4	3	4	6
Social Workers (n=83)	Central Region	36	9	3	3
	Dumfries & Galloway	14	11	2	5
	Glasgow SW	-	-	-	-
Panel Members (n=145)	Central Region	25	21	5	1
	Dumfries & Galloway	32	12	2	-
	Glasgow SW	25	13	9	-

As table 3.5 illustrates 75% of the survey sample from the five groups have between 0-10 years experience in their role within the children's hearings system (47% between 0-5 years experience). Only three groups display any considerable degree of experience greater than this - Central Region guidance teachers, Glasgow South-West guidance teachers and Glasgow South-West police officers.

The predominance of the lesser experience categories does relate to the position displayed in table 3.3 which indicated the relatively young nature of the sample - 63% of which are aged between 25-44 years. As panel membership is voluntary, years of experience is perhaps less reflective of age and this may account for the fact that 50% of the panel members in this study, despite their limited years of experience, fall within the 45-64 age range.

Initial Analysis

Initial analysis was carried out on the questionnaire replies in the first instance and as a preparation for the interview phase of the research, to determine the general pattern of views expressed by the five groups and to allow any regional or district trends to emerge. The principle was that if any distinct regional or district variations in response did appear which may look interesting and worth exploring this could be taken account of during the individual interview sessions. This process as expressed earlier in the chapter is a major advantage of employing two research techniques in tandem within a single study.

Furthermore, before embarking on the interview phase of the research all variables in the questionnaire were crosstabulated by gender, age and years of experience in an attempt to determine if responses varied by these characteristics. In all instances, despite the sample characteristics displayed in tables 3.3, 3.4 and 3.5, the outcomes were unaffected and seemed to bear no relation to the age, gender or experience of the respondents. This finding may add credence to

Asquith's (1983) theory of professional frames of relevance and to the findings of Hallett and Birchall (1992). The professionals in the sample regardless of age, gender or experience may respond as they do because each member within each profession has been exposed to professional training and this may be more influential in determining the nature of response than the aforementioned characteristics. This may also be the case with panel members, who, as May (1977) has suggested, might be influenced in their responses by the training they are given as panel members which in turn contextualises their lay frames of relevance.

Interview Phase

Once initial analysis had been completed on the questionnaire replies and the general trends across the geographical areas established the second phase of the research commenced.

The individual interview stage of the study consisted of 45 semi-structured interviews with respondents in all three regions involved in the study. In defining semi-structured interviews Hoinville et al state:

> interviewers have only a list of topics for discussion: it is up to them
> to word the questions and to encourage respondents to talk freely on
> and around the topics, guiding the conversation onto new topics from
> time to time. (1985: 9)

As the purpose of the interview phase in this study was to elicit from interviewees further details and information on issues already raised in the questionnaire as well as a means by which new issues may be explored, the semi-structured

interview approach seemed highly appropriate. Furthermore, as it was not the only research method used in the gathering of data for this study it was felt that 45 interviews, divided amongst the groups and between the regions and districts, was a more than adequate complement to the questionnaire survey. Further details on the composition of the interview sample are given later in the chapter.

As one of the major themes of the research was to assess the participants' predominant juvenile justice ideology, extensive consideration had been given to the construction of question nine (see Appendix one) in the questionnaire for this very purpose. It was also a consideration in the formulation of question nine that responses to the ideological issue could be used as a mechanism by which both the pilot interview sample and the final interview sample could be determined. The cluster analysis facility within the SPSSX package was envisaged as a means to achieve this selection procedure.

Question nine in the questionnaire consists of eleven statements which were designed to separate the views of the respondents, firstly into two groups - those who adhered to the criminal justice model in dealing with juvenile problems and those who related more to the welfare approach. Secondly the statements were devised to separate the respondents' views still further into three categories - those views that might be more inclined towards law enforcement, those that might favour decisions and actions relating to children being determined by professionals but within a welfare/treatment system, and finally those views that still favoured a welfare approach but considered the involvement of lay people as

decision-makers in child welfare essential. These categories were devised from the three ideological positions identified by Smith (1977) and Parsloe (1978) and considered as influential within hearings system operations. Smith's and Parsloe's descriptions of these ideological constructs are presented in chapter one.

To assess the ideological position of each respondent a five point scale was devised, giving a score of five to the position of 'strongly agree' with the statement, four to the position of 'agree', three to the position of 'uncertain', two to 'disagree' and one to 'strongly disagree'. Four statements were devised to equate with each ideological stance. Eleven statements were used and not twelve as one ideological statement - statement B - was designed to be applicable to both the concept of a welfare system operated by professionals and that involving a lay input. It was also designed as a means for checking continuity between respondents who adhered to the welfare principle but differed on the professional or lay structure of it.

Statements ADFI in the questionnaire (question nine) were considered to display tendencies towards the law enforcement/justice model, statements BCHK relate to a welfare approach to juvenile problems determined by suitably qualified professionals, while statements BEGJ although still welfare inclined support the involvement of lay people in determining the care and treatment to be applied.

Although question nine in the questionnaire could be considered to provide data at interval level, it could be argued that it is difficult to truly assess the psychological difference between say 'strongly agree' and 'agree' in the minds of the respondents when replying to each statement and for this reason it was decided to analyse the information forthcoming from this question at ordinal level instead. While it is acknowledged that the statements used in question nine and contrived for the purpose of ideological assessment are in no sense prescriptive, the slant taken by each of them was fully and carefully deliberated on and the eventual choice as well as other alternatives were piloted as part of the draft questionnaire before the final selection was made. Before utilising these statements as a means of determining both the research sample's ideological stances and those respondents to be interviewed, it was considered prudent initially to determine whether indeed the four statements in each of the three groupings - law enforcement, welfare/professional and welfare/lay involvement - were in fact related at all and to test the strength of that relationship. Using the SPSSX package's non-parametric correlation facility and computing a two-tailed test of significance as the direction of the relationships cannot be determined in advance, two correlation coefficients (Spearman's rho and Kendall's taub) were computed. As it was felt the precision of the data resulting from this ideological assessment was such that it could not realistically be measured or analysed at interval level, Spearman's rho and Kendall's taub are appropriate correlation coefficients to use. They performed a similar task in determining the degree of

association between the responses to the various ideological statements given in question nine and they are applicable to ordinal level - rank order - data. (For further explanations of all these statistical procedures see: Rowntree, 1981; Sprent, 1981; Cohen and Holliday, 1982). From these statistical procedures statements ADFI did prove to be significantly related to each other more so than to any of the other statements in the question and this also proved to be the case for the other two groupings. Only statement B proved unreliable as its relationship with the other statements both in the welfare/professional and welfare/lay involvement groupings proved to be weak. Consequently it was removed from these groups and was not used in the final analysis. The 'null' hypothesis which assumed no relationship between the ideological statements contained in the three separate statement sets was therefore largely rejected.

Interviewee Selection : Cluster Analysis

In order to identify the respondents for interview, cluster analysis was used on the three statement groups or sets. Cluster analysis is a useful statistical technique when handling and attempting to make sense of a large sample within a data set. It can reduce a large quantity of individual cases to a smaller number by grouping or clustering like cases together. This can permit an easier understanding of the data by reducing it to a more manageable size with minimal loss of information. Cluster analysis can be used to generate hypotheses which can then be tested as well as being used to 'shed light' on previously made hypotheses (Everitt, 1980:4-7). For the purpose of this study, cluster analysis was used to identify respondents

who, because of their attitudes expressed in question nine of the questionnaire, naturally converge together in groups or clusters and to confirm or otherwise a previously held suspicion about the case composition of these clusters.

Some respondents in attempting to complete question nine omitted to register a response to some of the statements and for this reason they were not included in the final cluster analysis - hence the total of 371 respondents in the four clusters instead of the actual sample of 389.

As many as twenty clusters were produced as a result of this technique but after close scrutiny it was clear that for the later cluster formations the data set was being broken down to such an extent that it became no more manageable than in its original form. As the number of clusters increased the new clusters being formed tended to be small in nature containing only a relatively small number of cases. Two larger clusters were, however, prominent throughout and their creation occurred at the point in the procedure where four clusters (including these two) were formed. On closer analysis of the structure of these cluster formations it became apparent that they formed the best arrangement of the data giving two clusters of 173 cases in each, one of 23 cases and one of two cases. The cluster of two cases, which remained unaltered throughout the analysis, can be thought of as containing two rogue cases.

Cluster Composition

In designing and considering the statements presented in question nine of the questionnaire it was hypothesised that the pattern might emerge whereby the majority of panel members and reporters in supporting lay involvement in juvenile justice would form together in one cluster - what could be termed the 'welfare/lay involvement' cluster, while the majority of the members in the other three groups, the professional groups, would form a second cluster - the 'welfare/professional' cluster. Gratifyingly, when viewed in conjunction with the groups mean ideological scores for the statement sets (chapter four), this hypothesis proved accurate. Figure 3a shows the group compositions of the three clusters.

Figure 3a

Cluster One : 173 cases	
Panel Members (17 from 145)	12%
Reporters (1 from 13)	8%
Social Workers (55 from 83)	66%
Guidance Teachers (78 from 118)	66%
Police Officers (22 from 30)	73%

Cluster Three : 173 cases	
Panel Members (117 from 145)	81%
Reporters (11 from 13)	85%
Social Workers (22 from 83)	26%
Guidance Teachers (22 from 118)	19%
Police Officers (1 from 30)	3%

Cluster Two : 23 cases	
Panel Members (7 from 145)	5%
Social Workers (1 from 83)	1%
Guidance Teachers (9 from 118)	8%
Police Officers (6 from 30)	20%

It might be suggested that cluster two contains those respondents who adhered more to law enforcement attitudes. The smaller numbers of respondents in this cluster provides corroboration for the lower mean ideological scores registered generally by **all** groups for the law enforcement ideal - which failed to be the favoured ideological framework for any of the groups participating in the research. The high percentage of police officers in cluster one accords with the mean ideological score for this group which was the highest of all the groups in favour of the welfare/professional ideal (see chapter four). This position in conjunction with the large numbers of guidance teachers and social workers in this cluster whose groups too registered high mean ideological scores in support of the welfare/professional model, provides confirmation for the assumption that cluster one represents the welfare/professional grouping. The same analytical logic applied to the mean ideological scores of panel members and reporters (chapter four) and their large membership of cluster three indicates that this cluster represents the welfare/lay involvement model. The fact that some members of **all** groups appear in **all three** clusters supports the findings of Smith (1977) and the concept of multiple ideologies within groups as well as across groups. This is particularly evident in this study's sample within the social worker and guidance teacher groups with 26 per cent and 19 per cent of their members respectively concentrated in the welfare/lay involvement cluster and within the police officer sample with 20 per cent of its members in the law enforcement cluster. Further reference to this response configuration displayed by police officers in the study is made in chapter four.

Interview Sample

Before selecting cases for the pilot sample further preliminary analysis was carried out to determine whether the composition of the three main clusters might be affected by any other variables - geographical area, gender, age, the job experience of the respondents. When this additional aspect of the analysis was enacted by crosstabulating each cluster with these variables, no such influence was identified and the pattern evident in the case composition of the clusters followed that of the overall sample to a substantial degree. A random sample, therefore, of eight respondents (one reporter, one police officer and two panel members, social workers and guidance teachers) was taken from across the three clusters and the interview schedule was piloted. It was possible to identify the individual respondents for interview by crosstabulating the cluster compositions by the reference number of each questionnaire. Those questionnaire forms could then be located and as the respondents who were prepared to be interviewed had indicated so in the corresponding section at the end of the questionnaire, personal contact could be made. As before (questionnaire sample) those participants involved in the pilot interview sample were not re-interviewed and their comments were not included in the analysis of the interview sessions.

A letter stating that the respondent had been selected for interview and requesting an acknowledgement that he/she still wished to participate in this phase of the research was posted to each prospective interviewee. After the acknowledgement was received arrangements were made by telephone for the

interview itself. The same procedure was used for the main interview sample. In all, in both the pilot and the main sessions of the interview phase of the research, only one of the selected respondents was unable to participate and it was an easy task in this case to select another appropriate candidate to compensate.

Although regional variation, and in the case of Central Region and Dumfries and Galloway district variation, did not significantly affect the overall composition of the three clusters, it was felt nevertheless that as a way of balancing the main interview sample and providing as wide a variety of experiences as possible, it would be preferable randomly to select interviewees from all the various regions and districts involved in the study across all groups in all three clusters. This proviso did influence the final composition of the interview sample, in that it inevitably meant a disproportionately higher number of interviewees from the reporters' group and police officers' group than might otherwise have been expected, especially considering their smaller numbers in the survey sample. It was felt however that numbers and proportions were of little consequence within the context of this study. As all the groups involved in the research, regardless of their input numerically, are vital agencies within the hearings system it could be argued that their views are of equal importance to the system and its present and future operations and that to restrict the scope of comment on a purely proportionate basis may be damaging to the overall debate.

As panel members, guidance teachers and social workers constituted the three

groups with the greatest organisational diversity throughout the regions, it was necessary to allocate a greater quota of interviews to them - 23 in total: 13 panel members; 10 guidance teachers; and 10 social workers. Six interviewees each made up the police officer and reporter samples. The final composition of the interview sample was as follows:

Reporters' group:
Six interviews;   **Three** in Central Region - **one** from Cluster One (Stirling/Clackmannan District)
two from Cluster Three (one each from Stirling/Clackmannan and Falkirk Districts)

In Central Region there are two reporters' offices - one serving Falkirk District and one serving the joint district of Stirling/Clackmannan

One in Dumfries and Galloway - Cluster Three (Regional Reporter)

At the time of the interview phase of the research Dumfries and Galloway reporters' department had only one permanent reporter and was in the process of appointing two assistant reporters

Two in Glasgow South-West - Cluster Three.

Police Officers' group:
Six interviews;   **Two** in Central Region - one from Cluster Three one from Cluster One

Two in Dumfries and Galloway - **both** from Cluster One (Dumfries Police Area and Stranraer Police Area)

Two in Glasgow South-West - **one** from Cluster One one from Cluster Two

Panel Members' group:
Thirteen interviews;   **Four** in Central Region - **three** from Cluster Three (one each from Clackmannan, Falkirk and Stirling Districts) **one** from Cluster One (Clackmannan District)

Five in Dumfries and Galloway - **four** from Cluster Three (one from each District - Wigtown, Stewartry, Nithsdale, Annandale/Eskdale)
one from Cluster One (Nithsdale District)

Four in Glasgow South-West - **three** from Cluster Three
one from Cluster One

Social Workers' group:
Ten interviews; Six in Central Region - **four** from Cluster One (one each from Clackmannan and Stirling Districts, two from Falkirk District - the largest social work area)
- **one** from Cluster Two (Falkirk District)
- **one** from Cluster Three (Stirling District)

Four in Dumfries and Galloway - **two** from Cluster Three (one each from Wigtown and Stewartry Districts)
two from Cluster One (one each from Nithsdale and Annandale/Eskdale Districts)

Guidance Teachers' group:
Ten interviews; Four in Central Region - **three** from Cluster One (one each from Stirling, Falkirk and Clackmannan Districts)
one from Cluster Two (Stirling District)

Three in Dumfries and Galloway - **two** from Cluster One (one each from Stewartry and Annandale/Eskdale/Nithsdale Districts)
one from Cluster Three (Wigtown District)

Three in Glasgow South-West - **two** from Cluster One
one from Cluster Three.

Interview Schedule

The interview schedule, which contained topic areas similar to those in the questionnaire, was used as a framework and guide for each interview and as a means of introducing topics and generating discussions around these. At the same time it was desired that the interview schedule allow interviewees the opportunity to deliberate and expand on the issues concerned and to raise new issues if

115

desired (see Appendices two and three for the interview schedule). The use of the interview schedule in this way is consistent with the case for incorporating two research techniques within a single study. Within such a strategy the questionnaire can be seen as a means of initially introducing topics to the research sample and providing general trends of opinion, while the interview phase, through the medium of the semi-structured interview, provides a mechanism for developing and broadening the parameters of the discussion and of the debate generally.

The interview schedule operated well throughout the pilot phase. It generated considerable amounts of relevant information particularly from those interviewees who had a good knowledge and experience of the system. It proved to be adequately structured to be consistent in the information content it provided thus fulfilling its role as an interview guide, yet flexible enough in its application allowing for some good open-ended discussion. The average length of each interview was between 60 and 90 minutes. Although no major alterations were made to the content of the interview schedule as a consequence of the pilot sessions, the order and balance of the schedule applied in interviews with guidance teachers and police officers had to be changed. It became clear during discussions, and this was evident to some extent in questionnaire replies also, that guidance teachers and police officers had a variable knowledge of some aspects of hearings system operations - particularly issues around the practices within a hearing and panel member training. Bearing this in mind and to provide a more discursive entry into the interview, the order of the schedule for those groups was

altered to concentrate, in the first instance, on their present input to the hearings system rather than, as with the other groups, the processes within a hearing. The interviews with guidance teachers and police officers were usually but not always shorter than those with other groups - approximately 60 minutes. The length of certain interviews was also curtailed by the limited time available to the interviewee for discussion. This was particularly so with guidance teachers and social workers.

Timing and Conduct

The interviews were conducted during the summer and autumn of 1992 taking a period of four months to complete. Throughout the study the researcher has been employed on a part-time basis either in school teaching or in university teaching and on occasions in both. The flexibility and time allocation this allowed for the research placed few hindrances in the way of the fieldwork. This was also made easier by the fact that some interviews conducted over the summer months were undertaken during school and university vacation periods which permitted even more flexibility in arranging interview times. As much of this researcher's employment over the period of the study was of a part-time nature the time that could be devoted to all aspects of the study was increased thus permitting the research to be completed over a relatively moderate time period. The organisation and conduct of the research was also facilitated by the fact that much thought and initial preparation had been undertaken in the year prior to registration for the PhD. Furthermore, as much recent interest - Child Care Law

Review (1990), Clyde Report (1992), Kearney Report (1992) - has been shown in matters related to the hearings system, the researcher was naturally keen that the results of this study and the views of the participants be available as soon as possible and within the context of the comments and recommendations of these other documents. The latter circumstance provided an impetus to complete the fieldwork and analysis as rapidly and as comprehensively as possible.

Each interview where possible was tape recorded although in two interviews notes had to be taken instead. In one instance the nature and busyness of the interviewee's office made tape recording impossible because of the intrusive nature of the background noise and in the other the interviewee felt uneasy with the presence of a tape recorder and preferred that handwritten notes be taken during the course of the interview.

Immediately following a series of interviews the tapes containing the data were transcribed. The transcriptions were completed as soon as possible after the initial interviews to prevent any backlog and while the interviews themselves were still relatively fresh in the researcher's mind.

Once all the interviews and transcriptions were complete the final stage of the analysis commenced. In the light of the comments made by interviewees from each area, further crosstabulations, on the issue of group liaison for example, were undertaken to investigate regional and possibly district variations. Previously less explored aspects of the data within the questionnaire survey, for example, the

issues of adoption, custody and access relating to children under supervision, were more closely scrutinised, again as a consequence of the views and opinions expressed by the interviewees. This process confirmed the considerable benefit of undertaking 'individual' interviews as well as the questionnaire survey, for it opened up new lines of inquiry and new areas of investigation. The interviews permitted the participants to speak for themselves and through this element of discussion avenues of inquiry arose that had not been emphasised before or in some cases included in the questionnaire survey at all. One such example was the proposal that children and parents should be encouraged to compose their own reports for hearings - this whole area of debate arose from one comment made by a reporter during an early interview.

Summary

The purpose of this chapter has been to present an outline of the structure and organisation of the study and to present a description of the conduct of the fieldwork. It has provided a justification for the choice and combination of research methods used as well as an account of their construction and implementation. Before moving on to the findings and analysis section of the research however, it is important to re-emphasise the objectives and themes of the study upon which the framework and structure of the research and research instruments were based.

In the construction of the questionnaire and the interview schedule and in the application of the schedule, a number of themes, already highlighted by the literature review and considered crucial to the objectives of the research, were emphasised and the questions and interview areas were centred around these.

To reiterate, the objectives of the study were to determine and examine the concept of juvenile justice and the ideals and practices of the hearings system as viewed and experienced by the members of five groups (panel members, social workers, guidance teachers, police officers and reporters) and to establish any need or desire for change.

From this platform five research themes were created that allowed these objectives to be met. The first, 'Ideological Stance', attempted to determine each group's stance on juvenile justice ideology by using three sets of ideological statements covering three perceptions of juvenile justice - law enforcement, welfare/professional, welfare/lay involvement - and scoring these on a five point scale from strongly agree to strongly disagree. Furthermore, in the light of these three standpoints, an assessment was made of the respondents' perceptions of hearings system operations in their areas and of their views on how the hearings system should operate. Finally in this theme, an attempt was made to determine whether, in the eyes of the participants, hearings system operations as they are at present are succeeding in fulfilling the perceived ideals of the system.

The ideological position of the participants regarding juvenile justice was a fundamental theme in this research and one which was influential in the assessment of respondents' perceptions of the hearings system and its operations. It was viewed as a recurring and overriding theme that permeated the analysis of aspects of the other four research areas.

The second theme or area, **'Discussion and Decision-making'**, attempted to establish the respondents' views on how decisions are made in a hearing and how, if necessary, this process can be improved. The police officers had a restricted input to this theme. As they do not attend hearings on a professional basis their knowledge of the processes in a hearing is naturally more limited.

The third theme, **'Rights'**, examined the position within the hearings system relating to the rights of the child and parents. It elicited from the participants their views on whether or not the rights of these groups are upheld within the system at present and what if anything needs to be done to ensure greater protection or to expand or reduce the rights of those who come before the system and are subject to its decisions.

The fourth, **'Lay Aspect'**, was designed to establish the participants' definitions of the concept of 'lay' as they saw it and to assess their views on lay involvement as a central feature of decision-making within a hearing, as well as any changes they may wish to see to this aspect of hearings system operations.

The fifth, **'Inter-group Liaison'**, examined the respondents' views on what constitutes group liaison, on the state of liaison between groups involved in the hearings system at present and whether or not liaison and communications should be developed, in which ways, and what the implications of that may be.

The statistical data obtained from the questionnaire survey and the qualitative material achieved through the individual interviews were combined in a supportive capacity as they applied to each of the analytical themes. The statistical data provided the general trends of opinion expressed by the members of the survey sample, while the comments given by the 45 interviewees constituted the reasons for such trends and developed certain aspects of each theme beyond what was possible to achieve through the more rigid and standardised questionnaire technique. Chapters four to eight display how the marriage of the findings obtained from these two research instruments was accomplished and form the analytical section of the study.

Chapter Four : Ideological Stance

A system is only as good as the tools it has to work with.

Central Region Panel Member

Ideological Assessment

The assessment of the ideological positions of each of the five groups involved in the research is described, in chapter three as a central theme of the study. As that chapter made clear, a possible hypothesis suggests that the groups who work within juvenile justice and the hearings system in Scotland may, perhaps because of their backgrounds and training, have different and possibly contradictory attitudes to the purpose and function of juvenile justice and to how it should be structured.

Asquith (1983) considers these possible areas of contradiction between different agencies working within a social system using what he terms 'frames of relevance'. A frame of relevance, Asquith explains, provides the professional with a set of 'generalisations' or 'typifications' that constitute a stock of professional knowledge which can be drawn upon when decisions have to be made. Asquith claims it is because each profession has its own exclusive frame of relevance and because there is likely to be a number of different professions within the 'organisational network' for administering say juvenile justice that differing attitudes and degrees of mistrust do arise and group cooperation does not

necessarily progress. Asquith also ascribes to lay people - in the case of the hearings system this would include panel members - lay frames of relevance which he suggests assists them to make decisions and form opinions within the context of a social system in the same way as sense is made of general everyday life (1983: 46-9).

With reference to the hearings system Asquith would argue that the various groups involved in hearing operations using their unique frames of relevance will conceive attitudes to the system which may not necessarily be complimentary. This in turn could have implications for the execution of all aspects of hearings system operations. It is attitudes of this nature that McLean and Docherty (1985) refer to (chapter two) when commenting on the activities of the police and their alleged suspicions of the hearings system, and Smith (1977) and Morris and McIsaac (1978) allude to in their considerations of the objectives and ideals of groups involved in juvenile justice.

Geertz (1964) has identified two approaches to the study of differing attitudes or ideologies - the 'interest' theory and the 'strain' theory. They are defined thus:

> In the interest theory, ideological pronouncements are seen against the background of a universal struggle for advantage; in the strain theory, against the background of a chronic effort to correct socio-psychological disequilibrium. In the one, men pursue power; in the other, they flee anxiety (1964: 52).

Under the interest theory people are seen to construct their own social world as they will. An ideal perception of something or some state is defined and then, as Smith describes, 'rationally and consistently' an attempt is made to make this

image reality. For Smith this model is idealistic in that the 'construction of subjective reality determines the nature of objective reality as the subjective gains operational implementation' (1977: 851). The strain theory provides a different perspective. Under this approach it is the objective world which confronts and influences people leaving them unsure and in situations they find difficult to rationalise. Their lives then become 'characterised by inconsistency and strain' (1977: 851).

Smith utilises the strain theory in an attempt to analyse his research into social workers' interpretations of the hearings system. The first source of strain noted by Smith was associated with the fact that as social workers constructed and initiated an 'operational philosophy' or working attitude to the hearings system in line with their primary ideology, they discovered aspects of the hearings system that confused them. There were matters which simply did not fit into their subjective and idealistic conception of things. As Smith explains:

> It was not simply that puzzling aspects of the system were encountered. Aspects of the system were encountered which seemed to refute the adopted stance. Ambiguous reality was encountered and, on occasions, subjective reality was actively disconfirmed. (1977: 852)

Smith's study also indicated a second source of strain within hearings system operations. This developed as the social workers realised that the ideology to which they adhered most closely was not that which necessarily predominated throughout the system. This situation in turn led to frustration and anger (1977: 853). This is the hypothesis that is to be analysed within this chapter. Do various participant groups adhere to different ideological positions concerning juvenile

justice and if so, does this affect their views on the hearings system and how it should operate which could prove contentious? To attempt to evaluate the primary ideological stance taken by each group towards juvenile justice, eleven statements classified into three ideological sets were presented to the respondents in the questionnaire. These were designed in accordance with the ideological positions described in chapters one and three with the purpose of separating the views of the respondents on juvenile justice into three categories: those more inclined towards law enforcement and the justice model; those preferring a welfare-treatment approach to children's problems organised and controlled by professional groups; and those adhering to the welfare approach but on this occasion believing in lay decision-makers as an essential part of the process.

Using the five point scale described in chapter three and remembering that one of the eleven statements - the dual welfare/professional-welfare/lay involvement statement - was found to have a poor relationship with the others in its sets and was therefore eliminated for the purpose of analysis, mean scores were calculated for each group for each of the three ideological positions. As the dual statement was removed from the analysis meaning that two sets contained only three ideological statements while the other for justice/law enforcement contained four, compensation for this imbalance was required when calculating group scores. To achieve this all scores for the justice/law enforcement model were weighted accordingly and reduced by the fraction of 0.25.

The higher the score, the more agreement there is with each statement and a high

overall score for a set of three statements was taken to indicate general agreement with the ideological stance it represented.

Group Ideologies

Table 4.1 below shows each group's mean score for each set of statements. Any regional or district variations are explored later.

Table 4.1

	Panel Members (n=141)	Social Workers (n=78)	Police Officers (n=29)	Guidance Teachers (n=111)	Reporters (n=12)
Justice/Law Enforcement Statements ADFI	5.9	6.3	8.7	8.3	4.2
Welfare/Professional Statements CHK	7.7	10.9	11.1	10.4	7.8
Welfare/Lay Involvement Statements EGJ	10.6	7.9	8.1	8.3	10.5

(For the individual statements see question nine of the questionnaire in Appendix one)

As table 4.1 indicates, all groups - panel members, reporters, police officers, guidance teachers and social workers - displayed support for a juvenile system based upon the welfare principle. The justice/law enforcement model was clearly not endorsed.

The groups were divided however on who should make the decisions within such a system. Social workers, guidance teachers and police officers agreed that decisions relating to children should be determined by professionals. While reporters and panel members who, as has been shown, also firmly supported the welfare principle, did so chiefly within the context of involving lay people as key members of the decision-making process. This division of the sample into two distinct groupings mirrors that obtained using the cluster analysis described in chapter three and used for the selection of respondents for the individual interview sessions. The two main clusters there, again derived from the responses to these ideological statements, divided the overall sample into two groupings - the majority of guidance teachers, social workers and police officers in one cluster and the majority of panel members and reporters in another.

This general pattern which displays different ideological standpoints on juvenile justice between reporters and panel members and the other groups could have implications for the hearings system both in terms of group relations and in terms of overall attitudes to operations and development - more so if these attitudes displayed in the general table are consistent with those present for each of the groups in each region.

Table 4.2 : Panel Member Attitudes

	Central Region (n=49)	Dumfries & Galloway (n=46)	Glasgow SW (n=46)
Justice/Law Enforcement	6.1	5.7	6
Welfare/Professional	8	7.4	7.7
Welfare/Lay Involvement	9.8	11.2	10.9

The mean scores recorded for panel members in Dumfries and Galloway, Glasgow South-West and Central Region (table 4.2) are close to those in the general table (table 4.1) with no major deviations. Panel members clearly demonstrated a commitment to the welfare principle and to lay involvement in decision-making although those in Central Region while still scoring higher in this latter category did so with slightly less conviction than those in the other two areas. There were no distinct district variations within Central or Dumfries and Galloway Regions and Glasgow South-West being in itself a panel member district, cannot of course be divided further in this respect.

It might be suggested perhaps that the individual nature of the lay frames of relevance, which can be said (Asquith, 1983) to govern and contextualise panel member attitudes to juvenile justice, has the potential to generate a wider range of ideological affiliations than those to be found amongst professionals -

professional groups being influenced in their attitudes by more coherent frames of relevance embodied in training and acquired expertise. This concept may help account for the differences in mean scores exhibited in table 4.2 between Central Region and the other two participating areas.

Police Officer Attitudes

Table 4.3 : Police Officer Attitudes

	Central Region (n=7)	Dumfries & Galloway (n=6)	Glasgow SW (n=16)
Justice/Law Enforcement	7.7	8.9	9.5
Welfare/Professional	9.9	12.2	11.2
Welfare/Lay Involvement	8.7	7	8.6

The mean scores for police officers in all three regions, like those in table 4.1, displayed support both for the welfare principle for juvenile justice and also for professionally determined treatment. The welfare scores for police officers in Central Region are closer than those in the other two areas. This may be partly the result of the make up of the police sample from this region which of the seven officers included four from the Child Protection Unit. This is a special unit which works exclusively in the area of child protection and liaises extensively with the social work department and the reporters' department. The other three officers were from the Community Branch of the Force. The closer relationship the CPU

officers have with both social workers and reporters and a greater understanding of the work these groups do, seemed to make it more difficult for them to choose decisively between the two welfare frameworks and this in turn led to the greater homogeneity of mean scores for the welfare principle across the region. Police officers from the other two areas, on the other hand, followed the general pattern by embracing the welfare ideal but clearly rejecting lay involvement in decision-making. Their ranks did not contain as many police officers from special units as the Central Region sample and this may account for their more definite indication of preference.

These findings contradict those of McLean and Docherty (1985) which suggest that police officers still adhere to a predominantly law enforcement attitude to juvenile justice. The specific nature of the police sample used in this research, however, may not reveal the true range of attitudes prevalent within police ranks. The police officers who took part in both the questionnaire survey and the interview sessions, as chapter three indicated, all had direct experience of hearings system operations - this may mean a greater awareness on their part of welfare based juvenile justice systems and thus a more informed outlook. If this is so then it does provide a convincing argument for incorporating information about such systems within the scope of police training - pre-service and in-service.

Furthermore, despite the majority of police officers in this study rejecting the law enforcement ideal for juvenile justice, it is noted that Glasgow South-West police officers did score the highest of any group for the justice model (table 4.3) and

that 20 per cent of the police officers' sample did appear in cluster two - identified in chapter three as potentially the criminal justice/law enforcement cluster. This variation in attitudes displayed by police officers, as chapter three suggested, provides justification and support for Smith's (1977) theory of multiple ideologies within groups.

Social Worker Attitudes

Table 4.4 : Social Worker Attitudes

	Central Region (n=47)	Dumfries & Galloway (n=31)
Justice/Law Enforcement	6.3	6.4
Welfare/Professional	10.8	11.1
Welfare/Lay Involvement	7.7	8.3

Social workers in both Central and Dumfries and Galloway Regions, as table 4.4 shows, scored similarly on the ideological statements given in the questionnaire. Clearly they favoured a welfare system based on decisions made by professionals and this pattern generally held for the majority of social workers in both regional samples.

In line with their scoring pattern in table 4.1 guidance teachers in all three regions and their districts endorsed the welfare ideal for the treatment of children within juvenile justice and suggested this treatment should be determined and decided upon by professionals. The regional pattern is displayed in table 4.5:

Table 4.5 : Guidance Teacher Attitudes

	Central Region (n=55)	Dumfries & Galloway (n=35)	Glasgow SW (n=21)
Justice/Law Enforcement	8.2	8	8.9
Welfare/Professional	11	10.4	9.9
Welfare/Lay Involvement	8.2	8.4	8.6

As the table indicates the guidance teachers in the South-West District of Glasgow seemed to have greater difficulty in clearly determining their preference between the three ideological models. This is demonstrated in the closeness of the three mean scores, especially when compared with the differences prevailing in Dumfries and Galloway and Central Regions. Even amongst guidance teachers in Glasgow South-West though, the welfare/professional model still provided the highest mean score overall.

When the issue of juvenile justice ideology was raised with the guidance teachers

from the South-West of Glasgow who were interviewed, their comments would suggest that their views were influenced by their experiences of young people, particularly those who offend, and their parents. The dominant consideration was that in some cases these children could only be handled by professionals and that some degree of retribution for their acts should be instigated where appropriate, as with habitual offenders. On the other hand for those children categorised as victims of family or social circumstances the welfare-caring approach, either professionally controlled or involving lay people, was advocated strongly. In those instances the complexity of each individual case seemed to be the criterion upon which the choice between professional decision-makers and lay decision-makers was made.

It is interesting to note that in both the cases of the guidance teacher and police officer samples, their mean ideological scores for the justice/law enforcement model in juvenile justice, although **not dominant**, were higher than those exhibited by the other three groups (table 4.1, 4.3, 4.5). These higher scores and the attitudes associated with them are perhaps reflected later in this chapter in reactions to specific developments in hearings system operations.

Reporter Attitudes

In all three regions the reporters' sample scored highest for the welfare/lay involvement statements but by far the most convincing display of support for this model was given by the reporters in Glasgow South-West with a high mean score

of 12.5 (see table 4.6).

Table 4.6 : Reporter Attitudes

	Central Region (n=5)	Dumfries & Galloway (n=3)	Glasgow SW (n=4)
Justice/Law Enforcement	5.3	4	3.6
Welfare/Professional	8.8	8	6.7
Welfare/Lay Involvement	9.3	9.7	12.5

As table 4.6 indicates the reporters in Central Region, while endorsing the welfare principle, seemed less certain about whether to embrace lay involvement in decision-making or whether this role should be left in professional hands. This indecision is most marked in the district of Falkirk as table 4.7 shows:

Table 4.7

	Falkirk (n=1)	Stirling/Clackmannan (n=4)
Justice/Law Enforcement	5.3	5.3
Welfare/Professional	8	9.7
Welfare/Lay Involvement	8	10.5

It must be noted that as the number of reporters within the regions is small when

broken down to a district level distinctions in attitude can become reflections of single individual opinions.

The dilemma for the reporters in Central Region seemed to originate from their apprehension over the increasing number of care and protection cases coming before children's hearings and their growing complexity (see table A.4 in Appendix four) - a phenomenon acknowledged both in the Clyde Report (1992) and the Finlayson Report (1992) - and over the continuing ability of lay panel members to understand these cases and to make the correct disposals. This anxiety expressed by these reporters was also evident in their support for more panel member training in the field of child care - an issue discussed in chapter seven - which they saw as one possible solution in assisting lay panels in their dealings with such cases.

Situated Accounts

The fact that Central Region police officers, Central Region reporters, Glasgow South-West guidance teachers and to a lesser extent Central Region panel members, had some difficulty in convincingly determining their dominant ideology is in itself not a new phenomenon. Gilbert and Levinson (1957), Sharaf and Levinson (1957) and Wessen (1958) in their studies of medical staff ideologies all reported ideological diversity, inconsistency and confusion amongst their participants.

Stoll (1968) in fact suggests that the unpredictability associated with ideological assessment and affiliation renders it a poor indicator of behaviour. By way of explanation, Stoll asserts:

> One possibility is that ideology is purely rhetoric [and ...] may be led astray in practice [...] when opportunities to implement theoretical guidelines are not available, or when accommodations must be made with others [...] (1968: 124-5).

Hardiker (1977) too identifies a rhetorical element in ideological allegiance which, she claims, may subsequently be altered or affected by practical issues such as resource availability or occupational accountability. Hardiker encountered this phenomenon in her study of probation officers' ideologies as did Smith (1977) in those held by social workers (chapter one). To make sense of these apparent contradictions in ideological rhetoric and practice Smith (1977) utilises the concepts of 'operational philosophy' (chapter one) and 'situated accounts'. Smith believes, 'the notion of ideology is usefully confined to sets of ideas expressed at a relatively high abstract level' (1977: 858) - so when in an operational situation which is by definition pragmatic, the individual may have to construct a working arrangement for his/her underlying ideology, the final outcome of which is an operational philosophy. S/he may also have to adjust and alter this operational philosophy to allow for and comprehend the varying practices within a system some of which may not accord with his/her underlying ideological stance. In this way continual 'strain' within a system can be alleviated. The result of such a process is defined by Smith (1977) as 'situated accounts' (1977: 861). Using these concepts Smith suggests individual attitudes and practices can be assessed and understood and ideological contradictions

accounted for.

When members of the various groups in this study, were asked in interview about their apparent difficulty in determining a dominant ideological stance, their replies seemed to indicate the unconscious enactment of more pragmatic situated accounts. One reporter from Central Region gave his explanation:

> I believe in a welfare system of justice for children that involves lay people as decision-makers **but** the cases today that panel members have to deal with make me think at times that qualified professionals with experience and training in the handling of cases like these would be more appropriate as the decision-makers.
>
> Central Region Reporter

In this instance the reporter's operational awareness surrounding the complexity of some cases that come before children's hearings - a practical issue - had an influence on and produced a contradiction in his ideological stance.

Furthermore, the notion that professional training, the stock of knowledge it imparts and professional ethos might influence group attitudes is partly established in the results in so far as 'child care' professionals (police officers, social workers, guidance teachers) are ideologically separate from the majority of reporters and panel members whose training and experiences are embedded in, and more specifically related to, hearings system operations and therefore the concept of lay involvement in decision-making. As suggested before the particular nature of the police sample in this study may obscure a potentially greater endorsement of the law enforcement model that might exist in the wider ranks of the police (McLean and Docherty, 1985) and which may be more reflective of general police officer training than the predominantly welfare/professional stance

indicated by police officers here. The fact, however, that the majority of members in three main professional agencies adhered to the welfare/professional model for juvenile justice does add credence to the notion of professional expertise and the concept that the most appropriate individual to make decisions within a recognised field is the trained and qualified professional. The view and concern expressed by many interviewees from these three professional groups and from some reporters that cases appearing before children's panels are becoming too complex for lay people to comprehend is a further indication of the existence of this 'expertise syndrome'.

Attitudes to the Hearings System

The ideological positions adopted by the groups can be significant in relation to the children's hearings system when contrasted with the perceptions these same groups had concerning how the hearings system operates or should operate in their areas. It could be argued as Smith (1977) that if the ideological standpoints taken by these participant groups are different from the way they see the structure and organisation of the hearings system as it operates at present and if this in turn differs from the way they believe it should operate, frustration and a possible lack of commitment to the system may result - a situation which may ultimately reduce efficiency and effectiveness.

As one panel member from Glasgow explained when commenting on hearings practice:

If panel members and maybe others are becoming disillusioned
with the system and frustrated that it is not working effectively for
the children then they might not work quite so hard and the
system then is on a slippery slope.

Glasgow South-West Panel Member

Current Hearings System Operations

The groups' members were asked to describe how they viewed current hearings

system operations in their area by choosing from three definitions given in the

questionnaire (for these definitions see question ten of the questionnaire in

Appendix one). Overall by far the strongest view was one of a welfare system

that ensures lay involvement in dealing with children's problems. Twenty from

28 police officers, 68% of guidance teachers, 83% of social workers, 92% of panel

members and seven from 12 reporters throughout the regions all held this view.

Only in the South-West District of Glasgow was a major contrast found. Three

from the four reporters there saw the hearings system in this area operating as a

welfare system certainly but one that ensures that professionals decide on the

treatment for children. For the reporters in South-West Glasgow this situation

must prove frustrating particularly as they, by registering the highest mean

ideology score of all, supported lay involvement to the greatest degree. Indeed

it may be this perception of the hearings system as a system controlled by

professionals which motivates the reporters in Glasgow South-West to hold such

strong convictions for the lay involvement model in juvenile justice. As a reporter

from this area expressed:

The system is designed around lay involvement and lay decision-

makers. It's the only way it can work effectively in my view.
                                        Glasgow South-West Reporter

Future Hearings System Operations

The groups' members were also questioned on how they believed the hearings system **should** operate. Again, and for some contrary to their ideological stances, lay involvement in dealing with children's problems proved the preferred framework. Ninety-one per cent of panel members opted for lay involvement as well as 68% of social workers, 57% of guidance teachers, 14 from 27 police officers and 11 from 12 reporters. As one of the supporters of lay involvement in decision-making commented:

> A lay person can have an overall view - they can hear the advice
> and information from people who have knowledge of and are
> dealing with the child but I think it's good that these lay people
> can then apply independent judgement to it [...] I would argue
> very much in favour of lay involvement. I believe in checks and
> balances and a lay panel provides this.
>   Glasgow South-West Guidance Teacher

Substantial numbers - 24% of social workers, 31% of guidance teachers and 11 from 27 police officers - however, in line with their mean ideological scores, believed the hearings system should be structured in such a way as to ensure that professionals decide on the treatment needed for children's problems. In explaining her reasons behind this viewpoint one social worker presented a common attitude prevalent amongst interviewees who shared a desire to restructure the hearings system in this manner:

> Cases and problems are often complex today especially where
> children are concerned and I don't feel it should be left in the
> hands of lay people to decide on how these problems should be

treated - they don't have the background to understand things fully.

Central Region Social Worker

The attitude of these respondents again epitomises the belief in the appropriateness of professional expertise and professional decision-making. It is also the primary motivation behind the desires for change in panel member training or in panel composition described in chapter seven by interviewees from the three aforementioned groups.

Movement of Opinion

By crosstabulating the responses to how the hearings system operates at present with the participants' views on how it should operate it was possible to calculate the movement of opinion between the three ideological models.

The majority of reporters and panel members who saw the hearings system operating as a welfare system involving lay participation in decision-making continued to overwhelmingly endorse this operating practice for future hearings system activities. For the other three groups the situation was a little different however. Seventeen per cent of the social workers, 13% of the guidance teachers and 30% of the police officers across the three regions who had indicated that the hearings system operated at present to ensure lay involvement in decision-making wished to see this practice changed and suggested the system should operate to ensure that professionals make the decisions. This of course is in harmony with the mean ideological scores for these groups. The percentage shift in the other

142

direction was smaller, endorsed by only 6% of social workers, 3% of guidance teachers and 4% of police officers.

The shift of opinion overall for social workers, guidance teachers and police officers combined from the welfare models to law enforcement was only 5% and in the other direction only 6% split between the two welfare ideals. The justice/law enforcement model was evidently **not** considered by substantial numbers in any of the groups as appropriate for governing hearings system activities. The opinions of one guidance teacher summed up this position well:

> I would not wish to see the hearings system change its overall ethos - caring and working in the best interests of the child should remain. I don't think this fundamental aspect of the system **should** be changed - certain procedures and practices maybe but not its caring approach.
>
> Central Region Guidance Teacher

At a regional level the most notable changes in the pattern of response occurred in two participant groups in Glasgow South-West. The three reporters there who, as indicated earlier, believed that the hearings system in their area operated to ensure that professionals made the decisions, clearly wanted change as all three joined the other reporter in the area in stating that the hearings system should operate to ensure lay involvement in decision-making - a definite expression of change and one in line with their ideological score.

Some of the police officers too in Glasgow South-West desired a change in the way the hearings system operates in their area. Of the nine officers who believed that the system operated to ensure lay involvement in the treatment of children's problems, four believed this should remain the motivating principle while five

143

wished to see the system move to ensuring that professionals take on this decision-making role. Of the four who believed the system was a law enforcement mechanism, three desired change, one to a welfare system ensuring lay involvement and two to a welfare system run by professionals. Finally of the two remaining police officers who initially supported professional decision-making within a welfare system, one continued with this conviction while the other wished to see the hearings system become more of a law enforcement agency. Table 4.8 illustrates this movement of opinion - a movement that clearly endorses the welfare principle and within a system controlled and run by professionals. It also confirms the mean ideological score recorded by the police officers from Glasgow South-West which indicated a preference for this regime in juvenile justice.

Table 4.8

How the Hearings System operates at present		How the System should operate	
	Police officers		Police officers
Justice/Law Enforcement	4	Justice/Law Enforcement	2
Welfare/Professional	2	Welfare/Professional	8
Welfare/Lay Involvement	9	Welfare/Lay Involvement	5
(n = 15 excludes 2 no response)			

There is again little evidence within the police officer sample in this study to support McLean and Docherty's (1985) contention that the police favour a law

enforcement approach to juvenile justice.

Ideological Contradictions

It is evident from the stances taken by groups on the structure of the hearings

system that despite the mean ideological scores of most guidance teachers, social

workers and police officers which failed to endorse lay involvement in juvenile

justice, the majority of respondents from these same groups supported this

principle within the context of present and future hearings system operations -

although it must be noted that the majorities in the case of guidance teachers and

police officers were smaller. How can this paradox between these groups'

ideological standpoints on juvenile justice and their views on hearings system

operations be resolved? Those questioned about this during the individual

interview sessions suggested an explanation for this potential dilemma. The

majority indicated that they felt the hearings system was essentially a 'good'

system in the way it tackled children's problems and that they saw benefits, within

the parameters of that system, of including lay people in the decision-making

process. Their desire however, was to balance this lay involvement with a more

effective professional input. This they proposed could be achieved either by a

more professional training scheme for panel members or by involving

professionals to a greater degree in the processes by which decisions are reached.

Professional advice was seen as vital. The idea of lay people making decisions

without a strong element of this was overwhelmingly rejected. This attitude again

endorses the importance, for these groups, of professional knowledge in the

decision-making process - a pattern evident throughout the research findings. This vision was expressed thus:

> They are certainly genuine people who are on panels and they want the best interests of the pupil and to help and I think that's valuable [....] As long as there is a balance with the professionals there, who know what is happening in the schools and in the family, to advise.
>
> Dumfries and Galloway Guidance Teacher

> More appropriate panel member training is needed [...] a greater knowledge of aspects of child care, human behaviour and child education and psychology is needed. The appropriate professional agencies must be involved in this.
>
> Central Region Social Worker

A discussion of panel member training and its relationship with the lay concept as well as other suggested changes connected with lay panel membership including changes to panel composition are considered in chapter seven.

As with some groups earlier and their apparent dilemmas over their ideological preferences, in this case too those guidance teachers, police officers and social workers who seemed to contradict their ideological stances by endorsing continued lay involvement in future hearings system operations, appeared to be adopting a pragmatic situated accounts approach to the issue. They adhered to the welfare/professional model for juvenile justice in principle but faced with the hearings system which includes lay decision-makers and which is operating, they admitted, with some success, they pragmatically accepted the continued involvement of lay people in the decision-making process.

In the course of the interviews and as a practical development of the ideological expressions of the respondents in the questionnaire, the interviewees were asked to define their own impressions of the purposes behind the work done by the hearings system and also to assess how effectively they believed the system is carrying out its tasks in their areas.

Of the forty-five interviewees, all acknowledged in their own way and through their own definitions, the caring and welfare ideals of the hearings system and all attributed these qualities to the efforts made by panel members and professionals alike in operating the system. All the interviewees however were again unanimous in indicating circumstances and practices which hinder or affect the absolute application of these ideals. Some of these hindrances and some possible solutions and changes which, in the eyes of the respondents, might enhance the more complete fulfilment of the caring and welfare goals of the hearings system are explored in the remainder of this chapter and in the other analysis chapters.

Typical definitions of the hearings system and its role are encapsulated in the following expressions. A simple yet precise statement about the hearings system and its intentions was given by a social worker when she said:

> The panel system is about care and treatment [...] and ensuring as
> best as possible that children's needs are met.
> <div align="right">Dumfries and Galloway Social Worker</div>

More elaborate definitions which again illustrate the caring role of the hearings

system but also recognise and emphasise its 'whole child' approach to caring

were expressed by two interviewees:

> The hearings system is a supportive thing. It's there to support the youngster, to look into the child's situation - the home background and the school situation - and to try and help [...] it's not a punitive system.
>
> Dumfries and Galloway Guidance Teacher

> It's to look at the child as a whole in his whole environment and to see what is going wrong that causes him to behave in such a way or is influencing or affecting him. From that to call on the professionals and resources to try and help the child and family.
>
> Glasgow South-West Panel Member

While displaying the same insight as the others the two interviewees below also

highlighted the concentration on the child by the hearings system to the exclusion

of other factors including the demands of society or the actual misbehaviour

committed by the child.

> It's non-judgemental - it's not there simply to look at why the child is there but to take a broader consideration of the circumstances. Even in offence cases the actual offence committed is of no significance in itself.
>
> Central Region Reporter

> Its chief role is to concentrate on the child and its best interests and welfare [...] The hearings system is not primarily concerned with society's point of view - that doesn't matter to us - it's the child's best interests that are paramount above all others.
>
> Dumfries and Galloway Panel Member

These statements certainly satisfy the rhetoric surrounding the hearings system

and its work, but other studies (Morris and McIsaac, 1978; Brown, 1979; Martin,

Fox and Murray, 1981; Adler, 1985) have suggested the reality of hearings system

operations can be quite different. They maintain that panel members are

influenced in their decisions by the nature of an offence, by the number of

offences, by a categorisation of families, by societal needs or as Adler (1985)

suggests by the limited range of available resources. While Asquith (1983)

acknowledges some of these influences, doubt is expressed over a number of the

claims made. From his study of 90 case reports completed by panel members,

Asquith concludes:

> the importance attached by panel members to 'welfare' was not
> influenced significantly whether one or more charges were
> involved in the referral, whether the child had a previous offence
> history or not, or whether the case involved theft, theft by
> housebreaking or assault (1983: 160).

Asquith's research however, like other studies (Bruce and Spencer, 1976; Martin,

Fox and Murray, 1981; Adler, 1985; Kearney, 1992; Lockyer, 1988; 1992)

acknowledges the necessity of appropriate resource alternatives for panels and

indicates that a limitation on resources does inevitably restrict the parameters

open to panel members in the decisions they make. Lockyer (1992) in a recent

report on the views of panel members indicated that on the issue of 'causes for

concern' for the hearings system two-thirds to three-quarters of the comments by

panel members concerned the shortfall of resources. The report stresses a

common theme amongst the views of panel members that the hearings system is

only as good as the resources it commands (1992: 161).

Resource Availability

As previous studies already cited have implied and all the interviewees in this

study agreed, the issue of resource availability and its influence on hearings

system operations is a major consideration. One reporter from this research

summed up well the interviewees' observations on the relationship between

hearings system operations and the resource situation:

> I think the hearings system tries its best [to live up to its ideology] and in some cases it succeeds, but a system can only work if it has the backup of other agencies and I'm afraid at times the resource situation does mean that what is in the interests of the child and everyone's in agreement does not happen because the resource is not there to meet that need.
>
> <div align="right">Central Region Reporter</div>

Lockyer (1988) concluded that continuation of hearings occur on about 15% of all occasions primarily because of a lack of resources. The report states:

> Continuations are frequently a consequence of lack of a resource or unwillingness of hearings to accept what is being offered. (1988: 29)

The dilemma resource shortages can pose for panel members in particular was highlighted by a social worker in this study:

> A shortage of resources can mean a child might not receive the care he or she needs either because it is not available or because panel members, who see it as being the best disposal, push for it and the child is left in limbo, maybe for months, while we search for it. It's difficult for panel members to know whether to hold out or compromise - neither is really suitable.
>
> <div align="right">Central Region Social Worker</div>

This dilemma - a significant feature of the findings of the Kearney Report (1992) - can lead to a conflict of interests between a panel and a social worker and one in which the panel members expressed a degree of helplessness. They can be compelled to accept the social work recommendation against their better judgement as no other option appears to exist. As one panel member commented:

> to spend time seeking the relevant option, leaves the child concerned without any form of care.
>
> <div align="right">Central Region Panel Member</div>

- a situation acknowledged by all the interviewees to be quite unsatisfactory.

Some panel members expressed suspicion that social work departments hide behind this cloak of insufficient resources and use it to justify the options they present in their recommendations to hearings. Suspicions of this nature can at times make social workers and panel members uneasy bedfellows and can increase the tension within hearings (also see discussion on cooperation perspectives in chapter eight). This underlying suspicion on the part of panel members was identified by the Kearney Report (1992) into child care in Fife Region and was concluded to be one of the main factors that led to the breakdown of relationships between the social workers and panel members there and that jeopardised child care provision in that Region. The Kearney Report also referred to this matter within the context of Scotland as a whole it stated:

> issues such as the relationship between allocation of resources by Regions and the Panel's powers of disposal may be present elsewhere in Scotland and dealt with by means of local arrangements and compromises. Local differences may to an extent be healthy but fundamental lack of agreement as to essentials cannot help the long-term credibility of the system. (1992: 626)

All the panel members interviewed in this study acknowledged that compromise over resource provision and the disposals they make does exist on occasions and they admitted that where feelings are strong on either or both sides frustrations and resentment does emerge. Although they wished this was not the case they realised that social work departments operate under financial and resource restrictions like other areas of care or education and there was a reluctant recognition that inevitably this can compromise hearings system objectives.

To reduce the potential for frustration and to promote a more general air of

cooperation over resource allocation the Kearney Report (1992) recommends:

> that central government consider how best the Children's Panel should be represented within the committee structure of Regional Councils when child care policy, including matters of resources, is being discussed and consider introducing legislation in order to make such representation mandatory. (1992: 593)

The Government White Paper on Child Care in Scotland (1993) makes clear that the Convention of Scottish Local Authorities (COSLA) has been asked to consider this particular recommendation of the Kearney Inquiry (1993: 31).

One panel member alluded to the fact that resource shortages could have yet wider implications for the good of the hearings system - an issue raised by a number of interviewees:

> I honestly can't put my hand on my heart and say we're doing a great job - there are simply too many children and too few resources and in the end, I suppose, the shortage of resources could erode the positive qualities of care and commitment in the system.
>
> Glasgow South-West Panel Member

Lockyer (1988) confirms this view and suggests that nationally 12% of decisions were seen by panel members to be limited by resources and this trend can induce despondency (1988: 26).

Resource Sharing

Both the social work and education departments within the regions hold the policy that placements outside their boundaries or with other agencies, such as in the voluntary sector, should only be sought if absolutely necessary. All those who commented on this issue in the questionnaire and during interview expressed a

considerable degree of frustration both at the infrequency of resource sharing and at the inordinate amount of time it seems to take to secure appropriate placements in this way. One panel member noted that the waiting time for proper provision for children facing this situation

> creates frustration and disappointment within the families concerned who come to a hearing with expectations of change and when they have to go through this waiting process their expectations are dashed.
>
> <div align="right">Central Region Panel Member</div>

Social Work Resources

The issue of the availability of social work resources was approached in the questionnaire and the general position given there is revealing and supports the comments made by the interviewees. Perhaps because of the less frequent and in some cases non-existent attendance by guidance teachers (see table 5.5) and the non-attendance by police officers at hearings, their knowledge of the resource situation was less complete. Large numbers of respondents from these groups thus felt unable to comment on some aspects of the social work resource issue. The response rate of the other three groups however was much healthier and more than adequate to allow an assessment to be made across the three regions.

Eleven from 12 reporters, 76% of social workers, 87% of panel members, 52% of guidance teachers (40% don't know) and 11 from 30 police officers (13 don't know) from the three regions all indicated that social workers do not have enough time to carry out all their duties - a problem confirmed by substantial numbers

from the five groups in the three regions who claimed that there were too few social workers available to match the growing number of supervision orders that are being imposed. This was emphasised particularly by the groups in the South-West District of Glasgow. Seventy six per cent of panel members there, all four reporters, 54% of guidance teachers and ten from 17 police officers supported this position.

To assess the physical resource situation in each area the respondents to the questionnaire were given a list of social work resources and asked to comment. A shortage of intermediate treatment facilities, community carers/foster parents, residential assessment facilities, children's homes and residential schools was acknowledged by the majority of panel members, social workers and reporters and by substantial numbers of guidance teachers and police officers from across the three regions - table 4.9 illustrates:

Table 4.9 : Shortage of Resources

	Panel Members		Reporters		Social Workers		Police Officers		Guidance Teachers	
	(n=145)		(n=13)		(n=83)		(n=30)		(n=118)	
	%	No	%	No	%	No	%	No	%	No
Intermediate Treatment Facilities	78	113	77	10	78.3	65	40 (46.7% DK)	12	39 (55% DK)	46
Community Carers/ Foster Parents	71	103	92.3	12	79.5	66	43.3 (53.3% DK)	13	34.7 (60.2% DK)	41
Residential Assessment Facilities	78	113	77	10	68.7	57	66.7 (33.3% DK)	20	42.4 (49.2% DK)	50
Children's Homes	71.7	104	61.5	8	62.6	52	63.3 (23.3% DK)	19	32.2 (56.8% DK)	38
Residential Schools	82	119	61.5	8	62.6	52	53.3 (33.3% DK)	16	43.2 (49.2% DK)	51

Intermediate Treatment

The suggestion by the majority of panel members, reporters and social workers that a shortage of intermediate treatment (IT) facilities exists across the three regions is highlighted further by the fact that seven from nine reporters, 80% of panel members and 76% of social workers also considered that more IT officers than at present needed to attend hearings and help in the decision-making

process. It was stressed by interviewees that as these officers work in small groups with the children in their care their specialist knowledge of the children's needs and difficulties would be of immense value in considering future action.

Residential Resources

On the matter of residential resources with which they come into contact on a more regular basis as part of their normal duties, police officers expressed a more definite opinion (table 4.9). They, like the majority of panel members, social workers and reporters, endorsed the view that a shortage of residential resources exists throughout the three regions. This assessment was also articulated by those officers involved in the individual interview sessions. They emphasised the need for more specialised residential facilities to be made available to the hearings system to cope particularly with those children who offend and for whom no other suitable course appears open. As one police officer explained:

> There are fewer residential establishments now - they need to be increased [...]. There needs to be a scaling where a child may be placed in a small sort of family unit first, then if they continue to misbehave they would be placed in a tighter regime, then finally if no change in a secure unit. Society needs to be protected too you know. This arrangement would give panel members more scope.
>
> Dumfries and Galloway Police Officer

The need for variety and flexibility in residential provision is alluded to in Asquith (1983) and suggested by Lockyer (1988) who emphasises:

> The children who remain in residential care are [...] increasingly the more difficult, most alienated, and least loved children. [...] What may be required is [...] better equipped, more varied, more

flexible provision. Varieties of children's homes, family-unit homes or adolescent homes might be called for. [...] there is [also] quite a high demand for secure accommodation. (1988: 33)

A Government review of secure accommodation is at present underway and scheduled for completion in the Spring of 1994 (Government White Paper, 1993: 17).

Education Resources

On the availability of educational resources the knowledge of the guidance teachers, scanty on other resource issues, was clearly more tangible. A shortage of special day unit provision was identified by a majority in all groups, except the police, across the three regions. Eighty per cent of social workers, 77% of panel members, 12 from 13 reporters and 54% of guidance teachers (37% don't know) expressed this view. The majority of police officers, 18 from 30, felt unable to comment on this aspect of resource provision but of those who did 10 from 30 identified a shortage.

Educational Psychologists

The issue of the availability of educational psychologists highlighted a distinct difference in attitude between the groups in Central Region and Glasgow South-West and those in Dumfries and Galloway Region. The majority of members in four groups in the former regions acknowledged that a shortage of educational

psychologists does exist in their areas. Table 4.10 shows the pattern:

Table 4.10 : Shortage of Educational Psychologists

		Central Region		Glasgow SW	
		(n=6)		(n=4)	
		%	No	%	No
Reporters	Yes	66.7	4	100	4
	No	33.3	2		
		(n=52)		(n=44)	
		%	No	%	No
Panel Members	Yes	75	39	52.3	23
	No	15.4	8	31.8	14
		(n=50)			
		%	No		
Social Workers	Yes	58	29		
	No	22	11		
		(n=50)		(n=20)	
		%	No	%	No
Guidance Teachers	Yes	52	26	55	11
	No	8	4	15	3

Any participants not included in table 4.10 registered the response of 'don't know'.

The groups in Dumfries and Galloway presented a different impression. Two from the three reporters there believed there was no shortage of educational psychologists in the region and there was further support for this view from 28% of guidance teachers (56% don't know), 60% of panel members and 48% of social workers (23% don't know).

This regional image is strengthcned by the fact that larger numbers of participants from Central Region and Glasgow South-West than from Dumfries and Galloway across four groups believed that more educational psychologists than at present needed to participate at hearings. Table 4.11 shows this clearly:

Table 4.11 : More Educational Psychologist Participation at Hearings

		Central Region		Glasgow SW		Dumfries & Galloway	
		(n=6)		(n=4)		(n=2)	
		%	No	%	No	%	No
Reporters	Yes	33.3	2	75	3		
	No	33.3	2	25	1	100	2
		(n=50)		(n=47)		(n=45)	
		%	No	%	No	%	No
Panel Members	Yes	72	36	83	39	53.3	24
	No	28	14	17	8	46.7	21
		(n=52)		(n=32)			
		%	No	%	No	%	No
Social Workers	Yes	92.3	48			68.8	22
	No	7.7	4			31.2	10
		(n=56)		(n=23)		(n=36)	
		%	No	%	No	%	No
Guidance Teachers	Yes	69.6	39	87	20	52.8	19
	No	30.4	17	13	3	47.2	17

Plainly the numbers from Dumfries and Galloway who perceived a need in this aspect of hearings system operations are fewer. The greater integration of educational psychologists in Dumfries and Galloway into many aspects of child care and their ongoing association with other agencies in this field were both

highlighted by interviewees: educational psychologists in Dumfries and Galloway regularly attend guidance department meetings; they liaise with individual guidance teachers concerning pupils; and where necessary and desirable they attend hearings on a regular and consistent basis.

This situation can be contrasted with the one presented in the comments of a guidance teacher from Glasgow South-West who confirmed the shortage of educational psychologists perceived by all groups in this area when she stated:

> We would refer more children to the educational psychologist at an earlier stage if the service was available. There are too few of them and the few that we have, their books are absolutely full. So until it almost gets to a crisis stage we are unable to really call in the services of the child guidance department.
>
> Glasgow South-West Guidance Teacher

Twenty police officers from 30 across the three regions felt unable to comment on this issue.

Control of Educational Establishments

When asked if the hearings system was affected in its operations by a lack of control over the placement of children in local authority education establishments, an issue raised in the Child Care Law Review (1990: 29), 17 police officers from 29 and 62% of guidance teachers across the three regions said they did not know while the remainder were divided on the issue. Of the other groups, a majority in each case suggested the hearings system was limited in its operations in this respect. This was especially so in the South-West of Glasgow where all the reporters and 61% of the panel members there believed this to be an issue for

hearings system practice. As Lockyer states:

> Panel members wonder how they can be expected to help in the
> resolution of problems of children with educational problems, with
> so little command of educational resources. (1988: 32)

Lockyer (1992) notes that 61% of the panel members in his study were not

satisfied with their input to children with educational problems (1992: 157). The

lack of control over education placements, the delay this can cause and the effect

this can have on the administering of treatment was emphasised by one reporter

during interview:

> I've seen children eventually getting the right education resource
> but it has taken months with that child marking time, not
> progressing and in an unhappy situation. There seems to be
> endless red tape and dialogue between the social work
> department, education and the psychological service and it's the
> child that suffers. More direct control over education placements
> might help that situation.
>
> Glasgow South-West Reporter

Guidance Teacher and Police Officer Knowledge

The fact that for the most part and with only a few exceptions large numbers of

police officers and guidance teachers have been unable to comment on resource

matters is perhaps indicative of their lesser contact with the every day workings

of the panel system. Only on occasions where they may have had wider dealings

with a particular resource facility or the area of child care associated with it have

they had a major comment to make. This highlights to a large extent, the

marginalisation of these groups in relation to normal hearings system activities.

Even communications with these groups on the resource situation is clearly not

developed or their overall knowledge would be greater. This lack of awareness,

as Milne (1984) suggests, could have hidden dangers for the hearings system. It could limit an understanding of the constraints placed on hearings system activities by resource shortages and could as a result engender unjustified criticism and perpetuate frustration and discontent with hearings' decisions. This is especially so since a large number of initial referrals come from the police (1990: 70%) and another 9% from education (see table A.3 in Appendix four). Issues relating to group liaison and communications in the hearings system are examined more fully in chapter eight.

The lack of knowledge displayed by guidance teachers and police officers concerning resources and hearings system operations contrasts with their own assessment of their knowledge of the hearings system. When the question of hearings system knowledge was asked in the questionnaire 54% of police officers over the three regions and 35% of guidance teachers from Central and Dumfries and Galloway Regions claimed to have a good knowledge of hearings system activities. This compares with only 9% of the teachers in Glasgow South-West - a symptom perhaps of the poor attendance record at hearings acknowledged by guidance teachers from this area (table 5.5). Sixty eight per cent of guidance teachers from Glasgow South-West did admit to some knowledge of hearings system operations. As one teacher from Glasgow explained:

> I didn't realise the limited extent of my knowledge of the hearings
> system until I began to complete this questionnaire.
> > Glasgow South-West Guidance Teacher

An area related to appropriate resource provision and one that concerned all groups and particularly police officers was the issue of the hearings system's handling of juvenile offenders and especially perpetual offenders. This is an aspect of hearings system operations that has arisen in other studies - Lockyer (1988) and (1992) and the Child Care Law review (1990) and it is an issue that could have important resource implications for child care.

Bruce and Spencer (1976), Morris and McIsaac (1978), Adler (1985), and McLean and Docherty (1985) have all commented on the differences in attitude to the hearings system between the police and other agencies. This study although confirming that police officers would prefer juvenile justice and the decisions therein to be in the hands of professionals, has not detected any major animosity towards the hearings system itself. The one issue that does provoke the most concern amongst police officers however, is the treatment of perpetual juvenile offenders and the attainment of the correct provision for such children.

The attitude exhibited by police officers was expressed in the early research conducted by Bruce and Spencer. They suggest:

> while panel members work on the assumption that they are the appropriate agency to deal with all child offenders [...] from the police point of view Scotland has a dual system of juvenile justice. (1976: 90)

McLean and Docherty (1985) have also observed and documented this attitude on the part of the police and it is one to which all the police officers in this study

adhered: one police officer presented the general view:

> The hearings system does not work for some offenders. Sure they
> can move from supervision and put the child in residential care
> but places are short and anyway panel members are very reluctant
> to do this. This attitude does not help these children. We need
> more secure units and panel members must be prepared to send
> children there or pass that responsibility to the courts.
>
> Glasgow South-West Police Officer

McLean and Docherty (1985) disagree with this assessment and the existence of

two forms of juvenile justice - the hearings system and the courts. They suggest

that all children, regardless of circumstance or offence, should be referred to the

appropriate reporters' department in the first instance and that it should be a

reporter who should decide on the next course of action which should involve the

hearings system rather than the sheriff court in most instances. All the reporters

interviewed for this study claimed that in effect this pattern already exists for the

vast majority of children and that communications with Procurators Fiscal offices

over borderline cases are well developed.

The majority (30 from 39) of the interviewees from the other four groups -

excluding police officers - supported McLean and Docherty's contentions and saw

the only failing on the part of the hearings system in dealing with offenders as a

lack of proper resource alternatives. A reporter put the argument eloquently and

comprehensively:

> Resources are short and the more resources the hearings system
> has the more it can do. We need more IT units, more day care,
> more special units and schools, more foster care and befrienders
> and more suitable residential placements. In some at present the
> child will learn more about criminal activities than be cured of
> them and it is this that partly accounts for panel members'
> reluctance to refer to these places.

The panel members involved in Asquith's (1983) research also exhibited an awareness of this 'contamination theory' and displayed a reluctance for this reason to place non-offenders with offenders or to place some offenders in List D schools (1983: 176). The reporter above concluded:

> To my mind though even keeping a child on perpetual supervision is better than referring to some residential places or to the criminal justice system.
>
> Glasgow South-West Reporter

Adler (1985), from a series of case studies, noted that, in her estimation, there exists amongst panels a persistent and quite dominating assumption that the removal of a child from the home environment should be a measure of last resort. This, she claims, seems to be symptomatic of the belief that parents, in the first instance and with the right support, should continue to raise their own children and only in extreme circumstances should this responsibility be removed. This desire by panel members to keep children in their home environment for as long as possible - an instinct noted by police officers in this study - can provoke difficulties with professionals working with the child and family who may see the only chance for progress in removing the child from the custody of the parents. Martin, Fox and Murray (1981) describe this position from their research:

> panel members placed a heavier emphasis [than social workers] on the existence of positive aspects of the family, commenting particularly on parental or relationship qualities which made the resolution of problems possible. (1981: 253)

A panel member from this study described a common attitude held by most panel member interviewees:

> In many cases I'll stick with the family for as long as possible [...] they may need help but the home environment is best.
>
> Dumfries and Galloway Panel Member

The perpetual offender and how to deal with a child of this nature is clearly a subject of concern across groups in the hearings system and within other studies - Child Care Law Review (1990), Lockyer (1992). More resources specifically targeted to help children of this kind are demanded including Intermediate Treatment Units, Youth and Community Projects, Befriender and Foster Schemes and also Secure Residential Placements appropriate to the needs of the children being placed in them. There are at present seven secure units in Scotland providing a total of 84 beds (Government Paper on Child Care, 1993: 39).

Police officers in this study also wished the children placed in residential institutions to be properly supervised and controlled thus allowing a greater opportunity, as they saw it, for a positive and successful outcome to the treatment. As one officer explained:

> Once a child does get established there, after say two to three weeks, they get weekend leave and this can be Friday to Monday lunch-time so they are only in the residential school four nights and out three nights in their old environment and this encourages a reversal back to old ways. This is where foster parents and befrienders can help.
>
> Central Region Police Officer

All the interviewees including the police officers acknowledged that removing a child of this kind from its local environment, perhaps with the help of foster parents, or providing extra stimulation for the child within the local area can be major ways forward in treating offenders and preventing recidivism. Extra stimulation can come in the form of a befriender who takes an interest in and

works personally with the child, or through youth projects or intermediate treatment groups which work with children individually and in groups and encourage them to get involved in constructive activities such as sports and leisure pursuits. More of these facilities, as the respondents and interviewees in this study and Lockyer (1988) suggest, are urgently required if realistic care and treatment alternatives are to be available to panels in considering such cases.

Government Proposals

In contemplating and discussing this aspect of child care it is noted that the Government in a recent White Paper on Child Care in Scotland (1993) proposes to strengthen the hearings system in its dealings with juvenile offenders.

The Government intends to initiate three changes to hearings system practice designed to assist the hearings system in its provision for cases involving offences. Firstly, panel member training is to be developed with specific emphasis on the handling of offenders. Secondly, the hearings system is to be granted the power to prescribe review dates in supervision orders, on the basis that this will allow panel members the facility to monitor cases and their progress more closely. Finally, the Government indicates that it is to set national objectives and standards for home supervision, to, as the White Paper states:

> ensure consistency of good practice within a common framework throughout Scotland. (1993: 37)

As part of this development in home supervision, the Government also intends to devise contracts or agreements to which young people in trouble, their parents

and the social work department would all contribute and subsequently adhere.

Furthermore, as indicated in chapter five, under the Government's new proposals a hearing will be entitled to a statement of intent from social workers providing information on proposed resources and a detailed care plan. This provision is intended to assist in the assessment and choice of appropriate treatment in all cases - offence related and care and protection.

Despite these proposals for the hearings system advocated by the Government, the need, indicated by the research sample in this study, for increased resources for the hearings system generally and specifically in its activities associated with young offenders is not however addressed - the Government does not appear to envisage any drastic change in resource provision (1993: 36-41).

Fining Children and Parents

Further alternatives for extending the remit of the hearings system in its dealings with certain children including offenders were presented to respondents in the questionnaire. One suggestion was the imposition of fines on children in consequence of their actions or more indirectly to fine parents for the actions of their children.

For some groups - panel members, reporters and social workers - who in their ideological scores scored highly on welfare based juvenile justice, there was, as

might be expected, a clear rejection of any imposition of fines by the hearings system on either children or parents. For the two remaining groups - guidance teachers and police officers - however, the majority of whose members favoured the hearings system adopting the option of fining parents, there was a clear contradiction with their ideological standpoint which embraced the welfare ideal and rejected law enforcement. Furthermore some guidance teachers, who supported this measure and were sympathetic to this action in relation to offending cases generally, were also specific that this should be applied to parents who continually neglect to address their children's school non-attendance. One guidance teacher explained her reasons for supporting the fining of parents within the realm of the hearings system:

> I support the hearings system and its treatment approach but for some parents who neglect their duties to their children - particularly younger children - by not making sure they are in at night or that they attend school - well you have to be tougher and perhaps a fine at the end of the day may encourage some to be more responsible.
>
> Glasgow South-West Guidance Teacher

The latter sentiments expressed by this interviewee were shared by all those guidance teachers who supported this action.

Table 4.12 illustrates the overall position among the groups:

169

Table 4.12

		Power to impose financial penalties on children		Power to impose financial penalties on parents	
		%	No	%	No
Panel Members	Yes	9	13	22	32
(n=145)	No	82.7	120	68.3	99
Reporters	Yes	-		7.7	1
(n=13)	No	100	13	84.6	11
Social Workers	Yes	7.2	6	26.5	22
(n=83)	No	86.7	72	68.7	57
Guidance Teachers	Yes	17	20	50	59
(n=118)	No	53.4	63	28.8	34
Police Officers	Yes	20.7	6	75.9	22
(n=29)	No	55.2	16	6.9	2

The overwhelming rejection by the panel members in this study of the power to fine children is also exhibited in the research by Bruce and Spencer (1976: 152), while fewer panel members than those in Martin, Fox and Murray's (1981: 265) study endorsed fining parents (22% compared with 41%). The substantial support for financial penalties to be placed on parents displayed by police officers does add credence to the findings of McLean and Docherty (1985) who maintain that police officers still believe that in certain cases prosecution and punishment is an appropriate regime. This stance by 76% of the police officers contradicts their mean ideological score which failed to endorse law enforcement as a governing ideal for juvenile justice. When questioned on this contradiction during interview, all six officers from the three regions stated that although they would not wish law

enforcement as an ideological framework for juvenile justice or the hearings system, they did feel that for the parents of some children who continually offend the threat of a financial penalty may be beneficial in forcing them to exert greater control over their children and so perhaps influence their children's behaviour. This was also the majority opinion of those panel members, social workers and guidance teachers who supported this measure. Ideological differences of this nature can again be seen as the employment by participants of situated accounts which address and allow for a practical situation that contradicts their overall ideological stance. All the interviewees who during interview scorned the notion of fining parents for the action of their children believed as Bruce and Spencer state: 'the power to fine parents for the activities of their children is neither conducive to a better family atmosphere nor to better conduct on the part of the child [...]' (1976: 152) and as one social worker added 'many parents couldn't afford to pay a fine anyway' (Central Region Social Worker).

Community Service

There was a greater and more general agreement amongst respondents for the suggestion that the hearings system should adopt community service as an option in dealing with offenders - community service in this instance meaning children, in recompense for their misbehaviour, undertaking acts in their own time that might be considered beneficial to the community. The majority of Central Region reporters - four from five - 60% of panel members, 33% of social workers, 17 from 29 police officers and 67% of guidance teachers despite their mean

ideological scores in favour of the welfare ideal, supported this imposition. The reporters in Dumfries and Galloway and those in Glasgow South-West, 33% of panel members and 51% of the social worker sample rejected this proposal.

For the panel members and social workers in this study this trend exhibited greater caution than these same groups who participated in the research conducted by Martin, Fox and Murray (1981). In their study 89% of the panel members and 75% of the social workers supported the extension of hearings system powers to include the imposition of community service for certain offences (1981: 265).

Those in favour of community service considered it as a way of making the child realise his/her misbehaviour and as a means of rectifying that behaviour.

> For these children who continually offend - vandalise, steal and so on - it might be a good way of making them pay something back to the community and do something useful and might make them confront their misbehaviour.
>
> Central Region Social Worker

For those interviewees against the proposal, community service, regardless of the intentions behind it, was still regarded as an aspect of punishment that fails to address the motivations behind the misbehaviour.

> Again no matter how you dress it up or how you justify it in terms of recompensing victims [...] or making children undo their mischief, it is still completely out of place in the hearings system. What should be asked is why the child did what he did?
>
> Glasgow South-West Reporter

The lack of police confidence in the hearings system's ability to handle children who continually offend is perhaps reflected in their overwhelming rejection (19 officers from 22) of extending the remit of the hearings system to cover all sixteen to eighteen year olds. A hearings system input to an appropriate justice system for the even broader age band of sixteen to twenty-one year olds is recommended by the Child Care Law Review (1990: 45).

One police officer expressed the consensus view:

> No, panels do find it difficult to find adequate ways in dealing with children even in their mid-teens. I don't think they could cope with seventeen and eighteen year olds as well.

He viewed the system as a purely juvenile justice system and defined juvenile as below 16 years of age. Thereafter, he believed, young people should take responsibility for their actions within the realm of criminal justice. As he explained:

> The system isn't geared for that age group - it's a children's hearings system and I think you have to have a cut off point when young people are no longer thought of as just kids. I think most young people anyway don't see themselves as children at sixteen and they should take the consequences of their actions if they offend, and appear in court [...].
>
> <div align="right">Central Region Police Officer</div>

Guidance teachers too had their doubts about extending the hearings system to incorporate this older age bracket with 54% of their sample across the three regions believing the hearings system should not be developed in this way. The social worker group was divided on the issue (43% Yes, 40% No, 17% Don't

Know) while 58% of panel members and six from nine reporters supported it. A panel member put the case for this development of the hearings system's remit while also displaying an awareness of the changes that may be necessary if this occurred:

> We do have the power at present to keep a child on supervision beyond their sixteenth birthday if we feel it is necessary but it doesn't happen very often. Some children do still need care and protection after sixteen [...]. The problem with offenders from that older age group is that we don't have the resources at the moment and those would have to be forthcoming [...].
>
> Glasgow South-West Panel Member

Most interviewees who supported the inclusion of all 16 to 18 year olds were aware that appropriate resourcing would have to be employed - a factor noted by the Child Care Law Review (1990: 45) and in the Government White Paper on Child Care (1993: 41) -and a new image sought that moved the hearings system away from its juvenile conceptions. It was readily regarded that most 16 year olds and above would not consider themselves juveniles. The lack of these provisions at present was a major reservation and the main obstacle that prevented a greater number of panel members in particular from supporting this extension to the hearings system's remit.

The support shown for this development by the majority of the panel members in this study however contrasts with the views of the panel members who participated in Martin, Fox and Murray's (1981) research. In that study there was little support for extending the system in this manner. The reason given by the authors for the lack of endorsement is similar to that expressed by the police officer in the earlier quotation - as Martin, Fox and Murray explain:

There was little support for any proposal to enlarge the system's responsibility to include all young people up to the age of 18. The welfare approach [...] may be judged superfluous for young adults whose formative years are over or almost over and for whom parental control has become unnecessary. Older offenders are perhaps [...] too cynical for a system which does not adopt a crime-responsibility-punishment approach. (1981: 267)

Summary

What then can be concluded from this chapter on ideological stance and attitudes to the hearings system and its operations?

Clearly from the mean ideological scores recorded for the five groups differences in attitude to juvenile justice prevail. A majority in all groups (panel members, reporters, social workers, guidance teachers and police officers) - undoubtedly favoured a juvenile system governed by the principles of child welfare and the treatment of children's problems. They differed however on who should decide on the treatment to be given. Most social workers, guidance teachers and police officers preferred this task to be in the hands of professionals while panel members and reporters supported the involvement of lay people in the role of decision-makers.

When these positions were considered with the views expressed by the respondents on how the hearings system should operate, a less definite division emerged between the groups to that arising from the ideological scoring. A majority in all the groups believed the hearings system should continue to operate

along welfare principles and involving lay people in decision-making. This position contrasted with the welfare/professional stance on juvenile justice taken by most social workers, guidance teachers and police officers. To explain this apparent ideological dilemma for these groups the concept of situated accounts introduced by Smith (1977) was utilised. This concept it is argued permits participants to come to terms with aspects within a system that contradict their overall ideological stance. In the case of these social workers, guidance teachers and police officers the presence of lay people as decision-makers in the hearings system would appear to constitute just such a contradiction.

Despite implementing Smith's concepts of operational philosophies and situated accounts and acknowledging his claim that these approaches may reduce strain (Geertz, 1964) within social systems (1977: 861), it is not so apparent, as Smith endorses, that frustration and conflict can be totally eradicated. In this study for example substantial numbers of social workers (24%), guidance teachers (31%) and police officers (41%), consistent with their mean ideological scores, still believed the hearings system should change to become a system controlled and organised only by professionals. These participants with their persistent ideological allegiance would appear to be less inclined to reconciliation with and acceptance of current hearings system practice, more inclined to expect and demand change and thus more susceptible perhaps to frustration over lay involvement.

The justice model was not accepted by many as an appropriate regime for the

hearings system, although when considering specific aspects of hearings system activity, such as handling the perpetual offender or truant, punitive measures for the system were advocated by some guidance teachers and police officers especially. These included fining parents and the greater availability and use of secure residential placements designed to remove children, particularly habitual offenders, from the community. The endorsement of such measures may be partly indicative of the higher ideological scores, compared with those in other groups, evident for some guidance teachers and police officers for the law enforcement model for juvenile justice.

The aforementioned changes, unlike those suggesting general resource increases, were not endorsed by the majority of panel members, social workers and reporters. The implications being that if such changes were enacted the whole ethos and nature of the system would be eroded and the welfare of the child would no longer be the singular ideological paradigm that governs hearings system activities. As one panel member explained:

> [The hearings system] is a buffer that prevents children from entering the criminal justice system which is less concerned with treatment and more with punishment and less concerned with the child and more with society. To move to any form of recrimination would be to move down the criminal justice road and change the hearings system entirely and for me that would be the end of my involvement - I'm not in the business of punishing.
>
> Glasgow South-West Panel Member

It is within these and other differences of attitude and expectation towards hearings system practice and organisation, perhaps rooted in the contrasting ideological frameworks with which groups identify, that lies the source for further investigation into the groups' perceptions of hearings system activities. Chapter

five explores the participants' views concerning the concept of discussion within

the decision-making process in a hearing.

Chapter Five : Discussion and Decision-Making

> The panel's better than the court. It's better being able to take
> your time and talk.
>
> <div align="right">Teenager at Who's Hearing Seminar</div>

The quotation from the panel member at the conclusion of the previous chapter
provides an eloquent definition of the ideals that lie behind the hearings system.
The idea that the hearings system is child centred, that it embraces a desire to
listen to the child and to look at the problems with the child's best interests in
mind, is a laudable stance but does the hearings system live up to this ideal in
practice? Are procedures within the hearings system and the way in which
decisions are made conducive to the fulfilment of such an ideal? These issues
and aspects related to them are explored with the participants in the remaining
analysis chapters.

One of the founding principles of the hearings system is that the decisions taken
in relation to a child and the problems he or she faces, are made in front of the
family concerned in an open and informal setting and by lay members of the
community. Decision-making procedures are also predicated upon the fact that
before these lay people - lay panel members - take their decisions professional
advice has been sought and a full and frank discussion with the family and the
professionals concerned has taken place. As the Kilbrandon Report itself
declared:

> we do not consider that it is either necessary or desirable to seek
> to lay down any rigid framework governing the panel's proceedings.
> The questions arising are in our view likely to emerge most clearly

only in an atmosphere of full, free and unhurried discussion [...].
We would expect that in many cases it would be possible to enlist
the co-operation of the parents from the outset, and as a result
adopt appropriate measures informally and by agreement [...]
(1964: para 109)

How are decisions reached at a hearing? Is it possible to create, within that setting, an informal atmosphere conducive to full and free discussion? Those interviewees who have attended hearings and taken part in the decision-making process were asked to comment on this during the interview sessions. As police officers do not attend hearings in an official capacity and as their attendance in other guises is infrequent they were not asked to comment in the questionnaire on this aspect of current hearings system practice.

Decision-Making Process

All panel members who were interviewed described a similar step-by-step approach to reaching a decision in a hearing. As panel members receive background reports on each case at least three days prior to a hearing session the first aspect of the decision-making process for panel members is to study and digest the information contained in these. The next step is to then make the family aware, at the hearing, of the salient points within the reports and to discuss these with the family while also bringing in the views and opinions of the various professionals who are present. The third step for panel members in this decision-making process is to assess the situation having first discussed matters fully with all concerned. As a panel member explained:

Obviously the social worker will have made a recommendation
based on his work with the family, his case-load and on the

resources available. You have to assess the situation - whether responsibility for change can be mainly left with the parents or whether the child needs voluntary or compulsory measures of care.

<div align="right">Glasgow South-West Panel Member</div>

Finally, the chairperson of the panel must make the family aware of the decision, explain the reasons for it and inform the family of their rights of appeal.

Throughout the conversations surrounding the subject of decision-making in hearings, one aspect - the discussion aspect - was continually emphasised by interviewees as significant to the eventual outcome of a hearing. As a panel member explained:

> Yes, I do think decisions on the course of action do emerge from the discussion in a hearing. I think when you read the reports and when you are preparing your work you do come to some sort of pre-judgement, if you like, but this can change once you talk to the child and his parents.

<div align="right">Central Region Panel Member</div>

This process whereby the decision panel members reach can be influenced through discussion and where the interpretations of the case are continually open to reassessment has been recognised and identified by other researchers as constituting a clear form of discretionary decision-making (Bruce and Spencer, 1976; Morris and McIsaac, 1978; Adler and Asquith, 1981; Martin, Fox and Murray, 1981; Asquith, 1983). Furthermore, although information and professional advice are available to panel members in reports and through discussion it is the interpretation of this information that ultimately regulates and formulates the decision taken at the end of a hearing. As Asquith observes:

> information to be used in decision-making has to be interpreted and in the process of interpretation the individual has to be able to identify what is for him information relevant to the purpose of decision-making. (1983: 42)

<div align="center">181</div>

The relevance of information and how this is to be judged, according to Asquith (1983), depends upon the existence of either one of two concepts, or both. Administrative decision-making relies upon the existence of a set of rules or regulations. A children's hearing can apply this concept in certain circumstances, such as the regulation which prevents criminal evidence in a case being submitted to and discussed by a panel: but more especially, Asquith claims, the discretionary decision-making in a hearing is based upon the concept of professional decision-making - judgements made with reference to a body of professional knowledge. Asquith, as chapter one indicated, defines this body of professional knowledge as a 'frame of relevance'. It has already been acknowledged (chapter four) that each profession involved with the hearings system may have its own frame of relevance and this may in turn affect perceptions of the hearings system and its functions. The issue here is, however, if Asquith's premise that a frame of relevance forms a conceptual framework for the professional in the decisions he or she reaches is accepted, where does this leave a lay panel which under hearings system operations is responsible for making the decision at a hearing yet is composed of lay people not professionals? As Asquith observes:

> The difficulty confronting the panel member [...] is that not only [... is s/he] not [... a professional], claiming allegiance to a particular frame of relevance, [... s/he is] nevertheless required to make decisions on the basis of information provided by the various professions. (1983: 47-8)

How can decisions be made by lay people who although being advised by professionals have no professional frame of relevance of their own to rely on as a guiding framework to the right disposal? Schutz (1970) claims that lay people have what he defines as, 'a socially approved system of typifications and relevances' which they depend on for every day social interaction. Each lay person for the purpose of carrying out daily life, Schutz suggests, has accumulated a store of public knowledge which allows him or her to select those elements in a social setting which permits the right course of action to be decided upon (1970: 119-121). Asquith explains:

> whereas the professional frames of relevance can be acquired
> through learning and training, the frame of relevance providing an
> interpretative scheme for the lay person in everyday life originates
> in the biographical situation of the individual.
>
> (1983: 49, Schutz, 1970: 119-121)

It is these lay frames of relevance then, uniquely influenced by individual life experiences, which provide not only the context for the decisions reached by lay panels but also the diversity in approach and attitude to problems welcomed by the hearings system and seen by some (chapter seven) as a positive attribute of the lay panel.

Despite efforts during interview to encourage panel members to consider and elucidate the thought processes that influence and determine the decisions they make, they were able only to emphasise the mechanics and procedures of the decision-making process. They referred constantly to the importance of discussion in the choice of final disposal but there were no specifics about the place this had in the conceptual framework governing the decisions they reached. It may be that

this level of interpretation and articulation is not possible and that panel members without being consciously aware of the process use their lay frames of relevance to subconsciously relate the chosen disposal to the information and impressions they have of a case. With such an abstract procedure it may be that, as Asquith describes, 'apparent consensus and unanimity may well conceal greater disagreements than actual agreement' (1983: 198). A number of reporters in this study did acknowledge that on occasions panel members, in their written justifications for prescribing the same disposal for a case, did display variations in thinking and reasoning that contradicted the visible consensus embodied in the final decision. Practically speaking the decision taken at a hearing need not be unanimous anyway but at least two panel members must agree before the disposal can be applied.

Discussion in Hearings

Although conceptually the importance of discussion to the decision-making process at a hearing is unclear its practical significance in providing panel members with valuable information on a family and its circumstances is plain. As Murray (1982) emphasises:

> If the goal is to make a decision that is in the child's best interests, it is necessary to understand how the child and his parents see themselves and their problems [...] (1982: 49)

For all the interviewees in this study discussion with the family at a hearing fulfils this role. A panel member elucidated:

> when it comes to the actual hearing itself there are factors that you

just haven't been able to take into account that arise from seeing and talking to the family. That can certainly make a difference and it's often what happens at a hearing which affects the decision.

<div align="right">Dumfries and Galloway Panel Member</div>

The opportunity discussion gives the child and parents to air views and express opinions as well as the influence it can have on the disposal reached was registered by all interviewees. This is an aspect considered peculiar to the hearings system as a juvenile justice system. It is one that is often used, as Martin, Fox and Murray (1981) point out, to distinguish the hearings system and its practices from those of a court. As a social worker who has experienced both systems explained:

> Having just come up from England [...] and the juvenile magistrates system, it's quite a contrast. The English juvenile system is very formal indeed and parents and children are never really invited or encouraged to speak or advocate on their own behalf while here this is positively encouraged.
>
> <div align="right">Dumfries and Galloway Social Worker</div>

If the implications of the remarks made by the social worker are that he perceived a hearing as a more informal setting than a court, it is important to establish what is meant by informal. Martin, Fox and Murray describe the hearings system as having,

> achieved a high degree of informality, using unpretentious buildings in commonplace surroundings and hearing rooms laid out [...] with extreme simplicity and in such a way as to minimize rather than exaggerate [as court settings do] social distance between family members and decision makers. (1981: 311)

All the interviewees in the study provided a similar perception of informality in the context of the hearings system. They considered a hearing to be less structured in its format than a court, less ceremonious and more conducive to discussion and debate on the relevant issues. The interviewees further stated that

<div align="center">185</div>

if the discussion in a hearing is to be informal then it too must be less structured, conversational in nature and open.

How much of this is rhetoric though and how much is reality? May (1977) warns the observer not to be misled by rhetoric. In reality he claims, behind the handshakes between panel members and the family and behind the attempts at discussion and involvement of the family in the decision lies an element of coercion. As he observed, 'clients do not appear before a hearing of their own volition; they are there because of the threat of sanctions' (1977: 221). Furthermore, as Murray (1982) points out, under the contrived and at times fraught atmosphere of a hearing:

> It is easy enough to say that good communication is vital, much more difficult to lay down just how this is to be achieved. (1982: 49)

Bruce and Spencer (1976) although satisfied that panel members aim to establish rapport with the families before them and that they see this as an important feature towards reaching a decision, claim that it is seldom achieved to everyone's satisfaction.

Informal Discussion

To try and gauge from the questionnaire sample how often they believed informal discussion with a family is actually achieved at hearings, the respondents were given four choices of answer to this question, ranging from 'at all hearings' to 'at few hearings' as well as the category 'never achieved' and asked for their

assessment. The pattern of response to this issue is shown in table 5.1.

Table 5.1 Achievement of Informal Discussion

	Panel Members (n=145)		Social Workers (n=83)		Guidance Teachers (n=115)		Reporters (n=13)	
	%	No	%	No	%	No	%	No
All Hearings	13.1	19	3.6	3	4.3	5		
Most Hearings	66.9	97	24.1	20	22.6	26	53.8	7
Some Hearings	15.9	23	43.4	36	17.4	20	46.2	6
Few Hearings	2.7	4	25.3	21	7	8		
Never Achieved	1.4	2	3.6	3	4.3 (44.4% DK)	5		

As table 5.1 illustrates although the majority of panel members, guidance teachers, reporters and social workers all considered that informal discussion occurs in some if not most of the hearings they attend, 25 per cent of social workers across the regions, by far the largest group in this category, suggested that informal discussion only exists in a few hearings. As with the resource issue in the previous chapter, large numbers of guidance teachers - 44 per cent in this case - felt unable to comment. This is indicative of the poor attendance record at hearings acknowledged by many teachers in all three regions (table 5.5). With a majority of 67 per cent believing that informal discussion occurs in most hearings, panel members were clearly more optimistic than the other groups on this issue. This divergence in assessment between panel members and the rest of the sample,

particularly social workers, does emphasise that although all the interviewees from the participant groups defined informal discussion in theory in a similar way, in practice their perceptions of what they observed as informal discussion does vary.

What factors then influence the attainment or otherwise of informal discussion at a hearing? The first quotation from a social worker exemplifies three major hurdles - identified by most interviewees - to successful open discussion. The first of these is the dominance of the panel members themselves:

> usually the discussion is very ordered in the sense that one person speaks at one time and very often each comment is alternated with that from a panel member - that tends to be the pattern.

The second hurdle is the reluctance of the child to speak:

> It's very difficult to strike up any rapport with the child at a panel [...] being faced with strangers can affect the child a lot.

Finally, there is the sensitive nature of certain problems that can make them difficult to discuss:

> If there are a lot of difficult issues to tackle it can be difficult for the family and panel members to be at ease and so allow open discussion.
>
> Central Region Social Worker

One panel member confirmed the difficulty in achieving informality at a hearing - a factor raised earlier by May (1977) - and in encouraging children to speak and emphasised her fears concerning this:

> Informality is I think a difficult word in the setting of a hearing. I mean it's more informal than a court but panel members still dominate the proceedings [...] Parents generally enter into the discussion but when it comes to children it can be difficult to get them to talk and I do worry that even a child as old as a teenager hasn't really been as much a part of the decision as I would want.
>
> Glasgow South-West Panel Member

The effective participation of children in the decision-making process in hearings is an issue raised in the Clyde Report (1992) and it is one that has precipitated the discussion around child advocates and child representation generally at hearings. This aspect of hearings system operations is examined more fully in chapter six.

Other interviewees further stressed the effect the nature of a case can have on the ability or willingness of panel members to generate discussion. As Bruce and Spencer (1976) observed when commenting on family participation at hearings, on difficult issues some panel members 'preferred to veer away immediately' (1976: 103). These observations are confirmed in the findings of Martin and Murray (1984) and Milne and Raeburn (1984). A social worker in this study acknowledged these difficulties when she commented:

> My experience is that the more serious the referral the more
> reluctant the panel seem to be to engage in in-depth discussion [...]
> sometimes the issues being considered and the atmosphere at the
> hearing are a bit uncomfortable and not conducive to informal talk.
>   Central Region Social Worker

Martin, Fox and Murray concur:

> Opening up very personal and sensitive matters with the family in
> the hearing is a difficult task and it is scarcely surprising that panel
> members appear to have little confidence [...] to conduct discussion
> of highly personal and at times deeply distressing experiences.
> (1981: 126)

The statement of a child given in the 'Who's Hearing' booklet is perhaps a good testimony to the difficulty that surrounds the achievement of informal discussion. As the child indicated:

> They just talk round about you. And you can't tell what they're
> saying because they use a lot of long words, like jargon. (1991: 17)

Promotion of Informal Discussion

What table 5.1 and the anecdotal evidence given by the interviewees illustrate is that informal discussion does not necessarily occur at every hearing, yet it was seen by all interviewees as an essential feature of the decision-making process. This would imply there is room for developing this area of hearing operations. This perception is confirmed by the fact that when asked the overwhelming number of respondents to the questionnaire, particularly panel members, social workers and reporters, believed the generation of informal discussion at a hearing could be enhanced. Table 5.2 demonstrates the overall response:

Table 5.2 Could the promotion of informal discussion be enhanced?

| | Panel Members (n=145) | | Social Workers (n=83) | | Guidance Teachers (n=114) | | Reporters (n=13) | |
	%	No	%	No	%	No	%	No
Yes	84.8	123	94	78	49.1	56	84.6	11
No	11.7	17	2.4	2	14.9	17	15.4	2
					(36% DK)			

The respondents who indicated in the questionnaire that informal discussion could be enhanced were invited to comment on a list of possible changes to improve the achievement of informal discussion. A request was also made of the respondents and those interviewed on an individual basis for any suggestions of their own that they considered might aid decision-making and the discussion process at a

hearing.

Panel Member Training

Only one of the pre-selected suggestions received support from all four groups. It was clearly felt that panel members require more appropriate training to undertake the discussion aspect of their role more effectively. This accords with the findings of Lockyer (1992), who claims panel members identify a continuing need throughout service for training in communication skills. The support in this study for training development is displayed in table 5.3.

Table 5.3 More appropriate panel member training

	Panel Members (n=119)		Social Workers (n=74)		Guidance Teachers (n=49)		Reporters (n=10)	
	%	No	%	No	%	No	%	No
Yes	74	88	89.2	66	89.8	44	100	10
No	26	31	10.8	8	10.2	5		

As table 5.3 indicates the support for more appropriate panel member training to help generate informal discussion at hearings is strong amongst the members of all the groups questioned. This reaction might have been expected from social workers and guidance teachers both from comments made in the previous chapter and from their mean ideological scores which clearly favour a more professional system - more training for panel members could be construed as a definite step

in that direction - but was less predictable from a majority in the panel members'
group and from all the reporters who responded on this issue. These participants
too, despite their overall ideological positions in favour of lay participants in
juvenile justice, were prepared to endorse an increase in this area of panel
member training and so potentially greater professionalism in the discussion
aspect of panel member activities. This stance surely poses a dilemma for these
groups. Is it possible to support the idea of lay involvement on principle and yet
still advocate more training for those who are meant to be lay representatives?
One panel member responded to this apparent contradiction and in so doing
displayed what could be seen as a pragmatic - situated accounts - approach to the
issue:

> Generating discussion which is meaningful is not easy and it is and
> has been an identified problem over the years. We have tried to
> talk about open questions - trying to be probing yet sensitive to the
> family. This has been part of training and it has to remain so. It
> has to be - if questioning, interviewing is not an aspect of your daily
> life, then training is needed to try and fill the gap. We have to try,
> to the best of our ability, to allow the child and family as fair an
> opportunity to speak as we can.
>   Glasgow South-West Panel Member

This important issue of lay representation as well as its relationship with training
requires greater discussion and is considered more fully in chapter seven.

Panel Member Recruitment

Another suggestion which received substantial support from three of the
participant groups - panel members, social workers and guidance teachers - but
which was received less enthusiastically by the reporters' group, was the idea that

more panel member recruitment from across the social spectrum might aid

discussion by allowing panels to relate more to the families who appear before

them. This produced a positive response from the majority of guidance teachers

(79%), social workers (81%) and panel members (78%) across the three regions.

The reporters' group however was divided on the same issue as table 5.4 shows.

Table 5.4 More panel member recruitment from across the social spectrum:
Reporters' group.
(actual numbers of reporters)

	Central Region (n=5)	Dumfries & Galloway (n=2)	Glasgow SW (n=3)
Yes	2	-	3
No	3	2	-

In an attempt to explain this division within the ranks of the reporters those

involved in the individual interview sessions were questioned on this subject of

panel member recruitment. What emerged was that although all the reporters

interviewed recognised the need to recruit across the entire social spectrum and

the influence this can have on panel insight into family problems, some did not

consider it a crucial issue at this time and did not believe that the present

recruitment situation was adversely affecting the achievement of discussion in

hearings. Clearly the reporters from Glasgow South-West did not agree with this

assessment and perceived an immediate need for more panel member recruitment

which is socially representative. This need was considered particularly acute

amongst young skilled or semi-skilled manual workers. As a reporter commented:

> Panel membership does tend to exhibit a preponderance of
> professional people - we need more people from 'working class'

193

areas [...]

It must be noted however that panel members from Glasgow South-West did indicate at interview that recruitment had been targeted recently to meet perceived membership needs and with some success.

The Recruitment Debate

The rhetoric surrounding the hearings system states that the individuals recruited to work on children's panels should be from varied social backgrounds and should have a good knowledge of the local area within which the hearings system operates (Martin and Murray, 1976: 59). May (1977) argues, however, that in reality this is in fact not the case and that instead recruitment to the hearings system has resulted in the emergence of panels mainly consisting of members who really 'constitute a relatively homogeneous group of people in terms of social background, cultural experiences and values [... and who] can hardly be said to be 'representative' of the areas which they serve' (1977: 212). This is the common conclusion conceded by a number of studies, both national (Rowe, 1972; Lockyer, 1992) and local (May and Smith, 1971; Mapstone, 1972).

According to May (1977) two principles govern the selection process for panel members. The first of these principles is that of 'suitability'. This is the principle traditionally enacted May suggests, when appointing people to positions of public responsibility and as such it is concerned primarily with an individual's occupational skills and personal characteristics. In the case of panel member

194

selection under this principle, the same qualities are sought in each candidate and this, May claims, inevitably produces a relatively homogeneous group - selectors become focused principally on the individual, rather than on the group as a whole (1977: 213).

The second principle is that of representativeness. This principle as May suggests:

> implies selection procedures that either operate on some random or quota basis or else transfer responsibility for selection to those who are to be represented. In any event the outcome is likely to be a panel that is heterogeneous and which possesses a significance greater than the sum of its individual members (1977: 213).

May believes that these two principles form a real ambiguity in policy for the hearings system and are in fact irreconcilable in their application. He also maintains that:

> The facts of life being what they are, and certainly the recruitment and selection procedures adopted being what they were, it was inevitable that, whatever might have been the hopes or intentions of policymakers and selectors at either a local or a national level, the principle of suitability effectively dominated the whole procedure (1977: 213).

Panel members are selected from volunteers by area Children's Panel Advisory Committees (CPACs). Their names are then submitted to the Secretary of State for Scotland for approval and appointment. Selection of panel members is often achieved through the use of individual and group interviews. Parsloe (1978) claims that although each CPAC has a slightly different approach to panel member recruitment and assessment they all use similar criteria for the determination of personal qualities and attributes displayed by the candidates. These criteria are:

(a)   Freedom from unreasonable prejudice and bias;

(b)   The ability and willingness to consider and evaluate reports;

(c)   The ability to appreciate or to learn to appreciate other people's problems;

(d)   The ability to manage the responsibilities of a panel member without undue stress;

(e)   The ability to discuss issues and give their opinion simply (1978: 232).

Clearly these are abilities and characteristics that fall very much within the personal suitability principle defined by May. There is no mention of community representativeness.

Mapstone's (1972) study of the recruitment process for panel members in Fife illustrates the workings of these selection procedures and mechanisms well. The study shows that from the outset the dependence on volunteers to fill panel member places, coupled with a long and complex selection procedure, ultimately resulted in only a minority of working-class people presenting themselves as prospective panel member candidates (1972: 452). Commenting on Mapstone's study May indicates that 'not until the criterion of suitability had been met was any serious attempt made to introduce the principle of representativeness - and by that time it was all too late' (1977: 213).

Lockyer (1992) while acknowledging some positive change towards the representativeness of panels over recent years still advocates:

Selection should continue to give priority to individual suitability, but have the **secondary** aim of achieving a wide diversity of personal circumstance, occupation, culture, and social background (1992 Summary: xxxi).

Suitability of candidates it is argued, ensures greater effectiveness and standardisation of hearing operations.

As Mapstone (1972), May (1977) and Parsloe (1978) indicated however, selection based on candidate suitability also has a tendency to produce homogeneous groups and in terms of social class representativeness an imbalance towards one section of society. Mapstone (1972) argues that in the case of the hearings system and panel member recruitment it is an imbalance in favour of middle class professionals. A reporter from Glasgow South-West confirmed this assertion and speculated on the reasons that lie behind it. He also stressed, from a practitioners point of view, the contribution panel member representativeness can make to discussion at hearings.

A cross-section of the public is important - you have to have it. You have to have people who can relate to families and children and who know the communities and lifestyles they come from, this can be crucial in getting them to open up.

Panel members in this sense can be seen to be belonging to, as Scott and Lyman (1968) describe, the same speech communities as those people who are before them. The reporter continued:

We do have good panel members from all areas of society although you do get much more from middle class sectors. Working class people seem more reluctant to come and join - maybe this is down to a lack of confidence or knowledge about the system and what a panel member does.

Glasgow South-West Reporter

Parsloe (1978) makes a similar observation - she states:

197

It may be that the factors which make [... people] volunteer, which are likely to include a feeling of confidence and of having something to offer to other people, are less prevalent amongst adults in areas from which most children come who appear before panels. (1978: 232)

Lockyer (1992) defines the average volunteer as: female rather than male, married with school aged children, educated beyond the average level and predominantly from a professional background (1992: 53). The latter two qualities especially tend to be more representative of the middle class sectors of society than of working class communities.

Some aspects of these attributes are reflected in Lockyer's own panel member sample with 53 per cent of the sample belonging to professional classes, 40 per cent being aged between 40 and 49 and a marriage rate of 85 per cent. This pattern he recognises displays a continuing tendency within panel recruitment towards middle class candidates although he does detect a downward shift in social class membership compared with panel composition rates in the 1970s (1992: 19-44).

A similar pattern existed within the panel member sample employed in this study: 79 per cent of the 145 panel members were aged between 35 and 54 years across all three regions and a bias towards the middle class section of society was also evident.

To assess the social make up of the panel member sample panel members who responded to the questionnaire were asked to say what job they held at the time

of completing the form and to explain something about it. Using the job classifications issued by the Department of Employment and relating these to government social classifications, the jobs held by the panel members in the sample were grouped into social categories. Using this mechanism it became clear that the social classification that contained the largest number of panel members from across the three regions was the 'Intermediate' category (Central Region panel member sample 41 per cent, Dumfries and Galloway 39 per cent and Glasgow South-West 38 per cent). This classification contains occupations synonymous with the 'middle class' sectors of society such as managers, teachers, employers, local government officials, nurses, farmers etc. The only notable regional variation was the considerably larger number of panel members in Dumfries and Galloway, compared with the other two regions, whose occupation was 'housewife'. In Dumfries and Galloway 31 per cent of the panel member sample fell into this category compared with only 12 per cent of the panel members in Central Region and six per cent of those in Glasgow South-West. This pattern is perhaps indicative of the rural nature of Dumfries and Galloway, especially since over half of those panel members who were housewives were in fact married to farmers or men employed in occupations related to agriculture.

Some of the respondents argued, however, that to categorise people in this way is not always an absolute indicator of the representativeness of panel membership. As one reporter observed:

> People's occupations are not always important. A person could have a good job and could have moved out of a particular area but that doesn't mean they don't know that area any more. They may still have family there and still know what it's like to live there and

indeed still speak the language associated with the people.
<div align="right">Glasgow South-West Reporter</div>

Panel Member Continuity

Another aspect of panel membership, on this occasion raised by the interviewees during the individual interview sessions and one considered by all to be of some importance to the successful achievement of discussion within a hearing, is the issue of panel member continuity between cases. The sentiments of support regarding this aspect were as those expressed by Bruce and Spencer (1976: 103) in their observations of hearings at work. They claim that rapport with families was easier to achieve at review hearings provided that at least one of the original panel members was present. As a panel member from this study explained:

> It works very well in generating discussion with the family [...]. I have noticed that in some cases where the family was a bit reluctant to speak on their first appearance before a panel if there is even just one panel member from the first panel - a familiar face - that they can identify with, they are more likely to talk, particularly so in care and protection cases.
>
> <div align="right">Dumfries and Galloway Panel Member</div>

The observations of the Kearney Report (1992) into child care policies in Fife Region also point to benefits for the family if panel member continuity in certain cases can be pursued but they acknowledge this can be difficult to achieve in practice. The Report realises that panel members are volunteers and as such may not always be available to do follow-up hearings (1992: 567). This is particularly difficult in areas with a greater number of hearing sessions - a hearing session usually includes more than one hearing - as a reporter from Glasgow South-West pointed out:

> Although I see the benefits of panel member continuity in terms of familiarity with the family and the case and the help this can be in getting discussion going - I have to say it doesn't always happen [...] when you have many hearings to schedule it can be difficult to allow for continuity.
>
> Glasgow South-West Reporter

(By way of comparison Glasgow South in 1992 organised 1334 hearing sessions, Dumfries and Galloway 148 - information provided by regional reporters.)

Even in less populous areas like Dumfries and Galloway, however, where the number of panel members and hearings are fewer and more easily organised, other problems, perhaps peculiar to a rural area, prevail. As a panel member explained:

> If a child is appearing before the system from one of the small village communities, I, as District Chairman, would not put any of the panel members from that village on that panel. They can be too close to the family - too familiar perhaps - and it could cause problems afterwards if the decision reached is difficult and not favoured by the family.
>
> Dumfries and Galloway Panel Member

Certain forms of familiarity then, may be considered less beneficial to the hearing process.

Access to All Case Reports

Another issue, like that of panel member recruitment, suggested to improve informal discussion at hearings and that once again separated reporters from the other groups, was the matter of allowing panel members access to all reports relating to a case prior to a hearing. The intention was that this would permit panel members to analyse all facts and opinions beforehand and so prepare them

201

more thoroughly and perhaps give them greater confidence to tackle the issues with the family during the hearing. This is instead of the present practice of panel members seeing social work and school reports and only any other information deemed valid and appropriate by the reporter. The majority of social workers (97%), 88 per cent of guidance teachers and 82 per cent of panel members in all three regions supported this suggestion. The reporters however, were equally unanimous in their rejection of it with nine out of 10 holding this view. A reporter from Central Region explained their objections suggesting that the information contained within certain reports, particularly the police report, concerns itself mainly with evidence surrounding a case and this, she claimed, should be of no interest to a hearing.

> There are reports that come to us for the purpose of evidence - the police report for example [...] Some information contained in such reports, particularly pertaining to evidence, may encourage panel members to open up issues at a hearing which are clearly not within its remit. For this reason alone I would not send reports of this nature to panel members.
>
> Central Region Reporter

The majority of panel members disagreed with these concerns and stressed the social aspects to some police reports and the fact that as decision-makers they felt if necessary they should have power of access to all information pertinent to a case. Martin, Fox and Murray (1981) suggest that in almost half of the cases in their study a social history was submitted by police officers over and above the legal aspects of a case. The social histories included observations on the child, on the family, on housing conditions and the local environment (1981: 77). During discussion on this matter one panel member made the point - a view held by all those who supported greater access by panel members to reports:

We have the responsibility of making the decision - not the reporter or anyone else - and some decisions can be difficult. The more information we have the more we can talk to the family and child about and the more angles we can have in opening up discussion.

<div align="right">Glasgow South-West Panel Member</div>

Professionals at Hearings

As well as being questioned on the access to more information through the availability of reports the respondents to the questionnaire were also asked if they would like to see greater participation by certain professionals at hearings. The assumption was that this would provide more overall expertise and knowledge to draw upon, where necessary, when considering the actions to take and more information to aid the discussion process.

As indicated in the previous chapter there was considerable support especially in Glasgow South-West and Central Region for a greater participation of educational psychologists at hearings and majority support from panel members, social workers and reporters generally for more Intermediate Treatment facilities and also for a greater attendance by IT officers at hearings. The increased participation of three other groups - guidance teachers and police officers, already identified as being on the margins of the hearings system, and social workers was also considered in this regard.

With respect to guidance teachers a majority of members in all the groups across the three regions supported an improvement in their attendance and participation at hearings. This included 89 per cent of panel members, 84 per cent of social workers, seven from 10 reporters and 80 per cent of the guidance teachers themselves.

The reasons given by interviewees for such support concentrated on emphasising the special relationship with and knowledge of a child that teachers can possess as well as their recognised expertise - frame of relevance - in child development. These qualities it was claimed are often undervalued by education departments particularly in relation to a teacher's potential input to the hearings system. This perception of the attitudes held by education authorities engendered a degree of pessimism amongst many interviewees regarding the possibility of improving guidance teacher attendance at hearings. As one panel member explained:

> the education department often doesn't seem to place much store
> by guidance teacher attendance at hearings, which is a great pity.
> <div align="right">Glasgow South-West Panel Member</div>

At present guidance teacher attendance in the three regions, as table 5.5 shows, is rather poor, especially in Glasgow South-West.

Table 5.5 Guidance Teacher Attendance at Hearings

| | Hearings Attended (actual numbers of teachers) | |
	None	Less than 2
Central Region (n=57)	25	32
Dumfries and Galloway (n=37)	21	16
Glasgow South-West (n=23)	21	2

This poor attendance record on the part of guidance teachers contrasts with the view held by the majority of the respondents to the questionnaire (62%), who, when asked to rank four possible roles for guidance teachers in the hearings system, placed 'to provide information on a child's school background at a hearing' as their most important role. Guidance teachers are clearly not fulfilling this role in its entirety if they are not attending hearings on a regular basis. This must be a worrying phenomenon for effective discussion and decision-making in hearings since, as Martin, Fox and Murray point out, 'an emphasis on school was a very striking feature of the discussion in our sample of hearings, arising in 91 per cent of the cases' (1981: 113).

Limits on Guidance Teacher Attendance

Seventy per cent of the teachers questioned stated that factors do limit their attendance at hearings. This was particularly so in both the South-West area of Glasgow and Central Region where 83 per cent and 74 per cent respectively of

the sample suggested limiting factors but less definite in Dumfries and Galloway where just 56 per cent of the teachers there admitted to any limitations.

The regional variation of response on this issue particularly when school patterns are examined seemed to suggest greater restrictions for teachers working in larger schools. This is perhaps an indication that in larger schools, the majority of which in this study are located in Glasgow South-West and Central Region (see table A.5 Appendix four), the time teachers can spend on individual pupils is at a premium and attendance at hearings has become a lower priority. A guidance teacher from Central Region presented a view held by a number of guidance teacher interviewees:

> The size of the school and the limited time I can realistically spend on individual pupils - particularly if this means giving up a whole morning or afternoon virtually, to attend a hearing - is prohibitive. I can't afford the time.
>
> Central Region Guidance Teacher

By far the most critical and irksome issue for guidance teachers in obtaining time out of school to go to a hearing was the difficulty this poses for teachers and schools over timetabling and the provision of adequate class cover. Seventy nine per cent of the sample of 82 teachers who acknowledged restrictions on their attendance at hearings, saw this issue as a major stumbling block to better guidance teacher attendance.

Another factor which concerned a considerable number of teachers (30% of the sample of 82) was the fact that they felt few requests seemed to be made by the reporters' office to their schools for a guidance teacher presence at hearings.

This problem has now been addressed to some extent by the attachment of a slip by the reporter to the school report form asking a teacher if he or she wishes to attend the hearing. This leaves the choice and consideration up to each individual school and teacher and removes the onus from the reporter who in the past had always to request a teacher's attendance.

Suggestions for Change

Where the Hearing Centre is a distance from the school - this can make attendance more difficult and time consuming - and where the teacher's presence is desired, one guidance teacher suggested the hearing itself could be held in the school concerned. It was recognised however that for some pupils and parents the thought of coming to the school over and above attending a hearing might be problematic and could actually reduce the likelihood of the family feeling at ease and being able to discuss matters informally.

Another teacher responding to the lack of time guidance teachers seem to have to do all that is expected of them including subject teaching, proposed the establishment of specialist guidance teachers devoted exclusively to guidance work with no subject teaching whatsoever. Most other teachers were not prepared to go quite so far but they too felt some reduction in subject teaching would help with their other commitments including attendance at hearings.

All the guidance teachers interviewed however were in agreement that, if changes

like those above are to be implemented, the education departments in each of the three regions need to be enlightened as to the broad function of guidance and the necessary input guidance teachers should have to the hearings system, including their regular attendance at hearings. This was seen as a crucial starting point in improving teachers' access to all aspects of the hearings system.

The views expressed by the participants in this study concerning guidance teacher attendance at hearings help both to confirm and also contradict Milne's (1984) contentions. While it would appear that, as Milne suggests, education officials seem to absolve themselves and the education service from anything more than minimum participation in the hearings system, teachers, on the other hand, are generally more positive and are willing to explore possibilities to improve their attendance at hearings.

Police Officers

As mentioned earlier the second group to be considered with respect to its participation in hearings system activities and its potential contribution to the development of informal discussion within a hearing, was the police officer group.

Extent of Police Participation

The extent of police officer participation in the hearings system at present is illustrated in table 5.6:

Table 5.6 Form of input to hearings system (actual numbers of police officers)

		Central Region	Dumfries & Galloway	Glasgow South-West
Complete Reports for	Yes	6	1	15
Reporters' Office	No	1	5	2
				(n=30)
Give Warnings to Children	Yes	-	1	3
on Reporters' Instructions	No	6	4	14
				(n=28)
Participate in Panel	Yes	2	6	1
Member Training	No	4	-	15
				(n=28)
Liaise with Guidance	Yes	2	4	2
Teachers	No	3	2	13
				(n=26)
Liaise with Social	Yes	4	6	8
Workers	No	2	-	8
				(n=28)
Liaise with Panel	Yes	1	5	-
Members	No	4	1	16
(n excludes no response)				(n=27)

Table 5.6 indicates that the police officers from Dumfries and Galloway who were involved in the study have a much closer connection with other groups and with panel member training than those officers in the other two regions. Only in liaison with social workers and in Central Region's case with guidance teachers do the other two constabularies have a noticeable input. The issue of liaison between groups and its part in hearings system operations is considered more fully in chapter eight.

When officers in Dumfries and Galloway were asked during the interview sessions about the fact that five out of six say they do not complete reports for the

reporters' office yet the majority of police officers in the other two regions clearly do, they commented that their predominant function in this capacity was merely to collate reports, obtained on request from beat officers, and to send these to the appropriate reporter. Only where they were personally involved in a case would they submit a report themselves.

Police Officers at Hearings

When asked in the questionnaire if they would like participation by police officers at hearings, nine from 10 reporters, 67 per cent of panel members and 83 per cent of Dumfries and Galloway social workers stated that they would not welcome this development and felt that it would not aid the discussion process at hearings. This is in line with their groups' ideological positions which clearly rejected any association on the part of juvenile justice with the principles and practices of law enforcement. Thirty three per cent of panel members and 64 per cent of Central Region social workers, however, disagreed with this assessment and supported the participation of police officers at hearings. In so doing these respondents, as the comments below suggest, may be applying a situated accounts approach to this issue. Guidance teachers across the three regions were divided on the proposal - 49 per cent Yes, 51 per cent No. Some of the reasons and justifications for these stances were given by interviewees in the interview sessions.

Those against the attendance of police officers at hearings stressed the intimidating effect this might have on the families concerned and the depressing

influence this could place on the achievement of meaningful and frank discussion.

As a panel member indicated:

> I don't think police officers at hearings, even in those cases that
> have been referred by the police, would be a good idea. It would
> be very intimidating for the family and would make the task of
> informal discussion much more difficult.
>
> Glasgow South-West Panel Member

Furthermore, there were those who believed that the information the police tend

to provide is either factual and concerned primarily with evidence and so of no

interest to a hearing or, if of a different nature, is in any case already contained

in other reports like the social enquiry report. As the statement below makes

clear:

> I have difficulty in seeing how the police could contribute any more.
> For the uniformed officers, they provide facts and these are in their
> reports. Any of the factual details of evidence would not be
> relevant to a hearing anyway. The child protection unit officers
> work closely with the social work department and all the
> information they have should be in the social work report. So I
> don't really think police officers need to be at hearings.
>
> Central Region Reporter

Other interviewees were more open to the suggestion of police officers attending

hearings and emphasised that any additional information on a case, from any

source or agency, can be of value. Some though, as the second quotation below

suggests, would have police officers at hearings only to discuss the contents of

their reports and not in attendance throughout the entire proceedings. To be of

real value this would of course presuppose that the majority of panel members,

who, in this study, desired access to police reports, had in fact been successful in

their aim and had overcome reporter resistance.

I would like to see all relevant agencies at hearings - they can

211

contribute something to the case that might help in reaching a
decision. If this includes sections of the police, then yes, they
should be invited and attend.

<div align="right">Central Region Social Worker</div>

It would only be in some cases and only for the discussion of the
information in their reports. I wouldn't think in these cases and for
that short time they would cause too much harm to discussion and
may in fact provide more information to talk about.

<div align="right">Central Region Panel Member</div>

Police Officers' Views on Hearing Attendance

Asked if they wished greater input to the hearings system and its activities only

eight police officers from 30 stated that they would. They included six officers

from Glasgow South-West and one each from Dumfries and Galloway and

Central Region constabularies. The reasons for this evident reluctance to

increase their involvement were similar to those given by the interviewees from

the other groups. They illustrated both police officer awareness that their

attendance could have a potentially adverse effect on a family's willingness to

speak at a hearing and also the changing role of the police, particularly in care

and protection cases, which means a close working partnership with social work

departments and which allows social workers to represent joint police/social work

findings at hearings. This practice satisfied many police officers that their

assessments of a case were being presented at hearings.

Of the eight officers who did wish to extend their role in the hearings system, six

expressed a desire to be allowed to attend some hearings, in particular where

cases involved police activity and where they believed they could contribute

<div align="center">212</div>

further insight to a case. Four officers from the six felt they would wish to be present throughout the entire hearing while the other two only wished to be present during consideration of any matters relating to police work or the police report.

A majority of the eight officers who wanted greater input to the hearings system also expressed a wish to participate in panel member training and, through various mechanisms including meetings, committees and joint training, to improve liaison with other groups particularly social workers, panel members and guidance teachers. This outcome is hardly surprising since six out of the eight officers who expressed such desires came from Glasgow South-West which at present, as table 5.6 indicated, seems to have the poorest liaison record between the police and other agencies of the three regions in the study (see chapter eight for further discussion on group liaison).

In the case of police input to panel member training, there was also a desire on the part of the police officers to impart knowledge to panel members of police technique and the role of police officers and special police units in child related investigations. This desire can be seen to be in accordance with the mean ideological score for police officers which favoured professional decision-making in juvenile justice, for as May (1977) and Adler and Asquith (1981) imply, the more professional tuition and training panel members receive the more professionally orientated they may become.

The impression given by the interviewees throughout this discussion of police input to the hearings system is of the police officer as a law enforcer and as a provider of information. This view is one held by the majority of the research sample. Seventy two per cent of the respondents to the questionnaire considered the most important role of a police officer in the hearings system to be the detection and referral of juvenile offenders, while 61 per cent considered the provision of reports to the reporter as their second most important function.

Social Workers

The third professional group to be considered in relation to its participation in the hearings system is social workers. Although a social worker has to be present at each hearing and although they do participate in the proceedings by providing information, advice and recommendations for action and despite their presence being considered 'essential for a satisfactory hearing' (Martin, Fox and Murray, 1981: 260), the respondents to the questionnaire were nonetheless asked if any room existed for extending this role still further. This suggestion once more divided the reporters' group from the other groups. Sixty-nine per cent of guidance teachers, 64 per cent of panel members and 61 per cent of social workers, across the three regions, desired to see social workers participate more in the hearing process, while, in contrast, seven from nine reporters rejected the idea. One reporter explained their concerns:

> Social workers already have the right to be at hearings - they must attend and considering the nature of the system that's only proper. They submit a report, they are there in person to discuss its contents and to give advice to panel members on the course of

214

action to be taken - what more can they do? I feel if they had a greater input whatever that might be to the decision-making process there is a danger that they could come to dominate proceedings and in fact reduce the debate around the correct disposal. That would not be good for discussion or the family.

<div align="right">Glasgow South-West Reporter</div>

This defence of lay input to the hearing process by the majority of reporters is an endorsement of the ideological position taken by this group as a whole which supported lay involvement in juvenile justice generally and in the hearings system specifically.

The reporter's conception of a social worker as a provider of information and advice in a hearing was also the role description confirmed by the majority of the questionnaire sample. Sixty six per cent of the respondents believed that the most important role of a social worker in the hearings system is to provide to a panel background reports and information on the child and family concerned. This role definition endorses the view held by the majority of social workers in the study conducted by Martin, Fox and Murray (1981), who define their role within hearings system operations as '[providing] the hearing with objective information about the clients and an independent evaluation of the child's needs' (1981: 260).

Extension of Social Workers' Participation

Statement of Intent

Although it may seem, from the comments made by the previous reporter, to contrast with their group's mean ideological stance favouring lay decision-makers

<div align="center">215</div>

in juvenile justice, those panel members who supported an extension of social worker participation in the hearings system were quite specific about the nature of this development. Two main areas were paramount and both were seen as beneficial to a panel member's role as independent decision-maker. The first of these was the inclusion by social workers in their reports of a **statement of intent** outlining the courses of treatment they suggest and why they recommend them for the children concerned, as well as the expected outcome of such action. This process, it was argued, might then allow for some sharing, and understanding of, a social worker's thought processes that lie behind a recommendation which in turn may aid the panel members in their choice of disposal - and as one panel member added:

> We still don't have to accept the plan if we feel it's not the right one for the child, but at least we are clear about what is being offered and we can have expectations of progress when it comes to the review.
>
> Dumfries and Galloway Panel Member

Adler (1985), in support of the notion of a social worker's statement of intent and in proposing that such a procedure should become standard hearings system practice, writes:

> A general statement outlining the aim and objectives of a specific supervision order is a necessary condition of assessing the effectiveness of that order [...] so that the success or failure of any prescribed course of action can be evaluated [...]. (1985: 140)

The British Association of Social Workers (BASW) in giving evidence to the Kearney Inquiry (1992) also favoured social work reports for hearings containing a range of possible options with comment on their likely outcomes (1992: 577) - a development further endorsed and recommended in the Government's Paper on Child Care Policy and Law (1993: 31, 38).

216

The provision of a statement of intent as standard practice in the social enquiry report was seen by all the panel members interviewed as an aid to their decision-making task and not a restriction or threat to it as implied in the reporter's statement earlier. The ultimate decision-making role of a panel and support for lay involvement, in line with their mean ideological score, were always vehemently defended by panel members.

Specialist Social Workers

The second issue raised by a number of the panel members during the interview sessions and emphasised in two recent reports - Clyde Report (1992) and Kearney Report (1992) - was the establishment of specialist social workers concerned only with child and family matters. It was argued that, although the social work departments in the three regions seemed to be developing unofficially in this way with the emergence of child and family teams, there was a need for this to become official and standardised with certain social workers specialising only in this area of their work. The Clyde Report (1992) justifies its support for such a development thus:

> As the [social work] profession and its range of work have developed the idea that one person can adequately undertake all tasks [generic social work] may be a matter now of impracticability. Specialised expertise is required in a variety of distinct fields [...]. The whole area of work in child protection needs to be seen as a specialist area to be undertaken by practitioners with specialist skills and knowledge [and] with adequate training and support (1992: para 19.6).

One panel member described the benefits she perceived from such a change and presented well the general feeling held by panel members who supported this

217

development in social work practice.

> It would allow them [social workers] to become specialists in this expanding area of social work provision which is becoming more complex all the time. It might also encourage them to have a greater commitment to the part the hearings system plays in child care and with specialist teams only social workers who are committed to the child care field and are able to offer informed advice would be at hearings.
>
> Glasgow South-West Panel Member

Although 23 per cent of the social workers in Martin, Fox and Murray's (1981) sample supported social worker specialisation in child care, the majority still favoured generic practice but acknowledged that more training in child related issues would be beneficial (1981: 264). This attitude corresponds with the feelings of the majority of social workers (seven from 10) who were interviewed in this study. They believed that certain benefits in terms of an overall understanding of family circumstances are derived from generic work and to specialise they felt, may be too prohibitive to social work outlook and too inhibitive for the practice of individual workers.

Some social workers and guidance teachers were prepared to acknowledge similar benefits to those identified by panel members, concerning the inclusion of a statement of intent in the social enquiry report and the establishment of specialist social work teams. The majority in both groups, however, in line with their mean ideological scores endorsing more professional decision-making in juvenile justice, were more inclined towards the social workers' recommendations being given greater emphasis by panel members in their choice of disposals. As one social worker explained during interview:

> I feel at times, although I have worked with the family and I feel
> I know what course of action is needed and I put this in my report,
> the panel members sometimes don't seem to pay much attention to
> it and I end up feeling what was the point. I feel social work
> comments and recommendations, both written and verbal, should
> form the basis for a hearing and the discussion therein if the case
> is one that truly requires social work input.
>
> <div align="right">Central Region Social Worker</div>

This difference in emphasis over the extension of social worker participation and

input at a hearing, given by panel members on the one hand and social workers

in particular on the other, provides a practical illustration of the ideological

differences that exist between these groups. It also indicates a possible area of

conflict in hearing operations that could in turn frustrate these groups in their

hearings system functions and in the service they provide.

The Hearing Room Format

Before concluding this chapter one further feature relevant to this discussion and

meriting consideration did emerge from the questionnaire survey and the

interview sessions. A major consideration for some respondents across all groups

and an issue discussed in Martin, Fox and Murray (1981) is the layout of the

hearing room itself and whether this is or could be made more conducive to

placing families at ease and creating an informal atmosphere. Fifty-five per cent

(17 from 31), by far the largest group of all of those who in the questionnaire

survey offered their own alternatives to improving discussion within a hearing,

believed that changing the setting within the hearing room could enhance the

image of informality and could in turn aid the discussion process. This was also

the opinion of a number of the interviewees who stressed the greater informality

and the more relaxed atmosphere they felt was engendered when the more austere aspects of the hearing room - the large table and the upright chairs - were removed. They did admit that this change is but one element in the achievement of informality but the format of the room was still seen as an important factor. As one interviewee commented:

> The tone of hearings here is reasonably informal but more could be done to encourage people to take part. One of the things we are doing is to get rid of the hearing table and getting low chairs around a coffee table instead. I've used this before and it makes a dramatic difference to the feel of the proceedings [...]

The balance between informality and order alluded to in Martin, Fox and Murray (1981) was understood and elaborated on by this reporter - as he emphasised:

> If the structure is too informal people get confused and don't know what is going on and if it's too formal people are intimidated. The best format is a tight structure with a relaxed approach. People know where they are in the proceedings and what's expected of them but they are made to feel as relaxed as possible.
> <div align="right">Dumfries and Galloway Reporter</div>

The 'protection' the hearing table provides for both panel members and families in difficult cases and in more hostile circumstances and the physical support or crutch it can be, was acknowledged by one panel member, but she still believed it to be a barrier to the main aim of a hearing - that of informal discussion leading to a decision in the child's best interests. As she explained:

> A table, particularly a large table, creates a them and us situation and that must reduce the chance of informal discussion - mustn't it.
> <div align="right">Glasgow South-West Panel Member</div>

Martin, Fox and Murray (1981: 95) in their study also indicate this ambiguity surrounding the use of a hearing table.

A teenager speaking in the Scottish Office's 'Who's Hearing' booklet however

did not suffer from such ambiguous feelings and concisely presented a child's view on the issue:

The table's far too big. It makes it all very formal. (1991: 16)

Summary

There are further aspects of informal discussion, its development and the decision-making process in a hearing yet to be examined, but these can be considered synonymous with the issues of protecting and advancing the rights of children and parents who come before children's panels. The issues surrounding the rights of the family are discussed separately in chapter six. For the moment what can be concluded from the views and comments given in this chapter on the subject of discussion and decision-making in a hearing? Two aspects seem to govern the reaching of a decision in a hearing, the first is the discussion of the case with the family and the second is the advice provided by the professionals - both were viewed as essential to the consideration of the case concerned. The majority of the members in the four groups in the study, who can attend hearings, all stated however, that an improvement could be made in a number of matters related to these decision-making components. An array of proposals suggested for this purpose and the views of the research sample on these have been presented in this chapter.

Although a number of these proposals - most notably increased panel member training and greater attendance and participation by guidance teachers at hearings

- were accepted by majorities in all four groups as means by which discussion and decision-making in a hearing may be improved, it was noticeable that the reporters' group in particular appeared more cautious than the others in its desire for change to the procedures and practices that surround the decisions taken during a hearing. This reluctance to change was especially apparent during consideration of the proposals to permit access by panel members to all background reports and to extend the role of social workers in the hearings system. Perhaps this reluctance on the part of reporters is a reflection of their more global view of the hearings system and its operations, as they deal with all agencies and aspects associated with it, or it may be a desire on their part to protect the discretionary power they enjoy at present particularly with respect to the flow of information in a case. An explanation of the reporters' position does become clearer as other issues directly relevant to the subject of case information and the access to it, and its relationship with the rights of children and parents at hearings, are explored in the next chapter.

Chapter Six : Child and Parental Rights

I didn't know I could take a friend along.

Teenager at Who's Hearing Seminar

Discretion and Rights

The desire by the Kilbrandon Committee to move away from a rigid framework in the way hearings conduct their proceedings and towards, as chapter five illustrated, the reliance on informal discussion coupled with professional advice in the decisions panel members make, constituted for many a recipe for increased discretionary decision-making (Morris and McIsaac, 1978; Adler and Asquith, 1981; Martin, Fox and Murray, 1981; Asquith, 1983). As Adler and Asquith suggest:

> In many of the social services (most noticeably in health, education and social work) where the service providers are mainly professionals, decision-making is of an extremely discretionary kind. (1981: 13)

The hearings system of course in its deliberations can involve agencies from all three of the aforementioned social services. Asquith (1983), in referring to the movement within juvenile justice towards the ideology of welfare (see chapter two) and so towards 'individualised' justice often involving social services, writes:

> [This movement] has meant that the criteria on which decisions about children are based will necessarily be more diffuse than those established by an ideology of punishment. [...] juvenile justice may then become riddled with rampant discretion. (1983: 42)

In fact Bruce and Spencer when commenting specifically about the hearings

system itself and its decision-making role state:

> the system of children's hearing is capable of displaying more discriminatory power [...] than any other such court or committee known to us. (1976: 100)

Grant (1976) concurs and observes:

> It would be quite futile to search for uniform national practices [in the hearings system] [...] practices have tended - and will continue - to be as many and varied as the number of children's hearings. (1976: 207)

Martin, Fox and Murray (1981) further suggest that for many panel members - who hold the decision-making role in the hearings system - the observance of procedural rules is clearly unimportant to an 'ideal' hearing. Only a meagre six per cent of their panel member sample considered this aspect crucial to the hearing process (1981: 256).

Criticisms of the lack of sufficient protection for children, in particular from discretionary intervention, have been made in the past (Grant, 1976; Morris et al, 1980). Such concerns, as Asquith (1992) points out, have not been ignored: safeguarders to protect the interests of children when these conflict with those of their parents, were appointed in the hearings system in 1985. Furthermore, there have been suggestions, most recently in the Clyde Report (1992), that children's rights could be protected in hearings by a child 'advocate'.

Concern about the lack of legal scrutiny of the decisions taken by panels has been voiced particularly because of the low appeal/disposal ratio within the hearings system (Gordon, 1976; May, 1977; Morris and McIsaac, 1978; Grant, 1982). In 1990 there were 144 appeals to the sheriff court compared with 9063 disposals -

a ratio of one appeal to every 63 disposals. In 1991 the ratio was one appeal in

every 76 disposals (Social Work Services Group Statistical Bulletin, 1992, 1993).

Despite such concerns and criticisms, however, Asquith believes that:

> the Children's Hearings system has been in the forefront of juvenile
> justice systems in promoting a conception of children's rights which
> include giving children the right to be heard, to be involved in
> decision making about, and to be treated with decency and respect
> in, a system that is ultimately concerned with their well being.
> (1992: 167)

In this respect, he claims, the hearings system matches many of the conditions

presented in the Convention on the Rights of the Child accepted by the United

Nations in 1989. It could therefore be said to have been, at the point of its

conception, twenty years ahead of its time.

Despite the latter observations by Asquith, it is nonetheless the case that in many

social services, and this includes the hearings system, decision-making is often

discretionary in nature, with few specific rules and regulations to govern or

control the factors and procedures which often determine the eventual outcome -

and this does attract suspicion. According to Davis, discretion is exhibited

whenever 'the effective limits of [a public official's] power leave him free to

make a choice among possible courses of action or inaction' (1974: 4). Johnson

claims that the growth of discretion has gone hand in hand with the growth of

specialisation and knowledge and those who possess it (1972: 33). It is in the

acknowledgement of this discretionary power which decision-makers and

professionals can wield that the concentration on and development of individual

rights within the hearings system will be considered. As Adler and Asquith describe:

> Discretionary powers are not exercised in a vacuum - they are exercised over individuals whose only protection may be their possession of certain rights. (1981: 11)

With a word as variously and so frequently used as 'rights', the issue of possession presupposes some prior understanding of meaning. Adler and Asquith define a right as an 'enforceable claim' (1981: 11) - a recognised definition documented by a number of theorists. Wringe, while not accepting in every case the idea of rights and claims as interchangeable terms, does acknowledge that in having a claim an individual has a right. As he puts it, 'in [...] having a claim, it would certainly seem [...] plausible to suggest that rights are claims in this sense' (1981: 28). This approach accords with Feinberg's theory of rights as 'valid claims', as he observes:

> to have a right is to have a claim against someone whose recognition as valid is called for by some set of governing rules or moral principles. (1980: 155)

As Feinberg's statement clarified, to have a right is to have a claim, but that claim is only of value if it is validated or, as Adler and Asquith see it, enforced by recourse to a set of rules or laws or, less tangibly perhaps, a set of moral codes.

Although early commentary on rights (Bentham, 1748-1832) tended to focus mainly on legal rights (Harrison, 1983), Waldron (1984) believes it would be a mistake to disregard the moral dimension. He acknowledges that where a right is embodied in statute its existence is unequivocal and in the case of morals the standards themselves can be contested in the way legal regulations cannot - but as Waldron explains:

> Unless it is proposed that we should give up critical moral evaluation altogether, it is difficult to see the case for confining talk of rights [...] to the context of [...] law. (1984: 5)

It can be the case too that moral rights and legal rights are one and the same. As Wringe explains, 'the fact that something is a legal right would seem to be a reason for holding that it is a moral right also' (1981: 45). The law can require individuals to do things that are morally good as well as transforming items that are morally neutral to items that become morally obligatory by virtue of being enforced by law. Few people would deny that it is a child's moral right to education, but by putting this in statute not only does that moral right become legally enforced but age limits on education provision can also be made obligatory.

In reality then, the existence of rights or claims can be embodied in either moral values or legality, so that a moral right is enforced by an appeal to morality while the observance of a legal right depends upon the existence of legal rules and regulations. As a legal entity, the hearings system should embrace procedures that in their standard application guarantee the legal rights of those who pass through it. There is also, however, a moral dimension. It could be argued that it is the moral right, for example, of both children and parents that at a hearing their views and opinions can be expressed - the moral right of free speech and self expression - so that they too contribute to the search for the best possible disposal. It is surely the case, and certainly the processes within a hearing are predicated upon the fact, that the more effectively and eloquently a child or parent can present their feelings and opinions at a hearing, the better the

discussion around the circumstances is likely to be and the easier then it is to reach an appropriate decision. MacCormick justifies this moral dimension particularly with regard to the position of children in society when he comments:

> at least from birth, every child has a right to be nurtured, cared for, and, if possible, loved, until such time as he or she is capable of caring for himself or herself. When I say that, I intend to speak in the first instance of a moral right. I should regard it as a plain case of moral blindness if anyone failed to recognise that every child has that right. (1982: 154-55)

In considering the rights - legal and moral - of children and parents within the hearings system then, and whether or not developments are required to enhance these, the deliberations in this chapter will concentrate on issues and practices that can be embraced by the hearings system in statute and in a standard fashion. These proposals may be seen as possible mechanisms by which the rights or claims of parents and children within the system may be advanced, thus offering greater protection against the unpredictability of discretionary power. As Adler and Asquith emphasise:

> A public official's discretion may be limited in a number of ways, e.g. statutorily, administratively, professionally, politically or judicially, but the stronger the claim an individual has the greater is his power to make and enforce demands on officials. Conversely, the weaker the rights an individual has, the more he will be at the mercy of their discretion. (1981: 12)

Consequently in the hearings system, the more effectively a child or parent can exercise their moral right to participate in the proceedings at a hearing and their legal rights to representation, appeal and review, the greater the likelihood of influencing the final outcome. All this initially depends, however, as Adler and Asquith observe, on the participants - in the case of the hearings system, particularly family members - being aware of their rights in the first instance and

being able to exercise them (1981: 12).

A reporter, during interview, emphasised this very issue within the context of the hearings system. He acknowledged:

> Rights of whatever nature are meaningless unless people are aware of them and have the ability to understand them and make use of them.
>
> Dumfries and Galloway Reporter

This is the initial dilemma that faces the hearings system - are families aware of and do they understand their rights in relation to the present practices of the system, thus permitting full advantage to be taken of them?

One panel member clearly indicated that in her opinion this aspect of hearings system operations could improve - an impression shared by the majority of interviewees. She suggested a way forward through a greater dissemination of information, which she predicted would not only precipitate a wider knowledge amongst families of the status of children and parents in the system but would in turn permit rights to be exercised more effectively.

> I think a clear and simple leaflet - much clearer and simpler than those circulating at present - needs to be sent out to families before their appearance at a hearing explaining what is going to happen, what their legal rights are and where and from whom they can seek advice.
>
> Dumfries and Galloway Panel Member

The social worker was seen as an agent of explanation who should peruse the leaflet with the family to make certain of its comprehension. The panel member, like Adler (1985), believed that a written statement describing the disposal and the reasons for it and advising on legal rights of appeal and review should also be

dispatched to families after a hearing. This she claimed should be standard practice. Grant (1982) suggests that the establishment of 'Children's Hearings Advice Centres' might be a complementary option to written material and could assist in the advice and guidance given to families on hearings system operations and procedures. He adds that these centres could be staffed by trained volunteers (1982: 64-5). The Child Care Law Review (1990) sees this role falling under the auspices of a new Child Welfare Commission and presents an argument in terms - of child welfare and the rights of the child for the establishment of such a body in Scotland (1990: 45-7).

These sentiments were supported by most of the interviewees involved in the study, although the time available for social workers to play a part in this dissemination process was inevitably raised. Some regions are beginning to amend their practices surrounding the availability of hearings system information in line with these feelings.

May (1977) on reflection however, doubts the whole validity of the rights of families within the hearings system even if a full understanding of these is achieved. He does this from the standpoint of the families' own feelings and illustrates this with reference to the rights of appeal. As he explains:

> To maintain that they always have the alternative of taking their case to the Sheriff is purest sophistry. It ignores the extent to which appearance before the Sheriff constitutes in itself a punishment. Given that many clients find it difficult to differentiate between one representative of authority and another, recourse to the Sheriff offers no real alternative at all, only the certainty of further delay and inconvenience. (1977: 221)

230

If May's assessment is correct, greater awareness by families of their rights within the hearings system or indeed any extension of those rights may be superfluous as families may not feel able or willing to exercise them anyway. Although Grant (1982) confirms that there are few appeals each year, (one appeal for every 76 disposals in 1991, for example) it is difficult to know whether this phenomenon is a result of clients' reluctance and fear as May claims, or whether most disposals are truly and freely accepted by families as positive courses of action and means of assistance. The majority of the interviewees from this study - 30 from 45 - across three groups (panel members, reporters, social workers) claimed the latter. Most police officers and guidance teachers felt unable to comment through a lack of experience of hearings system practice.

Present Rights of Children and Parents in the Hearings System

All child and parental rights below are taken from the Social Work (Scotland) Act, 1968 and from the Children's Hearings (Scotland) Rules, 1971 and 1986.

Legally at an initial hearing the family has the right to be told the purpose of the hearing and to be told the grounds for referral and they have the right to deny these if they disagree with them. If a denial of the grounds is registered the referral would then move to the sheriff court for proof before either being dismissed or upheld in which case another hearing would be arranged.

At a hearing both the child and parents have a legal right to bring a 'friend'

along for support or as a form of representation. This can include a member of the legal profession. The parents have a legal right to remain throughout the entire hearing and can refuse to leave if asked. The family also have a legal right to know the substance of any background reports. The family have a right to know the outcome of the hearing and have a legal right of appeal against the decision to the sheriff court within a period of 21 days. Legal aid is available, where applicable, for this procedure. The child and parents can call for a review hearing to review the case and the disposal after an initial period of three months and at six monthly intervals thereafter.

From a moral premise, all the interviewees involved in the study agreed that both children and parents have a right to voice their views and opinions at a hearing and indeed, as chapter five indicated, the achievement of family participation in 'open discussion' is regarded as a fundamental aspect of and contributing factor to the process leading to the final decision. The right of participation is also contained within the Children's Hearings Rules - Rule 17(2).

Protection of Rights

As the issues raised in this chapter are being examined with reference to the rights of children and parents it was considered necessary to explore, first of all, how the respondents felt about the protection of those rights at present within hearings system operations. No prior definition or categorisation of rights was given to the respondents in the questionnaire, they were simply asked for their

assessment of the protection afforded to children's and parental rights within the processes of the hearings system. The respondents were given a five point scale upon which to answer ranging from 'very well protected' to 'very poorly protected' - see question 22a in the questionnaire in Appendix one.

Table 6.1 Protection of Children's Rights

	Panel Members (n=145)		Reporters (n=13)		Social Workers (n=83)		Guidance Teachers (n=116)		Police Officers (n=30)	
	%	No	%	No	%	No	%	No	%	No
Very well	40	58	7.7	1	8.4	7	18.1	21	33.3	10
Well	35.9	52	23	3	35	29	36.2	42	36.7	11
Adequately	17.9	26	38.5	5	32.5	27	25	29	20	6
Poorly	6.2	9	30.8	4	22.9	19	1.7	2	-	
Very Poorly	-		-		1.2	1	- (19% DK)		- (10% DK)	

233

Table 6.2 Protection of Parental Rights

	Panel Members (n=145)		Reporters (n=13)		Social Workers (n=82)		Guidance Teachers (n=116)		Police Officers (n=30)	
	%	No	%	No	%	No	%	No	%	No
Very well	24.1	35	7.7	1	8.5	7	13.8	16	23.3	7
Well	35.9	52	23	3	28	23	27.6	32	36.7	11
Adequately	28.3	41	46.2	6	48.8	40	33.6	39	26.7	8
Poorly	11	16	23	3	13.4	11	2.6	3	-	
Very Poorly	0.7	1	-		1.2	1	-		-	
							(22.4% DK)		(13.3% DK)	

Tables 6.1 and 6.2 illustrate a similar pattern of response to both sets of rights in the hearings system. The most optimistic assessment came from the panel members and police officers who, despite disagreeing on the effectiveness of some aspects of hearings system operations, both had substantial numbers agreeing that children's and parental rights were 'very well' protected within the parameters of the hearings system. Large numbers from the other groups across the three regions opted for the categories 'well' or 'adequately' protected, although both the reporters' group and the social workers' group had noticeable numbers in their ranks who assessed the protection of family rights and particularly those of children within the hearings system, as 'poor'.

Although the positive response regarding the protection of rights might have been expected from panel members as operators of the system, it is perhaps surprising

that police officers too responded so favourably. When questioned on this during interview, the responses from five of the six officers suggested their confidence in this aspect of hearings system operations stems from the presence of a reporter at each hearing whose primary purpose, in their view, is to enforce procedures on behalf of all concerned. It is interesting that the reporters were less complimentary in the assessment **they** provided in the questionnaire. For those reporters who were interviewed and who had expressed reservations about the protection of rights in the hearings system, it was their previous legal background and the strict procedures associated with it, and with the concept of legality generally, that still encroached upon and influenced their thinking. There was a feeling that they had not yet fully come to terms with this aspect of the more informal approach of a hearing.

From this overall assessment, and despite the positive reaction some members of the five groups gave on the issue of family rights in the hearings system, respondents might feel that improvements could yet be made to procedures and practices which might in turn enhance the rights of those appearing before a panel and which might also aid the decision-making process as a whole. To attempt to assess this position the participants were asked to respond in the questionnaire to a number of procedural changes that may be considered, and indeed have been considered by other sources, as possible improvements in the area of child and parental rights within the hearings system. Other developments were also considered and discussed with interviewees during the interview sessions.

One potential improvement is the suggestion, given in the questionnaire, raised by interviewees, proposed in the Child Care Law Review (1990: 40) and the Clyde Report (1992: para 18.32), and mentioned for consideration in the Government's Paper on Child Care (1993: 33), that panel members should have the discretionary power to speak to children in the absence of their parents. This is in the belief that in certain cases the presence of parents may intimidate children, who may then be less forthright with their comments and less honest about the factors affecting them. In support of this proposal and from their own observations Bruce and Spencer state:

> A number of hearings decided, with the family's consent, to speak separately for a while with the parents and with the child; there were many occasions when this procedure helped the parties to speak with greater frankness and thereby enabled the hearing to gain a deeper understanding of their difficulties. (1976: 103)

As the system operates at present the parents have the absolute right to attend throughout a hearing and can refuse, if asked, to leave the hearing room thus preventing the child or children from speaking to panel members alone. Clearly then to allow a child a hearing on his or her own, if it was adopted, would be a fundamental change to hearing procedures and to the rights of the child and parents. This change to hearings system operations can be justified both from a moral and a legal standpoint. It could be said that as a hearing is devised in the interests of the child it is only **morally** correct that the child has the same **legal** rights as his or her parents and that would include the opportunity to speak to panel members in the absence of the mother and/or father. Such a step would

of course remove the legal right of parents to be present at all times.

When asked in the questionnaire for their assessment of this proposal, 84 per cent of panel members, 88 per cent of social workers and 72 per cent of guidance teachers across the three regions endorsed this change to hearings system practice. For the majority of social workers, guidance teachers and later police officers the endorsement of this proposal appears at odds with their welfare/professional ideological stance for it can be seen to grant a further aspect to the decision-making power of lay panel members. This apparent contradiction was raised with members from these groups at interview and responses suggested the adoption of a situated accounts approach to the issue. Although these interviewees continued to favour professional decision-makers on principle, they believed that within the present context of the hearings system, decision-making would be improved by this measure and for the benefit of the child.

The issue split the reporters' group along regional lines. Three from the four reporters in Central Region who responded rejected the proposition - perhaps revealing their uneasiness, as portrayed in their ideological scoring, with giving lay people greater responsibility in the decision-making process. The two reporters in Dumfries and Galloway on the other hand were divided on the issue, whereas all four reporters in Glasgow South-West were more inclined to embrace change and endorsed the proposal - a practical confirmation perhaps of their high ideological score (chapter four) in support of and so their confidence in lay decision-makers.

As the issue of panels being able to speak to children in the absence of their parents was raised in the questionnaire as a potential improvement to discussion and the decision-making procedures in a hearing, police officers as before (chapter five) were not asked to respond to it. Recognising the importance of such a change to hearings system practice and as a way of checking on responses to it, the respondents to the questionnaire including police officers were asked this same question but this time within the context of extending the powers of the hearings system. On this occasion and consistent with their earlier responses, 92 per cent of panel members, 92 per cent of social workers and 75 per cent of guidance teachers across the regions embraced the change. They were joined in this stance by 87 per cent of police officers and this time by 10 from the 13 reporters, including four out of six from Central Region and two out of three from Dumfries and Galloway. All four reporters in Glasgow South-West responded as before and accepted the proposal.

At interview, when questioned on this apparent contradiction, the reporters who seemed to change their minds indicated that while they felt it should be the right of a child, where appropriate, to appear before a panel without its parents, they did not believe that in the majority of cases it would improve or enhance informal discussion with the child. As one of the reporters explained:

> How many children are going to divulge anything to three strangers that has not yet been revealed to say the social worker or teacher, and if the child is living with the parents what is to stop them questioning the child afterwards to see what was said? It would be a very brave child who would feel able to talk openly to panel members [...].

The issue of the disclosure of the information given by the child during such a

hearing and the difficulties this could pose for panel members especially, was also

emphasised by the reporter:

> How much do panel members reveal to the parents about the discussion with the child - if you say too much you might betray the child's confidence? Clear guidelines would be needed and all parties would have to be aware of where they stood before such a proposal was put into practice.
>
> <div align="right">Central Region Reporter</div>

This dilemma over disclosure further raises the question of whether or not, if such

a proposal was enacted, the legal claims of parents should be extended giving

them the right to information relating to the discussion undertaken between their

child and panel members. As the reporter observed, however, the parameters

controlling this right to information would need to be carefully crafted so as not

to undermine the confidence of the child in the first instance.

A teenager participating in 'Who's Hearing' one day seminar articulated how

difficult the situation in a hearing can be for a child whose parents are present.

> It's really hard to talk about your mum and dad when they're there.
> Even if things haven't been great you don't want to talk about it.
> (1991: 19)

A panel member and a social worker in this study emphasised the need for

change in this area of hearings system practice and voiced their frustration with

the present procedure which they suggested discriminates against the child's best

interests. This was a view held by many of the interviewees who supported this

development in hearings system operations.

> Yes I would like this - there is no way a child is going to talk to you and say nasty things about their parents, no matter how nasty their parents are, if the parents are there, but we expect them to under the present system.

Experience leads her to believe that the occasions when the need to separate children and parents would arise would be few but of great benefit in discussing and assessing the problems. As the panel member observed:

> I've only been in one or two hearings where I did want to speak to the child alone - so it's not an every day occurrence - and in one of these the mother refused to leave. The child didn't have the strength to say 'I want you to leave'. To protect the child's rights to express his feelings, as much as anything else, and to get to the bottom of things, the panel should have this power - I've no doubts.
>
> Central Region Panel Member

Furthermore, as a social worker explained, panels and children need, in certain cases, the flexibility this procedure would allow to discuss matters that may be difficult to approach in front of parents.

> This does need to happen. I've had to complete reports in which I disclose the young person's view of the situation and in that report I've had to request that this is not discussed at the hearing in front of the parents, and if the parents refuse to leave the room or the panel don't ask them to, then this aspect is never discussed and that is clearly not in the child's interests.
>
> Dumfries and Galloway Social Worker

Although a majority in all groups then, saw a need for change in this aspect of hearings system practice and recognised the deficiencies that do exist at present especially with respect to the fundamental rights of the child, careful thought, it was stressed, does need to be given to addressing the complex problems that will arise if this proposal is adopted by the hearings system. This is particularly so in relation to the openness of a hearing and how much if anything should be disclosed to parents after the child alone has spoken to panel members. The Child Care Law Review has acknowledged this issue in its recommendations, it states:

> Hearings should have discretion to exclude a parent from part or parts of the hearing, in order to obtain the views of a child who is

old enough to express them [...]. The Chairman should, however, be required to convey the substance of what has been said on the parents' return unless that would be detrimental to the child's interests. (1990: 40)

As the reporter in his earlier statement emphasised, however, the guidelines concerning this change may need to be more specific than this if a child is to feel secure in his/her testimony.

Safeguarders

A number of interviewees did emphasise the existence of safeguarders as a current mechanism to protect the child when a conflict of interests is evident between the child and the parents. When questioned about this in the questionnaire, although an overall majority of the survey sample (64%), across the five groups, believed that the use of safeguarders could be increased, those interviewed on the matter acknowledged that more safeguarders were required - a position recognised by the Clyde Report (1992: para 17.13). They were also quite specific about the parameters of a safeguarder's role within the hearings system. Any increase in their use, it was stressed, would have to be confined to the original remit.

The findings of the Child Care Law Review (1990: 41) suggest the current use of safeguarders is limited. They are appointed in only two per cent of court cases and less than one per cent of hearings. Certainly the majority of the research sample in this study would welcome more use being made of this facility in the future. This view accords with the findings of the Clyde Report (1992) which

adds:

> the independent pursuit of the child's interests required by Article
> 3 of the UN Convention [on the Rights of the Child, 1989 ...] may
> be met by the post of the safeguarder [...]. (1992: para 17.17)

The Government is at present reviewing the existing role of safeguarders in child care with the aim of identifying prospects for extending their powers, usage and training (White Paper on Child Care, 1993: 34).

Family Representation at Hearings

Developing from the discussion concerning the use of safeguarders, a number of the interviewees indicated that they believed there were also deficiencies in the areas of child and parent representation generally at hearings and consequently in the opportunities for families to express their views to panels. A social worker summarised this feeling when she said:

> I think the hearings system tries to protect the rights of the child to
> have his voice heard, but quite often the opinions and what the
> child wants are not taken into account because they are not
> expressed. I think with parents too the decision is taken out of
> their hands. They are bowled over by the system [...] and don't
> have the confidence to speak [...]. When they bring a 'friend'
> along - a neighbour, relative or whoever - it can help and help them
> to speak out.
>
> <div align="right">Central Region Social Worker</div>

Evidence for the concern expressed by the social worker over the lack of participation by children at hearings is also illustrated in the findings of Martin, Fox and Murray (1981). They suggest that just under a quarter of all the children in their study responded only minimally in a hearing (1981: 142).

The inability on occasions for children and parents to exercise their moral right to express their views at a hearing, was also highlighted in the previous chapter in connection with its adverse effect on the achievement of informal discussion and on the decision-making process. As the quotation above suggests though, the representation of the child and parents and their opinions may be enhanced if they are assisted by the presence or verbal dexterity of a 'friend'. The assumption is that such a presence may give the family greater confidence in themselves to voice their opinions and concerns or that such a 'friend' may verbally assist them in this capacity. As Morrison and Beasley (1982) observe, however, the number of families who take up this option is limited:

> It is disappointing that so few families feel able to bring with them
> to a hearing some 'friend' from their own community : someone
> who can help them to put their point of view [...]. (1982: 193)

Martin, Fox and Murray note that only eight families from the 301 observed hearings in their study were represented by a 'friend' (1981: 99).

Although at present within the hearings system, it is the legal right of all families to invite a 'friend' - a neighbour, relative, even a solicitor or other professional - along to a hearing, this, as Morrison and Beasley and Martin, Fox and Murray suggest, is not being exploited to the full. It may be that greater encouragement needs to be given to families to take up this right and so potentially improve the quality of discussion in a hearing and the decision-making process generally. This issue was raised in the questionnaire.

The only clearly affirmative reply came from the panel members, with 63% of this

group from across the three regions responding in favour of the proposal. The other three groups, as table 6.3 shows, were divided on the issue. The police officers, for the same reasons as before (chapter five) were not asked to respond to this question.

Table 6.3 Greater encouragement to bring a 'friend' of the family to a hearing

	Reporters (n=10)		Guidance Teachers (n=116)		Social Workers (n=83)		Panel Members (n=145)	
	%	No	%	No	%	No	%	No
Yes	40	4	49.1	57	54.2	45	62.8	91
No	60	6	50.9	59	45.8	38	37.2	54

The views expressed by the interviewees during the individual interview sessions on this aspect specifically and on child and parent representation generally help to explain these divisions and the doubts and expectations that lie behind them.

One reporter seemed satisfied with the present extent of representation given to families who are appearing at hearings. In accordance with the opinions expressed by a number of interviewees, he claimed:

> I think the fact that families can bring a 'friend' along to a hearing if they wish is a good and sufficient procedure for helping their representation [...]. Even just a 'friend's' presence can facilitate the family to speak [...] I don't think greater encouragement is needed for this - it's quite adequate at present.
>
> Central Region Reporter

Other interviewees, on the other hand, although believing that every

encouragement should be given to families to bring a 'friend' along to a hearing, did not believe much benefit was derived from this procedure, in terms of informal discussion, if the 'friend' was a solicitor. Implying perhaps that the term 'friend' is too broad based and requires to be more specific, a panel member stated:

> I suppose a 'friend' has to mean anyone but I don't like it when solicitors come in this capacity.

This practice was perceived by some interviewees to have a restrictive effect on open discussion with the family - as the panel member again explained:

> I don't think you necessarily get the true picture from the family in such circumstances because the moment the solicitor thinks the family is going to put it badly he steps in and speaks for them. It shifts the whole balance and I suppose you could say it shifts it in the parents' favour but it certainly doesn't help the discussion or getting to the bottom of what is affecting the child.
> Central Region Panel Member

The presence and influence of solicitors was considered by these interviewees as an encroachment on hearings system practice by the rigours of criminal justice, and as such, may be seen to be in line with their groups' mean ideological scores rejecting the criminal justice/law enforcement model for juvenile systems. Although the presence of a solicitor at a hearing could be viewed as a means of protecting and enhancing the rights of the family within the panel system, none of the participants interviewed in this study were prepared to advocate or endorse this procedure as standard hearing practice. The fear that such a development could increase the legal overtones in the system and the formality in a hearing was clearly indicated by all the interviewees.

Further, and in accordance with the views of the panel member above, the fact

245

that the ʻfriend' who comes with the family to the hearing is often there to assist

the parents, which at times may be contrary to the interests of the child, was seen

by many of the interviewees as a potential dilemma. It means that a legal right

to bring a friend to a hearing while enhancing the moral right of the parents to

express their views can in fact reduce that right with respect to the child. A

number of the interviewees who voiced concern over this issue suggested that a

ʻfriend' who would specifically speak for and help the child should be encouraged

to attend hearings where this is appropriate and that it should be the social

worker's responsibility to see that this aspect of the child's rights is complied with.

This proposal for a child representative is endorsed by Adler (1985). Her opinion

is clear:

> there is no hesitation at all in recommending that representatives
> should be made available for children coming before any court,
> tribunal or hearing. (1985: 140)

A guidance teacher expressed the sentiments of those interviewees who supported

this provision and further suggested that in certain cases a representative for the

child should be **appointed.**

> Every child should be asked if they want someone over and above
> their parents to be there to help them and if they don't have a
> friend or relative and want some help, a befriender should be
> appointed or arranged through the social work department. It
> ought to be a matter of routine [...]. The social workers could have
> a big input to this - they are the people working most closely with
> the families after all [...] More befrienders and people like that
> would be needed of course. (see resources - chapter four)
> Glasgow South-West Guidance Teacher

This form of representation for the child at hearings, if adopted as standard

practice by the hearings system, would mean an extension of the legal rights of

the child within the hearing process. The child would have a legal right to

246

representation which is conceptually more forceful than the option to bring a friend along if feasible and so desired. It shifts the onus to provide representation from the children themselves to the authorities - or specifically, as the guidance teacher above envisaged, to the social work department. The benefits, in terms of presenting the child's view and the facts in a case, of having an advocate specifically for the child who could act as 'mediator and fact-finder' before the hearing and 'adviser and safeguarder' during hearing proceedings, were acknowledged in the Clyde Report (1992: para 17.17). It is also a proposal endorsed by the Scottish Child Law Centre which has been operating a pilot scheme along such lines and believes the process to be to the children's advantage.

Although the social worker, as expressed in the last quotation and in Bruce and Spencer (1976: 51), is often seen as the main player in preparing a family for a hearing, for some social workers it can be a confusing role. Finding time, as was emphasised in chapter four, is a major factor. As one social worker explained:

> It is certainly good practice to sit down with the family and talk about the hearing and prepare them for it. I suppose it could be seen as a function of our role; it certainly helps the family if they have some idea of what's before them and where they stand. Time is often a problem though - finding the time to spend with families beforehand is not easy [...]. Even when time is available to prepare families for a forthcoming hearing the task itself can be a confusing one. At times I'm not exactly sure what our role is anyway - to represent the child alone or the family as a whole and then we're influenced by departmental policy - it can be difficult.
> Dumfries and Galloway Social Worker

The confusion expressed by the social worker in the previous statement is indicative of that suggested by May (1977) and found by Martin, Fox and Murray

(1981). The latter authors claim that two out of every three of the social workers in their study thought that the nature of their role in a hearing beyond that of providing background reports, had not been 'adequately clarified' (1981: 263). This lack of a clear definition of a social worker's role could provoke disagreement and frustration amongst groups that could in turn reduce the impact of the whole hearing process. As Martin, Fox and Murray stress:

> Given these substantial areas of doubt, it is scarcely surprising to have found evidence of both reservations by panel members and difficulties in working relationships. (1981: 263)

The difference of emphasis too between panel members and social workers over the extension of a social worker's role in the hearings system is expressed in chapter five.

Family Access to Reports

Another issue which encroaches upon the role of the social worker in the hearings system and one directly related to the comments given by the last interviewee, is the access or lack of it for families to the background reports compiled on them for a hearing.

At present the chair of the panel has a duty to disclose the substance of background reports to the family during the hearing itself unless such disclosure would be detrimental to the interests of the child. Neither the child nor the parents have any legal right to see reports submitted to hearings. The Child Care Law Review (1990) suggests that many professionals feel uncomfortable with this

procedure and see it as only morally correct to show such reports to clients as a way of preparing them to play their part fully during the hearing. The implication being, and this is presented in the research by Milne and Raeburn (1984), by Adler (1985) and implied in the Child Care Law Review (1990), that access to such reports may help place the family at greater ease in a hearing by allowing an equal sharing and so an equal knowledge of information amongst panel members, the social worker and the family. Further it has been suggested that such a process may also aid panel members in their discussion of the case with the family. Milne and Raeburn (1984: 11-12) argue that if panel members are already aware that the family has had access to the pertinent information they may feel more confident in approaching aspects of it in the hearing. Many of the interviewees in this study while agreeing with these sentiments, also confirmed the moral dimension to this issue by indicating their belief in the moral right of families to see reports that contain information on them or at the very least to know the substance of their contents prior to the hearing. An obligation on a reporter to notify children and parents of **a right to see** copies of reports submitted to hearings is mentioned for consideration in the Government's White Paper on Child Care (1993: 33). This issue of whether or not families, as a legal and moral right, should be given access to background reports before a hearing was presented to the respondents in the questionnaire.

The proposal was supported by almost all the social workers (88%) who responded and by the majority of both panel members (64%) and guidance teachers (55%). Despite the overall majorities, in the latter two groups however,

clear divisions were apparent within their ranks. The majority of Central Region panel members (83%) and those in Dumfries and Galloway (61%) welcomed family access to reports. Fifty-four per cent of Glasgow South-West panel members however, rejected the proposal and were supported in this view by three out of four of their reporters and by 45% of all guidance teachers. The reporters in the other regions were divided on the matter. Why then is there such a clear endorsement of the issue from social workers and yet mixed feelings in the other groups? From the mean ideological scores of the five groups in the study supporting a welfare system of justice, which in order to function it might be assumed requires the full participation of families, it might have been expected that a majority in all the agencies would support this action. Explanations for the response pattern were revealed during the interview sessions.

Two interviewees who supported family access to reports explained their reasons - reasons that were repeated by others who endorsed this position:

> I feel it's very unequal if people come to a hearing and don't know what is going to be talked about [...] People - social workers and guidance teachers in particular - who provide the reports should feel some sort of moral obligation to make families and children aware of what they are saying at the very least - it should be standard practice.
>
> <div align="right">Dumfries and Galloway Reporter</div>

This view is confirmed in the comments made by Bruce and Spencer (1976) who see the lack of awareness by the family of the contents of background reports as an imbalance within the hearing process that favours the officials and discriminates against the family.

The experiences of a social worker verifies this attitude. She believed family

access to reports or at least their contents prior to a hearing actually serves to

strengthen the relationship between the professional and the family. It was a view

held by all the social workers interviewed in the study.

> Yes, I think it is extremely important that families are aware of
> what's in the reports. I think it's important that there should be no
> surprises for the family at a hearing both for overall discussion and
> for preserving the trust between the social worker and the family.

When items appeared in the report that she felt may cause the family distress if

revealed at a hearing but that the panel should be aware of during consideration

of the disposal, she employed the following strategy:

> In this case the family won't see the report but they will be told of
> the contents that will be discussed at the hearing. I would always
> go through the report stage by stage with the family and the child.
> This to me is good practice and it should be standard practice.
> > Central Region Social Worker

Other social workers, however, who also in theory supported access to reports by

families prior to hearings, emphasised again that in practice the time available for

social workers to undertake this task can be limited.

Many of the guidance teachers interviewed also had a supportive attitude to

access by pupils and if possible parents, to the school report. As a guidance

teacher from Dumfries and Galloway stated:

> We certainly try to go over each area of the school report with the
> pupils before they go to the hearing. I think it prepares the child
> for some of what may be said there and it might give them some
> confidence.

Again the moral right to know the contents of background reports was stressed:

> I think it's their right to know the contents in any case but with
> some pupils who are off school a lot it's of course not always

possible to go over reports before the hearing.

Dumfries and Galloway Guidance Teacher

The momentum towards equality of information expressed in the last few quotations illustrates the desire by these interviewees and others who supported greater family access to background information, to alter the power structure within a hearing, power which can rest at present with the panel members and professionals.

Although the panel chairperson does have a duty at a hearing to disclose the substance of reports to the family concerned, this does not necessarily mean that all information is made available and in such circumstances families can be, as May describes, 'victims of dissimulation' (1977: 222). There is the appearance that all matters are explored openly and that the decision reached is arrived at as a result of open discussion when in fact undisclosed information may have contributed to the choice by panel members of the final disposal. This can in turn adversely affect the success of the prescribed treatment meaning that families may not respond as predicted: an outcome which can subsequently generate disapproval on the part of panel members. As May explained:

> Their [families] failure to live up to their side of the bargain often occasions great indignation from disappointed and exasperated panel members, on the grounds that it was a bargain freely entered into. The truth of the matter, however, is that they were never in fact equal partners to the agreement. (1977: 222)

If May's contentions are correct and many interviewees in this study did not disagree with them, then it is not sufficient for families only to be made aware of some of the contents of background reports. All information potentially relevant to the decision-making process in a hearing, even in cases where some revelations

252

may be painful to certain members of a family, as implied by the social worker earlier, would need to be disclosed. If details were withheld from the family but yet formed part of the considerations of panel members and so the decision taken, then equality in the decision-making process would not have been achieved and May's scenario would still be intact. Under this realisation, families would have to be given access to all background information and this raises the dilemma of whether or not this would mean that social workers and others may omit certain contentious aspects of cases from their reports to prevent a negative reaction from families which may conceivably jeopardise client relations. The recognition of this dilemma and the inherent dangers of omitting potentially vital information from background reports, formed part of the arguments expressed by those interviewees, particularly panel members and reporters, who were against family access to reports. One reporter summed up their anxieties:

> I'm not happy about this. Reports commissioned by us are the property of the reporter and the disclosure of their contents is and should be the responsibility of the panel chairman.

She expressed two dangers she believes exist if family access to reports were to become standard hearings system procedure. The first concerns the contents of the social workers' report in particular, as she explained:

> this could contain what the social worker feels are controversial aspects that may not be favoured by the family - then she may be tempted, in certain cases, to omit them so panel members would not be aware of them, yet they may have a bearing on the case.

The second objection the reporter had relates to the form of discussion desired within a hearing:

> Families knowing of report contents before a hearing gives them the time to prepare their responses and so the spontaneity of the

253

hearing is reduced and that must influence discussion.

<div align="right">Central Region Reporter</div>

This chance to prepare for the hearing in the same way as panel members is a luxury some parents wish for. As a parent speaking in 'Who's Hearing' stressed:

> We don't get to see the report. You don't see it until you're going into the room. I didn't know the panel sees the report three days before the hearing but that makes me think now that we should get the same notice as they do. [...] If you don't know what they're saying about you, you can't build up a defence against their arguments. [...] You're not there to take part, especially if you don't know what's been written about you. You feel you're there to listen to them. It's very frustrating. (1991: 12)

Child and Parent Reports

In relation to report accessibility, one reporter referred to the proposition made in the Scottish Office booklet 'Who's Hearing' (1991: 13, 27), which highlighted the need for greater encouragement to be given to children and parents to exercise their legal right to submit their own reports to a hearing outlining their feelings and views. These could then be passed to panel members, prior to the hearing, along with the other relevant material. This it was argued by the reporter, would not only improve the representation of families and their opinions at hearings - an acknowledged moral and legal right within the hearings system - but would also give panel members more information which could be used to stimulate discussion which may in turn make panel members more aware of the circumstances surrounding a case and so help in the reaching of the final decision. This notion of child and parent reports was presented to the interviewees during the interview sessions where it received substantial support. The statements

<div align="center">254</div>

below reflect the overall feeling.

A panel member, who would welcome this development with enthusiasm, explained the advantages she saw to having access to such reports and stressed the extra insight they might provide to a case which may assist in making the final decision:

> Excellent idea, because in the hearing it's often quite difficult to get the family's view of themselves and we do need to know that because you can't really place what has happened in context if you don't know how families themselves perceive how they operate. Sometimes just knowing how they view the situation can reveal so much that to the family is hidden. Make it an option, if they wish or feel able to compile their own reports then they should be encouraged to do so, if not then fine.
>
> <div align="right">Dumfries and Galloway Panel Member</div>

A reporter, however, while acknowledging the benefits described above, explored some of the practical difficulties, mentioned by many of the interviewees, that may be encountered particularly in relation to the families' abilities to compose such reports.

> We do encourage children in care to submit their own reports and this does provide valuable information, and some residential centres do this too. Some children and parents need help in formulating what they say - of course this has to be given without actually influencing what is being said [...]. With non-residential cases it would have to be a teacher or social worker who would need to help them in this way and I'm not sure they have the time to do this.
>
> <div align="right">Dumfries and Galloway Reporter</div>

These observations and concerns were indicated in the comments of most of the interviewees involved in the study. Almost all the guidance teachers and social workers in particular (18 from 20) reiterated that the limited time they have available would be prohibitive in undertaking the role of assisting families with

their reports. They felt however, that this role might be expected of them and families may become frustrated and disillusioned if help in scribing reports was not at hand.

Certainly the children involved in the 'Who's Hearing' seminar would welcome the greater encouragement of this option. As a teenager commented:

> I do think children should get to write a report of their own but I think they should get help - like from a secretary or someone - to do it properly. That way they've more chance people will read what they think and take it seriously. (1991: 13)

Extending the Remit

There are a range of issues which relate to the rights of the child and in some instances the parents that would also represent an extension to the welfare remit of the children's hearings system. These issues have all been raised in the Child Care Law Review Report (1990) as important points for consideration in future hearings system development. The respondents were questioned, in the questionnaire and in the interview sessions, on seven concepts for change - a process which also served as a means of exploring their perceptions of future hearings system practice.

One aspect of the hearings system often associated with the legal rights of the family is the review procedure. The issue here is whether or not a panel should be given the capacity to set review dates for supervision orders in the interests of the child and the family. At present a review of a case can either be called for by the social worker concerned, or by the family - although this is infrequent - or it occurs automatically on an annual basis through the reporters' office.

The ability of a panel to set review dates is recommended in the Government's White Paper on Child Care (1933: 32), as well as being advocated by the Child Care Law Review (1990: 40) and much earlier by Bruce and Spencer (1976: 153). It was put to the respondents in the questionnaire used in this study.

As with some other suggestions for developing or changing the hearing process, this proposal divided the reporters' group from the rest of the sample. Eighty seven per cent of guidance teachers, 52% of social workers, 72% of panel members and 19 from 23 police officers all supported this option, while nine from the 13 reporters rejected it. For the majority of social workers, guidance teachers and police officers who gave their support to this proposition, their reaction is contrary to their groups' mean ideological scores in favour of professional decision-makers in juvenile justice. For in endorsing this extension to the remit of panels these respondents are increasing the decision-making role of lay panel members by placing in their hands not only the existing ability to decide on a

disposal **but also** when that disposal and its possible impact on a family should be reviewed. It must be noted however that 48% of social workers across the three regions did respond in accordance with their ideological scores and joined the majority of reporters in rejecting the proposal.

The apparent ideological contradiction displayed by the majority of social workers, guidance teachers and police officers on this issue can again be explained through the mechanism of 'situated accounts'. It is evident from interviewee comments that although the aforementioned respondents may continue to favour the ideal of professional decision-makers within a welfare system, it is the practical realisation that the present review procedure in the hearings system can leave children in care without a case re-assessment for up to one year and the feeling that this can be too long a period that provides the context and justification for their ideological reconfiguration on this matter.

For those who supported such a change to a panel's remit, a panel member put their case well, reflecting both the anxiety panel members can feel about the decisions they make - this is also suggested by Adler (1985: 93) - and the small number of times families take up their legal right to call reviews on their own behalf.

> I certainly feel we should be able to set review dates. For the child a year is a long time. I see it as being advantageous from the child's point of view and to make sure we have made the right decision [...] Families don't often ask for reviews and in a sense if we had the power we would indirectly be empowering them too. For, I feel, often families feel a year is too long.
> Dumfries and Galloway Panel Member

For all those who in interview expressed reservations about this proposal it was the temptation for panel members to use reviews as a check on progress that was the worrying factor. As a reporter explained:

> There are occasions when it would be inappropriate to have a review [...] the panel members would not be aware that perhaps the family's lifestyle has changed in the meantime and to bring them back to a hearing could be quite disastrous [...] The social worker or the family itself are best placed to know when a review is appropriate. Perhaps more information to the family is needed on this - it is their right - and maybe greater encouragement is needed for them to do it.
>
> Glasgow South-West Reporter

Bearing these reservations in mind, the intention of the Government to grant panels this capacity to set review dates for cases and the stated intention within this power to increase the monitoring capability of panels (White Paper on Child Care, 1993: 32), could provoke tension and resentment on the part of some professionals. They could clearly view this as an encroachment on their professionalism and as a further challenge to their professional judgement.

The last remark in the previous quotation also re-emphasises what is not always obvious when rights - legal or moral - are considered or indeed when legal rights are being embodied within a system, that a right is of little use if it is not exercised. As Martin and Nickel describe, 'a right which doesn't guide anyone's behavior is no right at all' (1980: 167). Families may have the legal right in the hearings system to request a review of their cases but if they do not exercise that right, and they rarely do, then the right has little meaning. In 1990 there were 14,006 reviews in total only three per cent of which were requested by the child or parents - an equivalent percentage rate was recorded for 1991 (Social Work

Services Group Statistical Bulletin 1992, 1993). As comments earlier in the chapter indicated, awareness of the existing rights within a system and how to exercise them are crucial if these rights are to be exploited.

Removal From Scotland

A further proposal - like that concerning case reviews - designed to protect the legal and moral rights of children to care and welfare, is the option of empowering panels to demand notification and initiate review procedures on the child's behalf in any case where a child under a supervision order is to be removed from Scotland. This again was an issue raised in the Child Care Law Review (1990: 37). In response to this proposal 75% of the overall study sample of 389 respondents across the groups in the three regions expressed the desire that this procedure should be adopted. Those justifying their response were unanimous in their belief that the welfare of the child is imperative and that assurances concerning the child's well being should be forthcoming before a supervision requirement is terminated. The 12% of the sample who did not support this proposition failed to do so on the assumption that the outcome of such a procedure could not necessarily be enforced. They did not believe that practically speaking it would be possible to prevent a child being removed from Scotland even if assurances were not absolute concerning its future welfare. The other 13% felt unable to express an opinion on this matter.

Two further items which specifically relate to the predicament of children in the event of a family separation are whether or not a hearing should have the capacity to decide custody and/or access issues for children in such circumstances. These issues were raised in the questionnaire and table 6.4 displays the overall response of the research sample.

Table 6.4

		Custody of children		Access to children	
		%	No	%	No
Panel Members (n=145)	Yes	57.9	84	64.1	93
	No	28.3	41	26.2	38
Reporters (n=12)	Yes	66.7	8	66.7	8
	No	33.3	4	33.3	4
Police Officers (n=25)	Yes	44	11	40	10
	No	56	14	60	15
Social Workers (n=82)	Yes	51.2	42	58.5	48
	No	31.7	26	29.3	24
Guidance Teachers (n=116)	Yes	35.3	41	33.6	39
	No	33.6	39	37.1	43

As table 6.4 indicates the majority of the members of three groups across the regions (panel members, social workers and reporters) displayed support for the adoption of both proposals by the hearings system as part of its remit. In contrast, however, the majority of police officers felt unable to endorse these new

powers, although it must be noted that this majority did not include the officers from Central Region's Child Protection Unit. This difference within the police officers' sample may be accounted for by the fact that Child Protection Unit officers, as part of their every day activities, work closely with the social services on child protection cases and may therefore be more acutely aware of the difficulties children in such circumstances face and may feel a hearing is a good forum to tackle these problems. Certainly many of the officers from the other two constabularies who supported both proposals also worked within specialist child related units.

The smaller majorities in favour of these provisions in the case of social workers (table 6.4) may be indicative of their ideological stance (chapter four). Those who rejected the proposals did so for the reason that panel members were not professionally trained in such matters and so not qualified to make decisions on child custody and access. Those social workers who supported panels embracing this extension to their role also registered this concern and insisted on the proviso that panel members must receive increased training on family issues, counselling and communication before being granted this remit. In contrast, for panel members who failed to lend their support to these proposals, it was the fear that increased training would ensue and the related connotations of professionalism that was in part responsible for their restrained reaction. Access to children by parents in difficult family circumstances proved less contentious than the issue of custody which was considered to present more legal challenges to decision-makers and would therefore require greater specialist training for lay panel members.

The strong element of the need for professional expertise in tackling and treating children's problems, consistently a feature throughout analysis (chapters four, five, seven and eight) was again significant in moulding social work opinion.

A police officer during interview justified her support for extending the remit of the hearings system by incorporating custody and access provisions - she stated:

> Working on child protection cases you do encounter children who are victims of their families' circumstances and I think a hearing provides a good way of discussing and assessing the position and choosing what is best for the child.

In saying this she considered the atmosphere of a hearing more conducive than that of a court to obtaining the child's views on the issues and to reaching a decision through the process of discussion and compromise. A hearing, it was accepted by all the interviewees who supported these proposals, provided the most appropriate format for enhancing the moral rights of a child to care and welfare especially under what was frequently acknowledged to be trying circumstances. The willingness of those professionals who, contrary to their prevailing ideological allegiances, endorsed these measures on the practical grounds of hearing suitability, again seems to validate the concept and suggest the use of situated accounts. As the previous police officer explained:

> At the moment if such matters go to court the formality stifles any chance of discussion particularly with the child and I think discussion, if possible, is important in difficult family circumstances like these.
>
> Central Region Police Officer

These sentiments eloquently expressed by the police officer constitute the essence of the views held by the majority of those interviewees who gave their support to both proposals. Most, however, in endorsing this supportive role for the hearings

system in such cases, advised that a hearing's input should stop short of reaching a final decision and suggested that after discussion with the family a report compiled by panel members and containing comments and recommendations should be sent to the sheriff who would be responsible for determining the final outcome. This reaction was an acknowledgement of the fact that the issues here have distinct legal connotations.

Those interviewees who were less convinced about developing hearings system activities in this way, emphasised strongly the extensive workload already prevailing within the hearings system without expanding this further, particularly with cases which are usually 'protracted and messy'. It was also stressed that the legal elements so often present in such cases and alluded to even by supporters of these proposals posed a threat to the very structure and format of hearings themselves. A panel member explained:

> What concerns me in particular is that these cases can often be
> legalistic and complex and involve lawyers. The system would need
> to be protected from becoming too legally orientated - any legal
> wranglings would have to be settled in the courts not at hearings.
>   Dumfries and Galloway Panel Member

This reaction concurs with earlier concerns over the attendance by solicitors at hearings.

Child Adoption

Another consideration, related to the two previous proposals, is that the hearings system should take responsibility for deliberating over and deciding upon

applications for adoption, particularly relating to children under supervision. On this matter only the panel members' group indicated any substantial degree of support, with 53% of their members across the three regions endorsing the proposition. Majorities in the other four groups rejected the idea. Those who were inclined towards the proposal argued in a similar vein to those interviewees who supported the two previous suggestions to incorporate custody and access cases into the remit of the hearings system. They emphasised the capacity of the hearing format to listen compassionately and discuss openly the issues surrounding the proposed adoption, to uphold the legal and moral rights of the child and to make from these activities constructive recommendations to a sheriff, whom they accepted would have to make a final decision which would be legally binding.

The other interviewees - including a majority of reporters (eight from eleven), guidance teachers (67%), social workers (76%) and police officers (68%) and 30% of panel members - who were more cautious about this provision, believed adoption to be a sensitive and difficult aspect of child care that required careful counselling which they argued panel members are not trained to undertake and which in their opinion could not be embarked upon successfully within the confines of a hearing. Although these interviewees acknowledged the informality of hearings and the opportunity this allows for discussion, and while they accepted these factors are essential in dealing with adoption, they stressed that consideration of such cases needs to be undertaken over time and by professionals and the final decision does again have strong legal ramifications. For the social workers, guidance teachers and police officers in this group this reaction accords

with their ideological stance in favour of more professional decision-makers and on this issue of child adoption they advocated that the decisions must be left in the hands of trained and qualified professionals. One social worker explained this point of view:

> I think panel members and the hearings system do play a vital role in child care and, say in cases where a child needs to be placed with foster parents, a hearing is a good arena to discuss such matters **but** adoption is a more final thing - there is no going back and I'm not sure that panel members should have the final decision here.
>
> <div align="right">Central Region Social Worker</div>

She further identified the already heavy workload of the hearings system - commented on earlier in this chapter by interviewees - and believed that to place this extra responsibility on panels would be stretching the system further and would demand more comprehensive training for panel members in both the realms of social care and the law.

Parental Rights by a Local Authority

Again an issue that bears some relation to the previous provisions is whether or not a hearing should have the power to consider applications for parental rights by local authorities concerning children under supervision. This is the power by local authorities to assume responsibility for the welfare and upbringing of a child. Table 6.5 indicates the attitudes prevalent amongst the members of the research sample. There were no major regional or district variations observed.

Table 6.5

	Panel Members (n=145)		Reporters (n=12)		Police Officers (n=29)		Social Workers (n=81)		Guidance Teachers (n=116)	
	%	No	%	No	%	No	%	No	%	No
Yes	64.8	94	33.3	4	51.7	15	35.8	29	36.2	42
No	28.3	41	66.7	8	20.7	6	45.7	37	27.6	32
					(27.6% DK)				(36.2% DK)	

As table 6.5 shows the majority of panel members and police officers supported the adoption of the proposal by the hearings system as an extension of its remit. As before, a substantial number (40%) of the police officers who endorsed this expansion of hearings system powers worked in specialist child and family units and so may have encountered, on a more regular basis than other police officers, children who require this local authority facility. It is worth contrasting the supportive attitude of these officers with the response displayed by the greater number of social workers, who while presumably also working with children and families under such circumstances, did not believe the hearings system should be given this further responsibility. They were joined in this stance by the majority of members in the reporters' group. Many guidance teachers, on the other hand, seemed unfamiliar with this child care procedure and this may account for the high number who felt compelled to record the response 'don't know'. Those members of the participating groups who were interviewed individually were asked for their views on this proposal. The comments of support and exclamations of doubt and concern given by interviewees were similar in their

tone and content to those already expressed on the previous options relating to custody, access and adoption. It seems unnecessary therefore to repeat them once more. The Child Care Law Review (1990) in its recommendations adds credence, however, to the arguments in support of the extension of a panel's remit to consider both applications for adoption and for parental rights by a local authority. It states:

> When an application is made to the court for a parental rights order [...] or an adoption order in respect of a child who is subject to a supervision requirement, the court should be required to inform the reporter of the application. [...] the reporter should arrange for a hearing to review within 21 days the supervision requirement, consider the order sought and submit any observations or advice to the court which it considers appropriate. [...] None of the orders [...] should be made by a court unless the children's hearing has had the opportunity to consider the application and to submit observations or advice. (1990: 36).

In recognition and in support of the views of the Child Care Law Review on these matters the Kearney Report (1992) adds its endorsement and recommends,

> that consideration be given to conferring upon hearings [...] the right and duty to consider the long-term interests of the child. (1992: 598)

The supporters of expanding the hearings system's remit in any or all of the previous connections were unanimous in their justification of such developments on the grounds that, in their view, these would extend the moral right of children to care and welfare and would increase the legal and procedural rights for children to have their opinions heard and to influence their own destinies within cases of family separation and acute family difficulties.

268

The authors of the Child Care Law Review (1990), in considering the present position within the hearings system regarding the issue of place of safety orders, highlight what they see as an operational deficiency. They state:

> Warrants issued by a children's hearing for detention - or retention -of a child in a place of safety under the 1968 Act do not allow for any formal decision on access. No right of appeal exists where a local authority refuses parental access. Parents are denied any voice in contesting such a decision. (1990: 11)

This practice they see as inequitable and suggest it could be remedied if hearings under such circumstances possessed the power to consider any application for access made by a parent or child. The authors recommend that:

> when children's hearings are considering a place of safety warrant, they should be empowered to include conditions on access in the warrant. (1990: 11)

To do so would enhance the legal rights of parents and children to execute their right of appeal within hearings system regulations if they disagreed with the hearing's outcome. This provision was put to the research sample in the questionnaire. On this occasion majority support was achieved from all groups in the three regions - 82% of panel members, nine from 12 reporters, 66% of social workers, 61% of guidance teachers (28% don't know) and 21 from 25 police officers endorsed the proposal.

The justification for this support was obtained from those respondents who participated in the interview sessions. The statements of approval made by interviewees and the reasoning behind such views were consistent with the

sentiments expressed in the Child Care Law Review (1990).

The opportunities a hearing would give to families to present their case for access and the legal rights of appeal and review that exist through the hearings system were the main considerations - as a supportive social worker explained:

> Access conditions should be part of a panel's duties and responsibilities. If these are considered in a hearing it gives the whole family a chance to put their case and challenge or appeal if they so wish and that's only right [...].
>
> Dumfries and Galloway Social Worker

A small number of interviewees, however, particularly social workers, voiced concern about the proposal and increasing hearings system powers in this way. They all agreed, and for social workers this was in line with their dominant ideological position (chapter four), that the best agency for deciding access conditions with respect to a child in need of a place of safety was the social work department. Social workers, they claimed, know their cases well and have the expertise to make such judgements. As one social worker commented:

> We are best placed to know if access should be granted or not and I don't think this should be left to panel members who are clearly going to be less familiar with the case concerned.
>
> Central Region Social Worker

These differing perceptions must be considered in the light of a recommendation made by the Clyde Report (1992) which proposes the transfer from the hearings system to the sheriff court matters relating to a child in a place of safety, including the issue of access. The Report recommends:

> that the Sheriff should be empowered to regulate access to a child in a place of safety and should be obliged to consider that matter when the case first comes before him after the granting of the [Child Protection] Order. (1992: para 17.27)

270

This proposal and the creation of a new child protection order (CPO) are endorsed in the Government's White Paper on Child Care (1993) and when enacted will change dramatically the role of children's hearings in this aspect of child protection. In future any consideration of the conditions that relate to the removal of a child to a place of safety and indeed the granting of such an order in the first instance will be the responsibility of a sheriff and not a children's panel (Government Paper on Child Care, 1993: 25-6).

As the Clyde Report was not published until October 1992 by which time the fieldwork for the study was complete, it was not possible to obtain a reaction from all the members of the research sample. It was feasible, however, to elicit comments on the issue of place of safety warrants from a selection of interviewees who were contacted briefly in expectation of a reaction to Lord Clyde's findings. All the views given expressed caution concerning the above proposal and emphasised the more conducive atmosphere of a hearing, compared with a court, especially in acquiring by means of discussion the child's view and the child's desires.

Reporters' Attitudes

Although comments of support and reservation were given by members in all groups on the issue of the development of the rights of children and parents in the hearings system, it is noticeable that on some provisions, most notably the issue of granting panels the power to set review dates, reporters' attitudes to

change differed from those of the other groups.

Speculation surrounding this was suggested at the end of the last chapter. When asked about it in interview, one reporter replied:

> We know the system well, we work with every aspect of it every day. This I think makes us more cautious about change. Panel members, in particular, can be very enthusiastic and want more powers and, yes, in some instances, they are needed [...] We see the hearings system from all angles and I think this makes us more aware of the other groups' views including those of the families and maybe that's why in some cases we appear more reluctant to change.
>
> Central Region Reporter

With respect to the proposals presented in this chapter only within the panel members' group was there a majority of members prepared to endorse them all. It could be argued that this, as in other chapters and in accordance with the perceptions of the previous interviewee, illustrates a willingness and enthusiasm in panel members - symptomatic perhaps of their belief in and commitment to, as volunteers, the practices and purposes of the hearings system - that permits them to overcome doubts and embrace change more readily and consistently than other groups. It may be, on the other hand and again as the reporter earlier implied, that they are simply less aware or are more willing to overlook some of the restrictions identified by other agencies. A social worker endorsed that latter view:

> I think we as professionals, as well as reporters and others, are maybe a bit more cautious in our ideas for the hearings system in the future - some might say realistic. Maybe we're more aware of the overall shortcomings in the whole area of child care - I don't know.
>
> Dumfries and Galloway Social Worker

After having considered a number of proposed changes to the powers and remit

of the hearings system a panel member concluded his deliberations by saying:

> As long as the change isn't alien to the purpose of the hearings
> system - to provide appropriate care for children - give me as many
> tools as you like. The more tools I have the more I can maybe do
> and because you have a power doesn't mean to say you always have
> to use it.
>
> <div align="right">Central Region Panel Member</div>

Procedural and Substantive Rights

Although all the procedural changes outlined so far in this chapter were considered by their supporters as means by which family rights - legal and moral - within the hearings system could be enhanced, and although Adler and Asquith (1981) further suggest there is a desire to curb professional discretion in decision-making through such procedural development and standardisation, these authors do question the effectiveness of this strategy. They do so by drawing a distinction between procedural and substantive rights.

Procedural rights refer to 'process' - to a fair hearing or trial according to the rules. Substantive rights refer to 'outcomes' - to the receipt of unemployment benefit or perhaps to the allocation of the best and most appropriate form of social work care. Adler and Asquith claim that to guard against discretion often means, as interviewee and respondent comments in this study have shown, the advocacy of greater procedural rights - greater representation at hearings, greater access to information and reports for example - but as the two authors add:

> it does not follow that, by so doing, the substantive rights of those
> who are subject to these powers will be enhanced in any significant
> way. (1981: 16-17)

Increasing the procedural rights of families at hearings and so protecting them more effectively from the vagaries of discretionary power will not necessarily guarantee more appropriate disposals or better decisions.

Using the supplementary benefit system as an example, Adler and Asquith argue, and they are supported by the observations of Prosser (1977), that simplification of the benefits system and an improvement in the legal framework will certainly curtail the discretion exercised by officials and so increase the legal rights of claimants, but will such changes affect outcomes? Adler and Asquith make the point that these changes relate only to procedural rights. Since the changes neither propose fewer claimants or more money for those who do claim, the substantive rights of individuals - the outcomes of the system - will be largely unaffected (1981: 17).

The same can be said of the hearings system. Providing greater protection for and expanding the legal rights of children and parents may help the hearing process overall and make the decision-making process more efficient. Without more resources in particular however, the range and appropriateness of disposals and so the care provided - the substantive rights of families - will remain largely unchanged. The situation regarding resource allocation and its effect on hearings system operations is examined in chapter four.

Summary

Improvements in the hearing process and in the legal and moral rights enjoyed by both children and parents in the hearings system are important issues. A hearing claims to be an informal forum which allows all parties the opportunity to speak, air their views and so participate in the decisions being made. An examination has already been conducted in the previous chapter of the views of the questionnaire sample and those interviewed on some possible changes to the hearing process that might improve discussion and decision-making, and in this chapter an attempt was made to consider other aspects of the hearing process, particularly those related to the representation of the child and parents, their abilities to deliver their case at a hearing, and the protection of their rights to care and welfare.

Clearly, for some, as tables 6.1 and 6.2 indicated, the rights of the family in connection with hearing procedures could be improved. A range of proposals designed to enhance the rights of children and parents in the hearings system and the views of the research sample on these, have been presented in this chapter. Although, as noted, support within and between groups varied for certain proposals, the endorsement given by a majority of the members in the participating groups for **some or all** of the various developments **does** display a commitment to providing an opportunity for family involvement in decision-making - a recognised feature of a welfare based justice system. This endorsement of family participation at hearings confirms the mean ideological

scores for the majority in **all** groups (table 4.1) which indicated support for the welfare principle as the governing concept in juvenile justice.

The ideological difference however between panel members in particular and the three professional groups (social workers, guidance teachers, police officers) concerning who should be responsible for the welfare decisions taken in the hearings system, was manifested in this chapter in the emphasis placed by members within the professional groups on the need for professional input and professional expertise in handling certain children's problems and in their assertion for more panel member training.

In recognising this lay/professional dichotomy May observes:

> It has to be admitted that any arrangement that leaves a body of full-time, highly educated, status-conscious, and yet at the same time insecure professionals responsible to part-time, partially trained amateurs, whose qualifications for the job on hand are at best unclear, is bound to be problematic, to say the least. (1977: 216)

The position of lay people as decision-makers in a hearing and the views of the five participant groups on this are examined and discussed more fully in the next chapter.

Chapter Seven : The Lay Aspect

What gives panel members the right to judge?
> Teenager at Who's Hearing Seminar

Lay Involvement

One of the underlying features of the children's hearings system and a fundamental principle in the decision-making process at a hearing is the concept of lay involvement. The ideal is that the responsibility for the decisions taken in a hearing and the disposals made should lie with lay people - three members of the community. As Martin, Fox and Murray state:

> Essential to the success of children's hearings is the finding of sufficient suitable members of the community to serve in them. They [...] should be drawn from a wide range of neighbourhood, age group and income group (1981: 13).

The issue of panel member recruitment is examined in chapter five.

This format for a children's panel was an outcome of the Social Work (Scotland) Act of 1968 and was not a feature of the original Kilbrandon Report (1964). As May explains:

> Although the [Kilbrandon] Report argues, at considerable length, the case for a panel-based as opposed to the then court-based system, at no point is there any attempt to justify the recommendation of a specifically lay panel (1977: 215).

In fact May finds it hard to reconcile a lay panel with the system and its work envisaged by Kilbrandon. As he comments:

The Kilbrandon conception of the hearing is essentially that of a diagnostic-treatment agency. The personal qualities and skills demanded of those who are to run such an agency are clearly similar in kind to those possessed by the average social worker (1977: 215).

Is this also the role prescribed for lay panel members however - what is their function within the hearings system and what are the implications of having lay decision-makers?

Role of a Panel Member

The respondents' definition of the role of a panel member was sought in the questionnaire. The participants were given the choice of four functions for panel members and requested to place these in rank order. The majority of reporters (nine from thirteen) and panel members (70 per cent) in all three regions were clear that to make a decision having had a full discussion with the family was the most important role for panel members in a hearing.

Social workers on the other hand, found it difficult to choose between this role (38%) and the feeling that the most important function for panel members was to be guided in their decision-making process by knowledgeable professionals (40%). The social worker groups in both Dumfries and Galloway and Central Regions were divided in this way.

The majority of police officers and guidance teachers were also inclined towards panel members being guided in their decision-making by professionals but with

278

more conviction. Eighteen from 29 police officers and 58 per cent of guidance teachers determined this as a panel member's most important function.

This assessment given by the greater number of police officers, guidance teachers and by 40 per cent of the social workers in the study adds credence to the ideological positions displayed by these groups in chapter four, which indicated a majority desire for greater professional input to the decision-making process within a welfare based juvenile justice system.

Illustrations of these two definitions of the role of a panel member in a hearing are depicted in the quotations below. A panel member during interview gave a clear and concise account of how he saw his part in the hearing process and confirmed the majority view of both panel members and reporters in the research sample.

> Our main job is to make a final decision, sure, but that must be
> after discussion with the child and family - the two go hand in hand.
> > Dumfries and Galloway Panel Member

A social worker, on the other hand, endorsed the role of panel members as decision-makers professionally guided to the disposals they choose - the stance taken by the majority of police officers, guidance teachers and by a substantial number of social workers themselves.

> Panel members are the decision-makers, that's clear enough - yes -
> but they are lay people and they do need advice and guidance
> from us. We know the family and have the expertise to judge the
> situation and recommend accordingly and panel members really
> should pay heed to our recommendations.
> > Central Region Social Worker

The notion of professionalism founded on knowledge and expertise (Johnson,

1972) was again influential in formulating the views on hearings system operations of many social workers, guidance teachers and police officers in the study. Decision-makers within the realm of child care, it was argued by this fraternity, must either possess relevant expertise through professional training or they must at least have access to it in the course of their deliberations.

What is meant by lay panel members?

As the last quotation stressed panel members are lay people and this assessment was accepted by all those interviewed - but how did the interviewees define the term lay? A common dictionary definition of the term 'lay person' is one who is a non-professional; one who is not an expert and this was the image given of the lay panel member by the interviewees. The overwhelming majority of those interviewed defined the concept of lay person as an individual with no specialist qualifications for the job. They conceded that for the practical purposes of decision-making within a hearing panel members required some knowledge of and training in hearings system practice and child care to carry out their prescribed tasks, but that the extent of this does and should not constitute a professional qualification. The same overwhelming majority also conformed to the view expressed by Martin, Fox and Murray (1981) earlier, that within the ranks of panel members there should be a wide variety of social and occupational backgrounds reflecting society at large.

A panel member summed up this representation:

> Lay means people who have no specialist qualifications for the job
> in hand but ordinary people from different walks of life [...]. Some
> training is necessary to allow the [hearings] system to work but this
> is by no means extensive when compared to that of a professional
> person.
>
> <div align="right">Glasgow South-West Panel Member</div>

Another interviewee gave a similar explanation to the one above, but in commenting on the need for some panel member training on the workings of the hearings system raised the dilemma of the extent to which lay people should be trained before an encroachment is made on that very layness that is being described. As he explained:

> A lay person is one without formal qualifications but that does not
> mean to say without some training **but** too much training should be
> avoided [...] more training will not necessarily make for a better
> panel member but it may reduce the layness if you like.
>
> <div align="right">Central Region Reporter</div>

Questioned further on this last remark the reporter stated:

> The more sophisticated and prolonged training is the more
> professionally orientated it becomes and with it develops a certain
> ethos - a professional ethos - [Asquith's frames of relevance] which
> may take over so a person when in the role of panel member would
> automatically adopt that ethos and layness would be eroded.
>
> <div align="right">Central Region Reporter</div>

This stance against prolonged and sophisticated training was taken by almost all the reporters who were interviewed as well as by a majority of panel members (five from six and 10 from 13 respectively) and is in accordance with their mean ideological scores in favour of the welfare/lay involvement ideal for juvenile justice (chapter four).

The reporters' group was more inclined to accept some increase in panel member

training however, to allow for the demands on panel members in some of the more complex cases they may be faced with. The majority of social workers, guidance teachers and police officers also advocated increased panel member training but generally of a more intense nature than that promoted by reporters. This stance too can be seen to reconcile with these groups' ideological scores endorsing the concept of professional decision-makers in juvenile justice.

Panel Member Training

Both interviewees above then, while defining the term lay and accepting the lack of formal qualifications, clearly acknowledge the need for lay panel members to obtain some training - but yet again not too much - for the purposes of carrying out their decision-making duties. This view is confirmed by Bruce and Spencer, they observe, 'members will [...] need a good knowledge of treatment methods and of the facilities available for applying them' (1976: 43). Both May (1977) and Bruce and Spencer place the training programmes panel members embark on primarily within social work ethos. As Bruce and Spencer suggest, from the start, 'the underlying philosophy was to be that of the social work profession' (1976: 43) - although they acknowledge that this is often difficult to define. This training process for panel members is suggested also by Mapstone (1972) and by Morris and McIsaac (1978). Despite the early nature of this research the assessment given does apply to this study. Of all groups involved, apart from panel members themselves, social workers were the most knowledgeable about panel member training and its content - indicating some level of involvement in

this - and apart from the reporters' group, social workers had the closest liaison with panel members of all other agencies (chapter eight).

Social work influence on panel member training is still an issue within hearings system practice. The Clyde Report (1992) recommends that panel members, as well as other groups, should undergo increased training in child protection work. This is justified, in the case of panel members, on the basis of the changing nature of the cases coming before them which the Clyde Report suggests increasingly constitute more in the way of care and protection issues than those involving child offenders. This perception is borne out in the figures in table A.4 in Appendix four. If these care and protection cases are to be understood more fully, increased panel member training in this field - a social work arena - the Report suggests, is both inevitable and desirable (1992: paras 18.2, 19.17).

Furthermore May (1977) claims that, contrary to the current impression given by the two latter interviewees but confirming the fears expressed by the reporter, panel member training is not only social work based but also extensive and comprehensive. As he explains:

> The social worker ideal is reinforced in the extensive and quite
> sophisticated training programme to which all panel members
> submit. In superficial terms at least the training resembles that
> provided for entrants to the social work profession (1977: 215).

Is May's assessment of the training panel members obtain an accurate one? How extensive is the training programme and what form does its content take? The interviewees were asked to comment on panel member training during the interview sessions.

The panel members in the sample were the most knowledgeable about the training they receive both in relation to its content and organisation. For that reason the information and quotations given below on this subject are all taken from comments made by members of this group.

Initial training for panel members takes place in the first three months before service begins and provides a grounding for panel work. This is supplemented thereafter by in-service training organised at both regional and district levels. The district training is usually of the form of one evening every month, while regional training is organised less frequently by training organisers based in one of four centres servicing different areas of Scotland. The centres are Glasgow, Aberdeen, St Andrews and Edinburgh Universities and the training organisers who also administer the pre-service training are funded by the Social Work Services Group.

Initial training makes the prospective panel members aware of the ideals, powers and regulations of the hearings system, the groups that contribute to the system and what their functions are and instruction is given on how to question families on issues and the strategies needed in approaching and contemplating such issues in discussion. Regional and district training is an extension of the initial training sessions and involves talks and information from other agencies and specialists including social workers, teachers, educational psychologists, police officers and other professionals from the caring and medical fields.

Attendance at in-service training is not compulsory for panel members and

Lockyer's (1992) research suggests that this is variable. In arguing for greater standardisation of practice within hearings Lockyer rejects this lack of prescription and recommends that a level of attendance for panel members at in-service training should be established and be a requirement of service (1992: Summary xxxii).

As to whether the content of this training could be considered extensive, all the panel members interviewed and the majority of the other interviewees defined it as more 'broad based' than 'in-depth' and 'general' rather than 'specific'. All the panel members interviewed accepted the importance of the social work profession to the successful operation of the hearings system and all agreed that some panel member knowledge of what social workers do and what their recommendations mean is beneficial to the decision-making process at a hearing. They were also, however, universal in their claim that their training goes beyond the realm of social work and touches other spheres of child care like education, law and psychology. As one panel member expounded:

> The training is not designed to make you into a social worker or any other professional, nor should it be. It's a broad base of knowledge you're getting not in-depth [...] you're only getting a general flavour of what others do in the hearings system and the work they do with children - certainly you have to know the system but here again the reporter is the real expert.
> Glasgow South-West Panel Member

It was accepted by all interviewees that panel members have the ultimate responsibility for the final decision taken at a hearing. They, after discussion with the family and professionals present and after consideration of the comments and recommendations made by the agencies concerned, have to decide upon the course of action to be taken and if appropriate on the disposal to be made. Having clearly established (chapter five) that 82 per cent of the sample of 252 respondents across four groups believed that panel members should receive more appropriate training in the art of initiating discussion at a hearing - a desire confirmed in research by Lockyer (1992) - a further more general question on training was put to the interviewees during the interview sessions. This was whether or not the amount of training given to panel members at present is sufficient to permit them to undertake their entire decision-making role effectively.

On this occasion the interview sample of 45 interviewees across all groups was divided. One panel member justified the lack of need in her view for any major change in the training regime available to panel members on the basis of the role professionals play in hearings. She considered the various professional participants as sources of advice and information that she as a panel member could draw on to assist in the choice of disposal. This provision she believed is sufficient to fill any gap in her or any panel member's knowledge. The majority of those who argued for the status quo in panel member training subscribed to

this point of view. As the panel member elucidated:

> We rely heavily on the reporter of course for legal aspects and procedural aspects too [...] and social workers and teachers provide any caring or education advice we require and we do ask for this.

She did acknowledge that some training in hearings system procedure and child care is necessary to fulfil the tasks prescribed for a panel member, but to increase this she predicted - in accordance with an earlier commentator - could endanger the layness of the panel. This view - the view of the majority of the panel members interviewed in this study - accords with the findings of Lockyer's (1992) research. Only nine percent of the panel members' sample in Lockyer's (1992) study desired increased training in child care (1992: 115). The panel member above gave reasons for her caution; and in so doing reinforced the welfare/lay involvement ideal endorsed by the majority of the panel member sample in this study.

> Training in both the procedures surrounding the system and keeping abreast of issues to do with child care is important. I don't think you could or would provide a decent service without that, but I still feel you retain the lay label for the training is not that intensive and you are still bringing your background and experiences to each case. I think there is a real threat to panel member independence, which I consider an important feature of the hearings system, if you increase training and the professional input to this too much.
>
> Dumfries and Galloway Panel Member

For many of those who held such views there existed a vital relationship between being a lay person and being independent - layness, to them, meant non-affiliation with professional groups and a freedom of constraint from professional ideals. Thus, it was argued, to increase panel member training in itself may not only erode layness through a possible emergence of a distinct panel member ethos, but if in so doing encouragement was given for greater professional input, then panel

287

independence may also be reduced through the inevitable wider association with professionals and their ideals. Another interviewee endorsed this position and added:

> If a panel member feels he doesn't have enough information he can ask for a continued hearing to seek out more professional advice - the apparatus is there.
>
> <div align="right">Glasgow South-West Reporter</div>

Increased Panel Member Training

Some panel members, however, as with the majority of the interviewees across the other groups, believed that panel member training should be extended to embrace more information on child and family issues. This is especially so as it was generally considered,amongst the advocates for expanding panel member training,that the cases panel members are faced with at hearings today are becoming increasingly complex and relate more to matters of child care than to those involving offences (refer to table A4 in Appendix four). As the Finlayson Report (1992) indicates:

> Data and experience shows that over the years there has been a steady but significant increase in [...] non-offence referrals. [...] The increase in non-offence referrals is directly attributed to categories which can be classified as child abuse or neglect (1992: 8).

It is surprising to find then, considering these comments made by interviewees on the reasons behind the need to develop panel member training, that, as indicated in chapter four, the Government in its Paper on Child Care in Scotland emphasises particular support for panel member training on matters associated with child offenders and not child protection (1993: 31, 37).

A social worker argued the case for increased panel member training on the basis that this would improve panel members' expertise and so their decision-making capacity - a view synonymous with the predominant ideological stance of the professional groups in the research (chapter four).

> I do feel panel members require more training. The cases which at times prove complex now require this - I've no doubt about that - and a better grasp of these complexities is needed if panel members are to make good decisions.
>
> Central Region Social Worker

The other issue, emphasised by all panel members who desired a development of their training, was their capacity to scrutinise adequately the comments and proposals of professionals. Without sufficient knowledge, it was argued, proper assessment of treatment recommendations is impossible. The enhanced ability of panel members, by means of increased training, to challenge professional decisions was, for those panel members who advocated it, a necessary and worthy development even if it could be construed as a possible threat to their layness. Such an attitude for panel members and reporters may be seen as a 'situated account' - an adjustment of their prevailing lay involvement ideologies for the sake of pragmatism. A panel member justified this position when she commented:

> Part of our job is to make sure the child gets the best disposal possible and to do this we have to scrutinise what the social worker and others have to say and what they offer - how can we do this properly without sufficient knowledge to draw on and to justify what we say?
>
> Glasgow South-West Panel Member

This view expressed by the panel member accords with that presented in the findings of the 'Orkney Inquiry'. The Clyde Report states:

> The existence of an independent check on the position in a case

brought on referral by the Reporter is of very significant value. What is required is a development to secure that its value is reinforced and made more real. [...] One matter for consideration relates to [...] a sufficient number of panel members acquiring a greater degree of expertise in problems of child abuse.

(1992: para 18.6)

Without such expertise acquired through increased training the Clyde Report suggests:

The wealth of authority behind the social work department's position can be difficult to challenge and [...] the hearing may feel that they are doing little more than formally approving what in substance others have resolved.

(1992: para 18.2)

Bruce and Spencer (1976) argue a similar case and suggest that if panel members are to have the confidence to challenge the professional recommendations of social workers and others and if they are to have the capacity to suggest constructive and appropriate disposals of their own, they must be given the relevant training to allow them to do so. As the authors themselves explain:

We do not accept the argument [...] that [...] hearing members are merely required to choose between options presented to them by various professional people. On the contrary, we see it as part of the role of the panel member to be able to diagnose family problems. In that case, their initial training should include more study of methods of child upbringing, of the various motivations to delinquent conduct and of the cultural norms of different sections of society (1976: 146-7).

Adler and Asquith however cast doubt on the capability of any lay participants to question effectively and so exercise some control over the discretionary powers held by the professionals they encounter. They believe that, 'although lay persons [such as panel members] may be involved in the exercise of discretionary decision-making, their involvement rarely poses much of a threat to professional or official domination or control' (1981: 30-1). Adler and Asquith unlike the

290

Clyde Report and Bruce and Spencer, however, theorise that this position results not from a lack of training but from the way in which it is structured and administered. They claim that training 'is often left in the hands of officials and professionals who [...] ensure the involvement of appropriate people and the development of appropriate attitudes [...]' (1981: 31) which in turn militate against the independence of the lay person and encourage conformity of thinking between the professionals and the lay body.

Adler and Asquith imply then, that if increased training means greater professional input and control lay independence may be reduced as professional ideals are embodied by the lay participants. This is a danger already recognised by some interviewees in this study and also identified by May (1977). May believes the hearings system already suffers from such a conformity of ideals and argues:

> The aim [of panel member training] seemingly is, if not to impart social work skills to panel members, then certainly to familiarise them with the language and techniques of social work (1977: 215).

The evidence suggests - Morris (1974), Morris and McIsaac (1978), Martin, Fox and Murray (1981) and Asquith (1983) - that only in a small number of cases does the hearing reject the advice given to it by the social worker, and while as May suggests, this may simply indicate or suggest a lack of resource alternatives, it may equally arise from an inability on the part of panel members to visualise and contemplate cases in terms other than those emphasised by the social worker (1977: 218). May clearly sees the training of lay persons such as panel members as a definite contradiction and as a clear ambiguity within hearings system policy.

As he states:

> A training programme for panel members succeeds to the extent
> that it eliminates that 'layness' which is the one necessary quality
> determining selection [as a panel member] in the first place (1977:
> 215).

A panel member from Central Region dismissed May's contentions as
exaggerated and outdated and again stressed the need for panel member training
which she did not perceive as a threat to her lay position but as a necessary
preparation for her role in the hearings system. She explained:

> I think training is necessary - you have to know about the system
> and something about the potential problems that might come
> before you as a panel member today. I don't see that as conflicting
> with the fact that we are supposed to be lay people. We are and
> remain independent and safeguarders for the child and we look at
> what we think is best for the child without reference to budgets or
> current philosophies **but** to do this we need to know what the
> options mean and what our powers are.

She was realistic about the availability of resources though - an issue considered
in chapter four - and recognised that this element in the decision-making process
is effectively outwith a panel's control.

> Naturally we have to work with the resources available to us but if
> we know what these are and what they do and mean then we can
> suggest options of our own [a feature proposed earlier by Bruce
> and Spencer (1976)].
>
> <div align="right">Central Region Panel Member</div>

A Glasgow reporter speaking from experience was certain about the position of
a panel in a hearing. He described the majority of the panel members he had
encountered as 'fiercely independent' and in accordance with the comments of
the previous interviewee foresaw no danger to this even if training was increased
or developed. As he stressed:

> I cannot see panel members relinquishing consciously or subconsciously their independence as decision-makers. This attitude seems ingrained.
>
> <div align="right">Glasgow South-West Reporter</div>

This impression is confirmed in the study conducted by Martin, Fox and Murray (1981) and particularly in their consideration of the dialogue in hearings. They too suggest the fears surrounding panel member training and its influence on panel independence are unfounded. They claim, 'the imperviousness of panel members to social work or any other professional language and ideology is manifest in our study [...]' (1981: 139).

Lay Panel: Advantages/Disadvantages

The argument whether or not and to what extent existing panel member training and the potential for more training affects or might affect the role of a panel is a long-standing one and one that is difficult to resolve, but is it a valid debate or is the concern surrounding the layness of a panel superfluous? Why be concerned about preserving the layness of a panel anyway? What does a lay panel if anything bring to the decision-making process at a hearing? In a recent study of panel members' views, Lockyer (1992) suggests that one third of the panel members in his sample see 'independence, ordinariness, common sense, and lack of vested interest' as the most praiseworthy features of lay decision-makers (1992: 165). This subject was raised with the interviewees in this study during the interview sessions.

All panel members, the overwhelming majority of reporters and some members

of the other groups who were interviewed considered that advantages in terms of decision-making were forthcoming from having panels composed of lay people - 'lay' as defined earlier in this chapter. The majority of social workers, guidance teachers and police officers, however, in line with their groups' mean ideological scores endorsing the ideal of professional decision-makers in juvenile justice, envisaged the need for change in the make up of panels particularly so with, as they predict, the growing complexity of the cases appearing before children's hearings.

One sentiment was predominant amongst those who saw advantages in having a panel made up of lay people. All the commentators confirmed Lockyer's (1992) findings in emphasising the independent nature of lay panel members and their non-affiliation to any professional group or ideal. The exclusive advocacy of the child and the child's interests was also stressed, as was the possible increased objectivity of panel members who were thought to approach cases afresh and so potentially able to consider treatment recommendations in an objective manner.

A guidance teacher who endorsed these sentiments added:

> As long as there is a balance with the professionals who are there
> to give advice, I think the fresh perspective a panel can put on a
> case is very positive.
>
> Dumfries and Galloway Guidance Teacher

A supportive reporter summarised the general feeling well and in conclusion commented on the independent scrutiny of professional recommendations enjoyed by panels that to many panel members in particular constituted a vital asset for the hearings system.

One of the strengths of the system is the lay input. They [panel members] bring an ordinary, different dimension to the system from their life experiences. They look at things from the outside, detached from the professional viewpoint and it's a good thing someone's there to oversee professional involvement in the lives of children - I think some families appreciate that.

Dumfries and Galloway Reporter

Those interviewees who expressed reservations concerning the lay aspect in the hearings system concentrated on, as they perceived it, the increasing number of cases of a complex nature that panel members have to handle and the inadequacy of lay people to fully comprehend, and thus prescribe for, the detailed problems experienced by some families. There was also the sense that even in less complex cases panel members can be naive in their deliberations. A reporter described her observations on the trend being set in the cases appearing before hearings:

Some cases are too complex for panel members to understand - I've seen it. We are in a changing situation; sexual abuse is the big issue today and a complex one to handle, physical abuse was ten years ago and before that it was perhaps less complex when delinquency cases predominated.

Central Region Reporter

This impression was accepted by a guidance teacher from Dumfries and Galloway who further emphasised the consequent difficulty in some cases for panel members to determine appropriate disposals and the frustration this can cause for professionals.

They [panel members] do get the wool pulled over their eyes by some and I feel they can be naive - not deliberately so - but they can be naive and this can frustrate the professionals who are there and who know the score and feel they know the right disposal and the panel disagrees.

Dumfries and Galloway Guidance Teacher

Panel members recognise this issue. Two recent reports Kearney (1992), Lockyer (1992) both indicate that panel members feel social workers resent being

challenged and find it difficult to accept panel recommendations if these are at odds with their own assessment - a longstanding problem emphasised by May (1977). Panel members by contrast see their independent appraisal of professional advice as a vital component of decision-making in a hearing. It must be stressed, however, that the majority of panel members interviewed for this study (11 from 13) were adamant that the occasions when open resentment between themselves and the professionals present at hearings does manifest itself are few.

Proposals for Change in Panel Composition

All the interviewees who held reservations about the present abilities of the panel system to undertake its decision-making tasks effectively also advocated changes to the structure of panels which they believed would help eradicate prevailing inadequacies.

Some, as an interim measure, supported increased training for panel members in the expectation that this would allow them possession of a broader base of knowledge upon which to draw in discussing and considering family problems. The majority - 20 from 25 interviewees - however, while acknowledging that increased training for panel members would, in their view, be a positive measure, believed that a further step was necessary that would mean an alteration in the actual composition of panels in the future.

Interviewees from this group, who still adhered to some lay participation on panels and in the decision-making process at hearings, proposed as a panel's composition the combination of a trained professional chairperson and two lay people. The professional chairperson was expected to possess a training in social work, education, law or some other aspect of child care as well as skills in chairing and communication. A police officer from Glasgow described well the general reasoning behind such a proposition exemplifying the virtues of both lay participation and professional input to the decision-making process.

> I still think it's important to involve ordinary people. Lay members often come from different backgrounds and know the area they serve in and that can help put a different slant on things, but a professional as a chairman might impose discipline on panels and force them to look at problems more effectively - giving better discussions and disposals.
> Glasgow South-West Police Officer

A reporter confirmed this attitude to change and commented on his own experiences as a witness of the state of chairing in hearings which he concluded to be of variable quality.

> I would go along with a change like this. Some panel members at present, mainly through their own abilities, make excellent chairmen. Others are really pretty poor [...] A chairman with a legal or social work background skilled in chairmanship would help draw the discussion and decision-making parts of a hearing together and make for better hearings all round.
> Central Region Reporter

A distinction has to be drawn here between the concept of a professional chairperson in the sense of a person trained in the skills of chairing and a professional - social worker, teacher, lawyer - as the chairperson. The majority of interviewees who held a desire for this form of restructuring suggested a chairperson should ideally possess both attributes and all advocates of this change

claimed similar outcomes - more precise discussion on relevant topics and thus increased effectiveness in reaching decisions at hearings.

The recognised significance of the skills of chairing and the chairperson's contribution to the hearing process is illustrated in the findings of Lockyer's (1992) study where he claims that training in, 'aspects of chairmanship were most in demand', amongst the panel members in his research (1992: 115). A number of panel members in all three regions in this study indicated during interview that specialist training on aspects of chairing does exist within the training programme for panel members and stressed the importance of this facility to the successful conduct of hearings. As a panel member explained:

> A good chair keeps the discussion flowing, focuses it too and coordinates everyone.
>
> Glasgow South-West Panel Member

Other members of this movement for change - solely composed of social workers, police officers and guidance teachers - who had less conviction about the benefits of lay participation in the decision-making process in a hearing - a factor displayed in their groups' mean ideological scores - were more radical in their proposals for a different structure to panel membership. They advocated the complete replacement of lay panel members with professionals. The justification for such a change again lies with the perceived inadequacies of lay people to cope effectively with and treat appropriately the problems that face many families who appear before hearings. A guidance teacher argued the case when she stated:

> To be honest I really don't think they [lay panel members] do provide much of an advantage [...] I would like to see it move away from a lay panel.

She expanded her views and claimed on behalf of child care professionals a greater awareness of the problems and difficulties encountered by families who find themselves involved with the hearings system.

> I think issues are now so complicated that I'm not sure it's right for cases to be left in lay people's hands. A panel composed of professionals - social workers, teachers, psychologists - would be better. They, I feel, would have more empathy with and a better understanding of how to treat the problems children and parents have [...] I think this would make for a better hearings system.
>
> Central Region Guidance Teacher

All the interviewees of this persuasion did not believe it was enough for the professional agencies, as they do at present, to assume an advisory capacity only at a hearing but desired that the decision on treatment should lie with them also - an attitude that precipitates the need to replace the lay people on a children's panel with professionals.

A social worker complied with this stance and added briefly:

> Professionals have the specific training and knowledge to apply to all aspects of a case that lay people don't have and with many child care problems of today that's what's needed I'm afraid.
>
> Central Region Social Worker

This attitude is indicative of what Cunningham and Davis (1985) described earlier (chapter one) as the 'expert model' - the notion of professional expertise as the only foundation for assessment and treatment. It may be as Wilding (1982) implies, as much a desire to preserve this authority over their professional field and client groups as any other motive including the expressed desire to improve service, that promotes the inclination on the part of these interviewees to replace lay panel members with professionals. As one panel member observed:

Professionals naturally think they know best and in many cases their assessments are well founded but they don't like when we challenge them - that insults their professionalism.

Glasgow South-West Panel Member

Summary

The role of the lay panel member as the decision-maker is one of the mainstays of the children's hearings system as devised by the Social Work (Scotland) Act of 1968. Although the majority of panel members and reporters in the study differed from the other groups in their assessment of the most important function of a panel member within this decision-making role, all groups agreed that the ultimate choice of disposal lies with a lay panel. Having established a respondents' definition of the term 'lay' the issues then were whether or not such a responsible role as that of decision-maker should be left to lay people and how much preparation if any did panel members require to assume such a task?

The issue of preparing panel members through training evoked a vigorous debate amongst the participants in the study and has done so amongst other commentators and researchers in the past. Although it was acknowledged by all members of the study's interview sample that some training in the structure and practices of the hearings system is necessary for a lay person to undertake the role of a panel member even elementarily, the need to develop this training proved more contentious.

Fears were expressed mainly by panel members that increased training might

endanger the layness of the panel with the creation of pseudo-professional panel members. The majority of social workers, police officers, guidance teachers and reporters who were interviewed did not share the anxieties of many of the panel members however. They suggested that more training in aspects of social work and child care should be developed for panel members as a vehicle for stimulating a better understanding of the complexities surrounding many of the cases that come before hearings. May's (1977) contention that to be truly lay means no training at all and that the provision of training poses a contradiction within the hearings system was dismissed by all interviewees who re-emphasised that at the very least some procedural instruction on the hearings system and its powers is necessary if a panel member is to attempt to engage his/her role competently.

The question arising from this debate, however, was whether or not it is necessary to preserve the layness of panels at all? This issue again produced vigorous debate between the groups. The interviewees were asked to identify any qualities which they believed a lay panel brings to a hearing and which justifies the involvement of lay people in the decision-making process. All panel members and the majority of reporters, as well as other interviewees, in extolling the virtues of lay panels emphasised their non-affiliation to any professional group and their independent nature. This was considered important as a means of monitoring professional intervention in children's lives. The majority of the members in the other groups were less convinced of these merits and while many believed more training for panel members might help there was concern that cases are becoming

too complex and the problems too sensitive to be left in the hands of lay people.

It would appear then that despite majority support, contrary to their mean ideological scores, amongst guidance teachers, social workers and police officers for the continuation of lay panel members as the decision-makers within hearings system operations (chapter four), when questioned more intensely on lay panels and their decision-making role, the majority of interviewees from these groups were in fact inclined towards change. In supporting a greater professional input to the make up of panels it could be argued that these participants were displaying their true persuasions in accordance with their dominant ideological stance in favour of more professional decision-making in juvenile justice. Earlier endorsement of lay involvement in the hearings system in such circumstances could then be seen as perhaps more rhetoric than reality. It would seem when these interviewees considered more closely practical aspects of panel operations particularly in relation to the nature of cases appearing before the hearings system, they decided to opt for change and for panel professionalisation. The remarks of one social worker exemplified well the doubts and uncertainties surrounding the issue of panel composition - he commented:

> I am prepared to accept that there may be some benefits to a lay panel [...] but I feel, in fact I know, that some of the problems that families have are complicated and I don't know whether lay people can do the decision-making job well enough any more and I know problems can arise in some cases between social workers and panel members [...] over who is best placed to decide on what is needed for a child or family.
>
> Dumfries and Galloway Social Worker

Such problems between panel members and professionals at hearings, as the Kearney Report (1992) suggests, can instil frustration amongst groups unless

perhaps there exists good cooperation and communication between agencies which can, by mutual understanding, defuse such differences when they arise or prevent them altogether. The extent of liaison between groups involved in hearings system operations is considered in chapter eight.

Chapter Eight : Liaison

Liaison - what liaison?!

Glasgow South-West Guidance Teacher

If any system involving the participation of a number of different agencies is to function smoothly and efficiently and if it is to meet its objectives, then it may be considered important that clear lines of communication and areas of cooperation exist between the agencies concerned. The hearings system undoubtedly depends upon the participation of many groups - five of which are involved in this study. It could be argued that if liaison between these groups is poor then information possibly vital to the effectiveness of the system in the cases it deals with may be less freely available and this in turn may cause dissatisfaction and frustration for all those involved in the decision-making process. As Bruce and Spencer observe in relation to hearings system operations:

> Failures of communication occur from time to time [... and on the occasions when group liaison is in operation it is not always efficiently executed ...] messages get through, albeit with considerable variation in the speed of the communication and the quality of its content. (1976: 83)

Comments of this nature underline the necessity in any organisation to have good communication and liaison. As Blau and Scott emphasise:

> The experiments and field studies on communication and performance we have reviewed lead to the conclusion that the free flow of communication contributes to problem-solving [...] decisions are improved by the unrestricted exchange of ideas, criticisms, and advice. (1963: 242)

It is essential then, in examining hearings system operations, to determine with the participants in the study the extent and form of group liaison that exists in the

hearings system at present and to elicit any means by which, if necessary, agency liaison and communication may be improved. Before attempting to do this, however, it may be helpful to determine a working definition for the concept of liaison.

Definition of Liaison

A useful dictionary definition of liaison is, 'a form of communication, cooperation'. The concept of liaison within that definition can be wide and variable though. For some it can mean nothing more than making contact and communicating with other groups; as one interviewee from this research stated when describing her relationship with the department of reporter to the children's panel:

> I think our liaison is fine with the reporter. We provide each other
> with information and I feel I can phone him if I need to.
> > Glasgow South-West Guidance Teacher

For others though liaison can mean a more intimate relationship signifying working cooperation between groups. This can constitute any one or more of the following features; the sharing of information, joint meetings, joint training, or even a close working partnership. A number of police officers who worked within specialist child/family units when asked about their liaison with social workers all replied in this manner:

> We work closely with the social work department. This involves
> joint investigations and reporting and the complete sharing of
> information. We each have our role but we work as a team [...] our
> liaison is excellent.
> > Central Region Police Officer

This view of liaison determined by the police officer accords with the definitions of collaborative liaison given in Hallett and Birchall (1992: 8) and by Cunningham and Davis (1985) who, when discussing parent/professional collaboration, state:

> the very basis of [this ...] is mutual sharing of relevant knowledge and skills considered to be of benefit to the family and child. (1985: 2)

Group cooperation and collaboration such as joint police/social work teams is mentioned in Hallett and Birchall (1992) who, like Cunningham and Davis (1985) and Smith and Cantley (1985), see the benefits of agencies working together in a cooperative manner as improved assessment of problems and a potentially enhanced service. Smith and Cantley (1985), in describing the basis for the success of a day care hospital in improving clinical care, stress:

> The third criterion for considering the success of the hospital refers to the effective integration of services [...]. Great value is attached to good communication, good external communications being particularly important [...]. (1985: 47)

Three perspectives surround discussions on agency cooperation and these are considered with specific reference to the hearings system and the position of groups within it.

Exchange Perspective

Levine and White (1961) in describing the exchange perspective have identified that human service organisations, which would include the hearings system, require three main components - clients, personnel and resources (financial and structural). The authors claim that a shortage of such elements encourages inter-agency cooperation. As they state:

306

an organisation limits itself to particular functions, it can seldom carry them out without establishing relationships with other organisations [...]. (1961: 586)

This process of cooperation is enhanced when members of organisations perceive mutual benefits from closer links. The outcome of increased cooperation is an improved service for the client group. Even if it is assumed that groups working within the hearings system do so single-mindedly for the benefit of the child, it is not so easily assumed that agency cooperation will, as the exchange perspective implies, originate from either a perceived mutual gain or a desire to improve service. As Milne (1984) observes in relation to hearings system operations, cooperation between social work and education is limited even when resources are restricted and collaboration between the two agencies could ease the position and enhance facilities. A divergence in organisational domains or goals within the realm of child care may, under this perspective, account for the lack of cooperation between these two agencies. For as Levine and White emphasise: 'exchange agreements rest upon prior consensus regarding domain' (1961: 597).

Power/Resource Dependency Perspective

This approach is associated with the work of Benson (1975) and Aldrich (1976, 1979). Within this perspective, as Hallett and Birchall (1992) suggest, power provides the main motivating factor towards cooperation. This approach acknowledges that one or several agencies have the power to force others to cooperate and as such offers a closer reflection of the situation within the hearings system. Lay panel members have the power within a hearing and within

the conditions they specify in a disposal to demand the cooperation of and between the agencies present, particularly the social work department, although this may be contrary to the decisions or recommendations of the social workers themselves and of other professionals. Under such circumstances Hallett and Birchall suggest:

> For those forced to interact [in this way] the motivation is external and involuntary [...]. As a result bargaining and conflict characterise these relationships [...]. (1992: 29)

The structure of the hearings system however also provides a contradiction within this cooperation perspective. Despite the power facility which can be exercised by panel members over other agencies within the hearings system and despite their right to decide on the disposal required in a case, panel members are nonetheless **dependent** to a large extent on the facilities available for care or offered to them by the service/treatment providing agencies, particularly the social work departments. This contradiction can be a source of further tension, frustration and conflict between the agencies and the panel (Kearney Report, 1992; Lockyer, 1992), with each side attempting to preserve their respective domains within child care provision. To achieve consensus within such a context, Benson notes:

> requires either a carefully worked out compromise in which interests of the agencies are protected or the upholding of one set of claims at the expense of the other. (1975: 237)

Benson (1975) suggests however that relationships predicated on the power/resource dependency perspective are subject to low overall consensus amongst groups making compromise difficult to achieve. Furthermore, it is also the fact that the aspect of compulsion evident in this perspective is compounded

308

in the hearings system by the power of decision-making exerted by lay people over professionals and possibly contrary to their professional esteem (chapter one), that creates yet greater potential for group conflict and dissatisfaction.

The Political Sector/Political Economy Perspective

This third approach is for Benson key to the understanding of the two previous perspectives. Benson (1982) claims that these other two approaches to agency cooperation can only be fully understood and explained when related to what Hallett and Birchall describe as, 'underlying power structures' (1992: 40). Alford (1975) labels these power structures to which groups subscribe as 'structural interests' (1975: 13-17) and Benson (1982) elaborating on these suggests five are of particular importance. These are: demand groups (the users or receivers of resources); support groups (those providing financial, political and economic resources); administrative groups (those responsible for the administration of an organisation); provider groups (those providing a service or resource); and coordinating groups (those responsible for rationalising services in and between organisations) (Hallett and Birchall, 1992: 40-1).

Child care is a broad sector involving a range of agencies but within it it is perhaps possible to see where the two important agencies of social work and education fit in relation to this network of structural interests. As organisations they contain most if not all of the above interest groups and it is perhaps the fact that they both see themselves in these roles within the arena of child care but

from different ideological perspectives (Milne, 1984) that, as indicated earlier (chapter two), difficulties in their cooperation arise. If it is assumed that social work and education can be regarded, and see themselves, as incorporating these structural interests, where does this leave the role of panel members within the specific confines of the hearings system? Do they perform a coordinating role that attempts to rationalise programmes and services to suit individual cases? The power/resource dependency perspective would suggest so. If this is the case it is hardly surprising then that dissatisfaction and frustration can exist for both lay panel members and professionals alike within hearings system operations. In the overall domain of child care the professional groups control the provision and allocation of resources yet within the context of a hearing that role is challenged as panel members decide on the course of treatment and associated services required. It is with the success or otherwise of this challenge wherein lies the potential for frustration on either side.

Regardless of which coordinating perspective dominates the relationship between groups however, Challis et al (1988) and Hallett and Birchall (1992) suggest, in the first instance, cooperation amongst agencies requires a common understanding concerning the final outcome. If, in relation to hearings system operations, the participating groups by adhering to different ideologies concerning juvenile justice have different and conflicting attitudes towards the structure and operations of the hearings system and in some cases they do (chapters four, seven, eight), inter-agency cooperation solely in the child's best interests may be severely hampered. The enhancement of service through inter-group cooperation is acknowledged by

Blau and Scott (1963) to be a difficult concept to realise in practice.

Despite different conceptions of what constitutes liaison between groups and the possible difficulties surrounding the achievement of agency cooperation and communication, all the participants interviewed in this study indicated unanimously the vital role they believed such factors play in promoting hearings system effectiveness and credibility. A panel member explained:

> The hearings system involves a lot of groups. We depend on these groups for information and advice and also for the carrying out of the disposal we decide upon. It is essential - of course it is - in an organisation like this that if all that can be done is being done for the child, good communications and liaison must exist between all concerned [...]. The success of the system can depend on this so it has to be a vital part of the system.
>
> Glasgow South-West Panel Member

Present State of Liaison

If liaison is considered a vital component in hearings system operations what is its present state between the five groups involved in the study? The respondents to the questionnaire were asked to assess liaison between their group and the others on a sliding scale ranging from 'very good' to 'non-existent'. Tables 8.1 to 8.5 indicate the liaison position between groups within the hearings system as perceived by the respondents from the three regions.

Table 8.1 Panel Members' Views (actual numbers)

Panel Members' liaison with:	Very Good	Good	Adequate	Poor	Very Poor	Non Existent
Guidance Teachers						
Central Region		10	14	19	3	2
Dumfries & Galloway	4	12	15	12	1	
Glasgow S W		3	8	17	6	10
						(n=136)
Social Workers						
Central Region	6	26	15	2		
Dumfries & Galloway	5	18	19	3		
Glasgow S W		12	19	6	3	1
						(n=135)
Police Officers						
Central Region		6	11	9	2	10
Dumfries & Galloway	2	10	16	8	1	4
Glasgow S W	1	5	6	9	2	14
						(n=116)
Reporters						
Central Region	14	25	9	1		
Dumfries & Galloway	23	22	1			
Glasgow S W	21	20	5			
						(n=141)

(n excludes response don't know)

The poor state of liaison between guidance teachers in Glasgow South-West and the reporters and panel members there (tables 8.1, 8.2, 8.3) can perhaps be accounted for by the poor attendance record at hearings - the poorest of all the regions - admitted by teachers in this area (table 5.5). This factor alone must limit considerably the contact teachers have with members of the other groups.

Table 8.2 Guidance Teachers' Views (actual numbers)

Guidance Teachers' liaison with:	Very Good	Good	Adequate	Poor	Very Poor	Non Existent
Panel Members						
Central Region		6	15	5	3	17
Dumfries & Galloway	1	5	9	4	2	9
Glasgow S W	1		2	1	1	10
						(n=91)
Social Workers						
Central Region	8	27	7	9		
Dumfries & Galloway	3	7	13	8	2	
Glasgow S W	3	5	5	6		
						(n=103)
Police Officers						
Central Region	1	8	14	9	1	17
Dumfries & Galloway	2	10	7	7	2	3
Glasgow S W	1	1	2	4	1	10
						(n=100)
Reporters						
Central Region	3	17	21	7	1	1
Dumfries & Galloway	2	8	15	5	3	
Glasgow S W		4	7	3	4	1
(n excludes response don't know)						(n=102)

Table 8.3 Reporters' Views (actual numbers)

Reporters' liaison with:	Very Good	Good	Adequate	Poor	Very Poor	Non Existent
Panel Members	4	8	1			
						(n=13)
Guidance Teachers		4	6		3 -all from Glasgow SW	
						(n=13)
Social Workers		9	3			
						(n=12)
Police Officers		5	7			
(n excludes response don't know)						(n=12)

Comparing the liaison assessment given by the guidance teachers in Glasgow South-West with that given by the reporters there (tables 8.2, 8.3), it is interesting to note that the teachers were generally more positive about the state of their liaison than the reporters. This paradox can perhaps be explained by a difference in judgement as to what constitutes liaison. Reporters in Glasgow South-West have attempted to contact schools concerning the improvement of teacher attendance at hearings and in a bid to generate dialogue. They have found both the response to this initiative and the actual teacher attendance rate to be poor and this experience undoubtedly clouded their view on school liaison. Guidance teachers, on the other hand, were content with a less formal liaison network and assessed adequate liaison as being able to phone the reporters' office to seek advice and information.

This different perspective on liaison between teachers and reporters in this region displays the difficulty in meeting groups' varying aspirations of what constitutes meaningful liaison and illustrates the need for the construction and application of agreed parameters before such a process is initiated - everyone then would be clear about what to expect and about what would be expected of them - a view endorsed by Challis et al (1988).

All other groups rated the state of their liaison with reporters more highly than with almost any other agency (tables 8.1, 8.2, 8.4, 8.5). This is not surprising since 69 per cent of the questionnaire sample, including all 13 reporters, when asked, believed the most important role for a reporter is as initial assessor of the needs

of each case before possible referral to a hearing, a role confirmed by the Clyde

Report (1992) and the Kearney Report (1992) and described by the Finlayson

Report (1992) as arguably the most important of all the duties conducted by a

reporter to the children's panel (1992: 7). To accomplish this role reporters are

in contact with different agencies to seek information and advice. This process

is for many a valid channel of communication and liaison.

Table 8.4 Police Officers' Views (actual numbers)

Police Officers' liaison with:	Very Good	Good	Adequate	Poor	Very Poor	Non Existent
Panel Members						
Central Region				3		4
Dumfries & Galloway		1	3			1
Glasgow S W			1	1		10
						(n=24)
Guidance Teachers						
Central Region		1	2	1		3
Dumfries & Galloway	2	2	2			
Glasgow S W		1	4	2	3	3
						(n=26)
Social Workers						
Central Region	2	1	2	2		
Dumfries & Galloway	1	5				
Glasgow S W	1	9	2		2	
						(n=27)
Reporters						
Central Region	1	4	2			
Dumfries & Galloway	2	3	1			
Glasgow S W	4	5	1		1	3
(n excludes response don't know)						(n=27)

The police officers in Glasgow South-West and Central Region indicated in table

5.6 the extent of their liaison with guidance teachers and panel members and this

less than adequate picture is confirmed in tables 8.1, 8.2, 8.4 and also in the comments of interviewees from these groups which all acknowledged limited and infrequent contact. These interviewees also admitted that when communications do take place they are often piecemeal and uncoordinated - a typical reply:

> We don't attend hearings so we never have any contact with panel members [...] our liaison with schools does exist but it could be better [...] become more coordinated.
> Glasgow South-West Police Officer

Table 8.5 Social Workers' Views (actual numbers)

Social Workers' liaison with:	Very Good	Good	Adequate	Poor	Very Poor	Non Existent
Panel Members						
Central Region	5	16	15	11 (23%)	1	
Dumfries & Galloway	2	7	6	11 (38%)	1	2 (n=77)
Guidance Teachers						
Central Region	4	11	23	7 (15%)	2	
Dumfries & Galloway	1	6	15	9 (29%)		(n=78)
Police Officers						
Central Region	2	10	17	12 (26%)	2	3
Dumfries & Galloway		7	10	11 (36.7%)	1	1 (n=76)
Reporters						
Central Region	13	29	4	2		
Dumfries & Galloway	6	19	2	4		
(n excludes response don't know)						(n=79)

The poor state of liaison between social workers and panel members, guidance

teachers and police officers in Dumfries and Galloway indicated by substantial numbers of social workers in this region (table 8.5) - which is at odds with the general liaison situation there - was raised with interviewees during the interview sessions. One prominent explanation for this may be the high turnover of social work staff suggested by social workers in this area. The reason given for this assumption was that if social workers only remain in post within the region for short periods of time then the opportunities for building relations with other agencies are reduced. This was a phenomenon identified by a number of interviewees from this region although not as clearly reflected in their groups' liaison tables. Social workers, it was claimed, can join Dumfries and Galloway social work department with the expectation of a quieter rural existence but become disillusioned with the formidable and varied workload that is often the remit of a social worker in this area. This position, interviewees claimed, appeared to encourage some social workers to apply elsewhere after relatively short periods of service.

Apart from this one aspect, the liaison situation between groups in Dumfries and Galloway is healthier than that present in the other regions. An illustration of this is to be found in table 5.6 which shows that police officers in this region relate more closely with panel members and guidance teachers in particular than their counterparts in Central Region or Glasgow South-West. Those members of the five groups from Dumfries and Galloway who were interviewed were asked if they could account for this apparently stronger liaison position in their region. Almost all believed that the rural, more sparsely populated environment of the

region was a major factor in binding people together and creating and

perpetuating a sense of community amongst residents and professional groups.

This, they speculated, might encourage groups to communicate and have greater

contact. It was also stressed that most of the professional organisations like the

education department, social work department, the police force and the reporters'

department as well as the area panel member groups, at a local level especially,

are small in scale and this may allow for easier and more direct communication.

As one panel member explained:

> Although our region is wide in terms of distance between say
> Stranraer and Dumfries, both at regional level and especially at
> local level, everything is quite small in scale and this I'm sure helps
> communications - it's easier to get to know the people you're
> talking to.
>
>   Dumfries and Galloway Panel Member

Purpose of Liaison

It is evident from the liaison tables (tables 8.1 to 8.5) outlining the views of the

five groups participating in the study that, for some, liaison between agencies

within the hearings system is, at present, less than adequate. This is particularly

so between police officers, panel members and guidance teachers in Glasgow

South-West and Central Region. The assessment of liaison was generally more

optimistic in Dumfries and Galloway, but even here substantial numbers of social

workers, for example, believed their liaison relationship with panel members,

guidance teachers and police officers to be poor.

Improvements to the present situation are possible then but are they necessary?

Are there any real advantages for the hearings system in attempting to develop closer communications and relations between groups? Kahn (1967) believes that there are. When commenting on community services and programmes for children in trouble he warns:

> Any agency or institution serving families and children is not a self-contained entity. When it pretends to be [...] children suffer both from program inadequacies and from the gaps between programs. (1967: 68)

A cooperative approach to children's problems is also recommended in the Government White Paper on Child Care in Scotland. When referring specifically to the requirements of child offenders this document states:

> No agency - school, social work, psychological services or police - is solely responsible, nor does any hold all the answers. The combined resources [...] should be available. (1993: 41)

On child care generally the Paper is equally forthright:

> Children have the right to expect that professionals, from social work, health, education, and other services will collaborate in a child-centred way by fulfilling their own role while understanding and respecting the contributions of others. It is most important to ensure that the efforts of all those working for children benefit children. [...] children should be able to rely on a high quality of inter-disciplinary team work [...]. (1993: 7, 19)

De Francis (1972: 138-9) and Helfer and Kempe (1972: 178-9, 184) when commenting on the identification and treatment of child abuse, which can involve many agencies, asserted that a lack of communication or coordination amongst all concerned can adversely affect a case while close liaison can produce considerable benefits. The underlying belief that social problems are handled more effectively if groups communicate and cooperate with each other leads Challis et al (1988) to outline what they term 'the optimistic tradition' (1988: 29-34). In this the objectives of cooperation and liaison are described as: a more

319

efficient use of resources leading to a better service; a reduction of gaps in and interruptions to services; a clearer definition of roles and responsibilities between professions and services; and the delivery of a generally more comprehensive and responsive service (Hallett and Birchall, 1992: 17). Smith and Cantley (1985) also encountered this attitude to liaison in their evaluation of health care. As one of the social workers in their sample explained: ' the only way that both social work and health service can deal with problems [is through ...] a combination of services [...]' (1985: 48). Smith and Cantley state that within the day care hospital in their study there was an inter-agency commitment to provide comprehensive medical and social care to meet a wide range of patient needs. There was a strong commitment to team work and inter-professional communication which, they claim, resulted in an improved service provision (1985: 106). While there are important logistical differences in achieving cooperation between agencies which are responsible for a group of people within one institution as in a day hospital and the agencies in the hearings system which have to handle children in many circumstances and possibly over different geographical areas, the principle of providing coherent and coordinated care is the same. This fact was recognised by the majority of interviewees in this study - as one of the panel members commented:

> After all we all want one thing - what's best for the child - and as
> long as that single idea motivates us anything's possible, including
> better liaison.
>
> Glasgow South-West Panel Member

Two police officers from Dumfries and Galloway - one from Dumfries in the east of the region and the other from Stranraer in the west - described the efforts being made by their constabulary in the area of liaison and the benefits they

derived from closer communications with other groups.

> It means you are aware of each other and what you all do and
> that's important I think, if greater cooperation and understanding
> is to develop.
>
> Dumfries and Galloway Police Officer

The second officer worked in the Community Involvement Branch of Dumfries

and Galloway constabulary which encompasses a wide liaison remit involving

many agencies. As he elucidated:

> You get to know and understand the people - teachers, social
> workers, panel members - well and the job they do. It broadens
> your horizons.
>
> Dumfries and Galloway Police Officer

Again from Dumfries and Galloway, a guidance teacher, who worked in a school

with a detailed liaison record with other agencies, explained how perseverance has

reaped rewards in the school's liaison effort with local panel members.

> Over the years we've had meetings with panel members - once a
> year maybe - and we've said come in and see what happens. It is
> different - your ideas are out of date. Last year, after four or five
> years of asking, some came in and they were amazed. It changed
> their whole view of what we do. More are coming in. That really
> is what liaison is all about - you see - making each other aware of
> the jobs being done and the roles we all play. Our relationship
> with panel members is stronger for those excursions and it has
> helped discussion in hearings too.
>
> Dumfries and Galloway Guidance Teacher

These views are not untypical of those expressed by teachers and others

associated with the rural secondary schools in this region within which the sense

of community is strong and is certainly portrayed as such by those working within

these institutions.

Comments of this nature also add credence to the observations made by De

Francis (1972), Smith and Cantley (1985), Challis et al (1988) in their optimistic

tradition and to those of Milne (1984) who, when referring to individual liaison projects, suggests that good communications between groups, 'have an important role to play in breaking down generalised prejudice and ignorance [...]' (1984: 4). As a Glasgow police officer confirmed:

> Since working more closely with the social work department in particular my attitudes have changed. I no longer think of them as simply soft do-gooders.
>
> Glasgow South-West Police Officer

Interviewees who have had less concrete experiences of group liaison expressed a clear need for its development and highlighted the advantages they felt would accrue from this. Improved understanding, closer group relations and improved decision-making were all accepted as outcomes if inter-agency liaison was more abundant.

Limitations to Liaison

Challis et al (1988) however, also present a counter approach towards liaison to their optimistic tradition - 'the pessimistic tradition'. The adherents to this, they claim, are aware of and recognise the often divergent and conflicting interests that exist amongst groups which could militate against an open and free sharing of information and joint collaboration. As the authors describe:

> individual and group interests are multiple and divergent, and the net result is competition, bargaining and conflict. [...] The more efficient an organisation (or profession) is in developing its own code - i.e. its way of handling and interpreting information - the more difficult it may be to communicate with other organisations. (1988: 34-35)

Under this tradition then, if agencies or organisations are forced into cooperation

as through the mechanisms outlined in the power/resource dependency perspective, as Hallett and Birchall (1992) emphasise, group conflict is likely.

Social Work/Education Relations

With respect to the hearings system and as an illustration of the 'pessimistic tradition' in agency cooperation, Milne (1984) highlights the lack of liaison between two essential groups to hearings system operations - social workers and teachers. She believes the 1968 Social Work (Scotland) Act's failure to make education an equal partner alongside social work in the hearings system was nothing more than a formal realisation of the fact that, although the two services had similar ultimate responsibilities for young people, they often adopted, 'radically different, indeed often conflicting, methods to achieve these ends' (1984: 4) - decisions and practices, Asquith (1983) would suggest, which are grounded in their different and at times conflicting frames of relevance. This, Milne claims, has led to mistrust and a severe curtailment in the information shared between these two agencies even though exchanging information would certainly improve overall child care. This position as outlined earlier completely undermines the exchange perspective to agency cooperation within certain aspects of hearings system operations.

In considering the relationship between social work and education and affirming the assertions made by Milne (1984) and Challis et al (1988), a reporter concluded:

> Maybe it's because they [social work and education] see themselves as specialist institutions in their own right, or social workers worry about teachers disclosing confidential information, while teachers like to keep problems within school boundaries as long as possible before involving outside agencies - I don't know - but certainly a greater understanding and appreciation of each others' work is needed.
>
> Central Region Reporter

This impression of the state of social work/education relations persisted across the three regions in the research and the reactions of these two bodies to each other seems indicative of the 'pessimistic' elements of professional defensiveness, domain claim and status differentials, and divergent philosophies suggested by Challis et al (1988: 214-15, 228) and considered detrimental to liaison and cooperative initiatives.

The issue of social work/education relations was identified in the early research carried out by Bruce and Spencer (1976). The fact that suspicion and a lack of cooperation between these two agencies - both central to the hearings system - is still being observed today - Kearney Report (1992: 476-80, 600) - must be a worrying trend in the development of hearings system operations. It is a trend also at odds with the expectations on social work/education relations expressed in the Clyde Report (1992: para 15.35) and in the Government White Paper on Child Care - as the Paper states:

> The Government [...] expect close cooperation between [...] education and social work departments in the provision of services [...]. (1993: 36)

Yet as Bruce and Spencer describe:

> One finding which applied to all the four areas we studied was that relations between teachers and social workers left a lot to be desired. [...] At an administrative level we could find no evidence

of positive efforts to bridge the present chasm between education and social work. (1976: 86)

This latter finding is also reported in the Kearney Inquiry (1992: 476, 600). As Milne emphasises, it is not surprising then that any 'advances in liaison and cooperation between social work and education happen in piecemeal fashion [...]' (1984: 4). Despite such observations and similar comments by interviewees in this study, it must be noted that the assessment of the state of their liaison given by the majority of guidance teachers and social workers in this research sample was still adequate or more than adequate (tables 8.2, 8.5) - although from statements made by interviewees the frequency and form of this liaison was variable, often constituting impromptu telephone conversations and usually only when crises arise.

Truancy Cases

This lack of cooperation and mutual suspicion between education and social work seems to be exacerbated by the way in which truancy cases are dealt with in the hearings system. The overwhelming majority of the members of four groups in all three regions - all reporters, 70 per cent of police officers, 83 per cent of guidance teachers, and 83 per cent of panel members - supported the continuation of the role the hearings system plays in dealing with truancy cases, believing that in most instances truancy is only a symptom of greater problems and that a hearing is the best forum for discovering and tackling these. This is a perception acknowledged and accepted by the Child Care Law Review (1990: 29) and in the Government White Paper on Child Care in Scotland (1993: 36).

The social workers' group in the study however was much less certain about the problem of truancy remaining within the domain of the hearings system. Only 49 per cent supported the current position while 42 per cent rejected it and this split was evident across both Central and Dumfries and Galloway Regions. Most of those who gave a reason for truancy cases being removed from the hearings system's remit believed that schools should take greater responsibility for truancy issues and for finding their own solutions to this problem. Most of the social workers who were interviewed expressed frustration at being given the task of supervising children who truant with only the expectation of limited success when they saw this, for the most part, as an educational matter.

Those interviewees who supported the retention of the hearings system's role in truancy cases saw a hearing as a mechanism of mediation; a forum where the various groups and individuals involved with the child concerned can come together to discuss the issues - issues which, it was suggested, often go beyond the problem of truancy. All the teachers in this group also made the point that in many truancy cases trying to bring the child, parents and teachers together at the school is often impossible. The parents and child, they commented, can feel intimidated by the thought of coming to the school and facing teachers. As a panel member observed:

> On the single issue of school non-attendance quite often the parents won't go to the school to discuss matters but we can bring the teachers and parents together at a hearing. So even here the input, I feel, is quite positive. We can't force the child to go to school but we can hopefully create the atmosphere to discuss the situation and see if it can be resolved.
>
> Dumfries and Galloway Panel Member

The use of a hearing as a forum for bringing the teacher and parents together of course presupposes that teachers can and do attend hearings and although as table 5.5 illustrates this **may be** possible in Dumfries and Galloway or Central Region, at present in Glasgow South-West it is less likely.

A social worker from Central Region presented an argument against retaining all truancy cases within the remit of the hearings system - a view shared by all the social workers of this persuasion.

> I appreciate that in some cases of school non-attendance there may
> be deeper problems and a social work input is necessary here - yes
> - the hearings system has a role to play, but where it is really a
> problem between the school and the child, and quite often this can
> be the case, there is little **we** can do.

She claimed from experience that panels are reluctant to push for the prosecution of the parents in such cases so the child is put on supervision as no other alternative seems possible - a general predicament highlighted by Martin, Fox and Murray (1981) and Adler (1985). To overcome this perceived deficiency in hearings system practice the social worker elaborated further and determined the need for a more and varied educational input to this problem.

> I think education should take a greater responsibility for this - once
> it goes to a panel they seem to wash their hands of it. They need
> to be more responsive and flexible with children of this nature and
> have more specialist resources [...]. I have enough on my plate
> without cases that will not benefit from my input.
>   Central Region Social Worker

The shortage of specialist education resources was highlighted in chapter four. Some guidance teachers too expressed frustration with the way the hearings system handles truancy cases and with, as they saw it, social work inactivity. A guidance teacher from Central Region expressed a common criticism made by

these interviewees:

> On supervision - nothing happens and the child continues not to attend school. Social workers seem to forget about these cases and nothing is done. They don't contact us - we never hear from them -unless there's a crisis - and they don't make sure the child comes to school. It's the pupil that loses out. I think the hearings system should still be there to deal with chronic truants but it needs to approach these cases differently and take a tougher line in pushing for social work intervention.
>
> <div align="right">Central Region Guidance Teacher</div>

The opposing interpretations given in the latter two statements serve to highlight the differences in attitude and lack of understanding mentioned earlier that can still exist between social workers and teachers and at an institutional level between social work and education. As an earlier reporter mentioned and this is confirmed in the following observation by Bruce and Spencer:

> Scottish schools tend to be self-contained, introspective [...]. The social worker, by contrast, sees the child in the family and the family in the community; she sees nothing of the child at school. Thus it is scarcely surprising that [...] misunderstanding and ill-feeling results. (1976: 52-53)

Under such circumstances as Kahn (1967) stressed it is the child who suffers. Comments made in the Kearney Report (1992) on this matter perhaps present an insight into the different perspectives held by social work and education concerning the individual child that may account for their conflicting approaches to resourcing and the treatment of truancy - the Report states:

> The educationalist [...] has to, as do all professionals working with children, have regard to the needs of the individual child, but the educationalist must also have regard to the needs of the other children in the class or school and these needs may on some occasions conflict, or at least appear to conflict, with the needs of a particular individual child. The social worker, at whatever level, is particularly committed to working with the individual child and having regard [only] to his needs. (1992: 600)

<div align="center">328</div>

Some suggestions were offered by interviewees to assist in the communications between social work, education and the hearings system. A number of guidance teachers and panel members who have experienced social workers based in schools or having specific responsibility for a school or a number of schools, believed that this precipitated a breakdown of barriers between the two groups. Teachers and social workers, it was argued, thus became acquainted with each other and the work they did and so were more inclined to liaise with each other over matters related to the children in the school and their families.

Bruce and Spencer realised this need in their 1976 study and Milne (1984) more recently. As Bruce and Spencer stress when commenting on improving teacher/social worker relations:

> The gap cannot be efficiently bridged [...] unless social workers are seconded to schools and can gain the acceptance and trust of guidance teachers and other members of staff. (1976: 56)

These views are in accordance with those expressed by Milne (1984). She claims that given the fact that mistrust can be a major hindrance to effective cooperation between the two agencies, a school based or school assigned social worker would certainly be a constructive development in tackling and eroding suspicion and with the adoption of assigned social workers in particular the costs Milne suggests would be minimal. One guidance teacher recalled her experiences of assigned social workers from her last school:

> It's very helpful when you have a specific social worker connected with the school who you come to know and who knows the school

and the area well - it makes for much easier communications and contact. It also helps in identifying and acting upon problems earlier before things go too far.

<div align="right">Glasgow South-West Guidance Teacher</div>

More Information for Schools

As well as recommending school based or assigned social workers as a mechanism for inducing closer social work/education relations, Milne (1984) also indicated the need for more details on the outcome of hearings to be sent to schools as a matter of course. This she predicts would make schools feel more involved in the hearing process while also providing them with increased information which may be useful in their dealings with the children concerned and associated agencies. Drews (1972), in commenting specifically on the treatment of child abuse, concurs with Milne's assertions and writes:

> Any [treatment] program is meaningless if there is poor cooperation between the school and the agency to whom they are to report. (1972: 120)

More information for schools was endorsed by the majority of the interviewees (40 from 45) in this study. This provision, it was suggested, is required especially in instances where the teacher is unable to attend the hearing. The information given to schools could include an explanation of the disposal itself and the expected course of action and in cases of supervision, the name of the social worker concerned and a contact number. Both of which, it was considered, might allow for and encourage communications between the teachers concerned and the social worker on the progress of the case. At present schools only receive a slip indicating what the decision of a hearing is. They are not, as standard practice,

privy to the justification for such a decision or details about what the decision may mean for the child and family. A guidance teacher criticised this practice and in so doing expressed the feelings on this matter of all the guidance teacher interviewees.

> I think as professionals working with the child we are entitled to more information explaining what the decision will mean for the child and why it was arrived at.

Details of this nature may also, as Drews (1972) suggests, assist in reducing annoyance and frustration on the part of teachers especially in cases where, on the fact of it, the decisions seem controversial. As the guidance teacher above made clear:

> We have had replies back and sometimes we've been astounded by the panel's decision [...]. Now there are probably good reasons for the decisions taken but we don't know these and we may have recommended action in our report and you're left wondering, well, did they pay any attention to it?
>
> Central Region Guidance Teacher

Two further suggestions for enhancing group liaison within the hearings system were forthcoming from the questionnaire sample and from interviewees. They are also raised as significant issues in the Clyde Report (1992) and the Kearney Report (1992) both in terms of bringing agencies together and in assisting cooperative working.

Joint Training

The first of these is the development of joint training initiatives. Forty five per cent of the research sample of 264 respondents across the three regions who had

participated in joint training at some time, believed it to be the most useful liaison mechanism they had encountered and this viewpoint was echoed by those respondents who were interviewed. Table 8.6 below illustrates the distribution across the respondent groups.

Table 8.6

	Panel Members (n=116)		Reporters (n=10)		Social Workers (n=61)		Guidance Teachers (n=63)		Police Officers (n=14)	
	%	No	%	No	%	No	%	No	%	No
Participants in Joint Training	58.6	68	60	6	57.4	35	4.8	3	57.1	8

The poor response rate from guidance teachers demonstrates yet again the marginalisation and isolation of teachers - identified earlier (chapters four and five) and commented on by Milne (1984) - within the hearings system and the network of agencies that constitute it. Joint training was defined by the interviewees as anything from talks given by representatives from related agencies followed by relevant questioning to role play scenarios, visits to related establishments or discussion and group sessions.

The general desire amongst the interviewees for increased joint training can be illustrated under two headings - joint training as a means to an overall broadening of understanding amongst groups and secondly, as a method for reducing tension between groups. In emphasising a greater awareness by agencies of each others'

roles in the hearings system these feelings embody a general principle for expanding liaison determined by Challis et al (1988) in their optimistic tradition. As a social worker explained:

> I've been involved in joint training sessions with other groups like the police and I have found these to be very useful. They broaden the understanding and appreciation you have of the work done by others.

Joint training and the increased awareness it generates was also viewed, in a practical sense, as a mechanism for alleviating group tension and developing a cooperative approach to problems - a feature acknowledged and considered most recently in the Clyde Report (1992: paras 15.33-15.35, 19.15-19.20) and by Hallett and Birchall (1992: 316-17). The social worker above used her relationship with panel members to exemplify this outcome:

> I know that panel members are there to make decisions in the best interests of the child but sometimes they demand things we cannot realistically deliver and that can cause tensions between us - joint training might help prevent that sort of thing and encourage greater cooperation.
>
> Central Region Social Worker

All the panel members who were interviewed were keen to stress that they do have elements of joint training already in their training programmes. Various agencies - social work, police, education, educational psychology service, youth work, the Royal Scottish Society for the Protection of Cruelty to Children (RSSPCC) - it was stressed do participate in panel member training. This usually takes the form of talk and questioning sessions. All the panel members interviewed however, in line with their ideological scores, re-emphasised an earlier concern over panel independence (chapter seven) and the threat posed to it by too close an association with professional groups - as one panel member

stated:

> Any initiative in joint training or any liaison development for that
> matter would have to bear this in mind.
>
> <div align="right">Central Region Panel Member</div>

Although panel members shun any thought of themselves as professionals, in the sense of being highly trained for the task, this defensive position taken by these panel member interviewees does resemble the categories of 'professional defensiveness' and 'domain claim' described by Challis et al (1988) and considered restrictive to the process of liaison. As a panel member described:

> I support group liaison in principle - yes - people should
> communicate and know what the other is doing, but certainly for
> the sake of panel independence and integrity it would be foolish to
> extend this too much whichever direction it goes in or shape it
> takes. We could become too cosy with those professionals who are
> at hearings only to provide information and advise us.
>
> <div align="right">Glasgow South-West Panel Member</div>

This obvious concern exhibited by panel members for their independence and for their role in the decisions taken at hearings provides a further illustration of their ideological position - displayed by their mean ideological scores (chapter four) - in favour of the welfare/lay involvement ideal for juvenile justice. Panel members' adherence to this ideological perspective clearly places a natural limitation on their willingness to liaise too closely with professional groups.

This strong desire to remain an independent, scrutinising and decision-making body within hearings system operations (chapter seven) may not only militate against some liaison initiatives but may in fact generate conflict with professional groups as panel members, in fulfilling this role, demand cooperation between agencies in the professed aim of providing appropriate treatment. These

agencies, however, may have no natural inclination to cooperate or liaise as in the case of social work and education. This element of coercion is of course a feature of the power/resource dependency perspective on agency cooperation.

The majority of panel member interviewees, although cautious about their associations with professionals, nonetheless visualised a role for themselves in the training programmes devised for professional groups and considered this a vehicle for developing a knowledge and understanding amongst those agencies for the function of the panel member in the realm of child care.

It was also suggested by most of the guidance teachers who were interviewed that panel members should visit schools to witness the work being done with pupils particularly within guidance departments and a number of social workers proposed similar visits to their offices. All the panel member interviewees did state that they **have** visited residential establishments for children as an element of in-service training. Hallett and Stevenson emphasise though that any development in joint training can pose, 'formidable organisational problems' (1980: 107). Some of the interviewees in this study were also aware of practical restrictions to liaison and in particular joint training expansion and the predicted commitment this would entail:

> I've been involved with joint training with social workers and it's been interesting, but any sort of joint effort like this is time consuming and the more you have the more time is involved and while I think there is a need for more inter-group training in the hearings system, how much time do panel members and professionals realistically have to give to this? This is always the perpetual problem.
>
> Glasgow South-West Police Officer

To initiate joint training ventures and to tackle practical obstacles like time availability, some interviewees contemplated the establishment of inter-agency committees in areas which could meet, it was suggested, relatively infrequently with a remit to promote and organise joint training schemes on a more systematic basis.

Liaison Meetings

The other suggestion for improving communications in the hearings system was an expansion of the use of liaison meetings as a mechanism for bringing agencies together. Twenty five per cent of the research sample endorsed this as the most useful means of liaison in which they had participated. A number of interviewees elaborated on this choice. A social worker who had recently attended a liaison meeting between social workers and panel members outlined his experience of this and stressed the need for future development including more regular, structured meetings of a multi-agency nature.

> We had one evening meeting a few months ago where we were invited to meet panel members and discuss any issues. This was felt by my colleagues and myself to be quite useful and helpful, but it left many questions unanswered and raised other questions - and that's good in itself - but these meetings need to be on a regular basis and they're not - it's usually when someone thinks it would be a good idea [...]. They need to involve other agencies too [...] especially education, for it is the other group, like ourselves, that should have a major input to the hearings system and the hearings themselves.
>
> Dumfries and Galloway Social Worker

Another social worker emphasised the precarious state of liaison between groups within the hearings system and described her regret at its demise in her area:

> Liaison meetings with panel members fell by the board because of restrictions on social work time. I feel this is a pity, for even meeting one or two times a year gave an opportunity for issues to be raised and discussed and it was particularly useful when we had a set topic.
>
> Central Region Social Worker

The British Association of Social Workers (BASW) in the Kearney Report (1992), although aware of the shortage of time available for liaison purposes, strongly advocated liaison between the various partners in the hearings system by, 'regular, but not necessarily frequent, meetings at local and Headquarters level' (1992: 577).

The interviewees who had attended liaison meetings between different agencies indicated that the agenda for discussion therein was often wide and broad based; encompassing both matters of practical concern such as resources or hearings system procedures and of philosophical interest such as approaches to child abuse and the role of the hearings system in child care.

The fear of compromising panel independence in particular, if relations between panel members and other groups became too intimate and discussions like those above became too detailed and frequent, was raised in earlier quotations and was again a major concern for a number of participants including all thirteen panel member interviewees. As a panel member reiterated:

> While I have found liaison meetings quite useful - they have allowed views and difficulties to be aired by all concerned [...] - I don't think they need to be too frequent. Familiarity can have dangers too and we should always remember that we're independent of other agencies and their policies.
>
> Central Region Panel Member

This perception of liaison contrasts with that held by many of the social workers who were interviewed, who by comparison, envisaged any development in this area as a means of broadening panel members' understanding of the restrictions social workers face in fulfilling hearing outcomes. Such differences in perception can be traced back to the contrasting ideological positions adopted by the majorities in both the social worker sample and the panel member sample. The mean ideological scores for panel members in all three regions indicated support for a justice system based on welfare but involving lay people as the decision-makers. To become increasingly involved with professionals through joint training or liaison meetings may, it was argued by panel member interviewees, inhibit or taint that layness through the assimilation of professional ideals. In that sense for these panel members liaison development had to be limited and controlled. In contrast for the social worker interviewees and some members of the other professional groups, closer association with panel members through liaison mechanisms was seen to provide a path of influence to broaden panel member understanding of their roles and ways of working. This, it was argued by all professionals who supported closer liaison, would possibly facilitate a smoother, less contentious and more professional decision-making process - an expression in accordance with the ideological stance taken by three of the professional groups in this study (social workers, guidance teachers and police officers).

May (1977) believes that panel independence is already eroded by existing contact with professionals and by panel member training which he sees as being predominantly governed by social work ethos. Further training and liaison

338

initiatives involving social workers might only serve to perpetuate and intensify this situation, so much so as he puts it, 'Why not simply recruit social workers?' (1977: 215). The issue of panel member training and panel member independence is discussed more fully and comprehensively in chapter seven.

Hearings System Publicity

One final and perhaps more general proposal which might expand the knowledge and understanding of the hearings system and its practices throughout Scottish society is the adoption by the system of a publicity campaign. This suggestion was advocated in the Clyde and Kearney Reports (1992) and by Lockyer (1992) and raised with the respondents involved in this study. They were asked to state whether they believed more publicity was necessary for the hearings system and if so to rank a list of five possible options in order of importance. The need for more publicity was overwhelmingly accepted by the research sample with 27 from 30 police officers, 85 per cent of guidance teachers, 92 per cent of social workers, 12 from 13 reporters and 90 per cent of panel members endorsing it. As Bruce and Spencer observed in 1976 and the current desire by respondents for more publicity suggests the same applies today, 'the public at large have very little understanding of what the system sets out to achieve or of how it hopes to achieve it' (1976: 114).

Support for ways of achieving increased publicity varied. The most popular suggestion amongst those respondents who desired increased publicity for the

hearings system was a television advertising campaign highlighting the ideals and working practices of the hearings system - 30 per cent of the sample placed this as their first choice. Three other options were also popular and were ranked as most important by many respondents: newspaper advertising with the support of 26 per cent of the sample; public talks and presentations by hearings system officials with 19 per cent of the respondents; and a teaching pack for schools with 21 per cent of the sample ranking it as the most important vehicle for publicising the hearings system and its work. Those respondents who gave a reason for the teaching pack approach believed that this would not only educate the young on the system and its ideals but would also improve the understanding of the teachers - particularly guidance teachers - who would be teaching the material to their classes.

A few interviewees (ten from 45) further suggested that greater publicity for the hearings system might also assist endeavours in the area of panel member recruitment. A publicity campaign, it was argued, would not only make the public at large more aware of the system, but employers too might be made more sympathetic to possible requests by their employees to undertake the role of panel member and more ready to accept the demands this may make on their time. Lockyer (1992) indicated from his findings that 60 per cent of the panel members involved in his study were recruited through advertisements in local and national newspapers (1992: 145). For further discussions on panel member recruitment see chapter five.

Publicity could potentially come from the presence of the press at hearings. As the press have a legal right to be at hearings and to report the outcome, the context of the question concerning this subject, asked in the questionnaire, was not appropriate. It clearly implied the press did not have this right at present. Despite some of the respondents identifying this oversight in the question design and consequently regarding the question as non-applicable, 80 per cent of the research sample across all groups nonetheless overwhelmingly stated they did not believe the press should have the absolute right to attend hearings. The majority of this group emphasised that discretion on this matter should rest with the panel chairperson. The moral right of a family to a hearing which is private and which involves as few people as possible, it was stressed, has in some cases to be balanced with the moral right of the public to know the outcome of hearing proceedings. The decision on this balance and where the interests lie in each case must, it was felt by many of these respondents, be that of the panel and particularly the panel chairperson. This was a feeling registered also in the findings of the Clyde Report (1992) - the authors state:

> A number of witnesses expressed reservation about the Press attending Children's Hearings and went so far as to suggest that the hearing should have the power to exclude the Press in particular circumstances. (1992: para 18.35)

Summary

The perceptions of the respondents on the state of inter-agency liaison within the

hearings system in their areas (tables 8.1 to 8.5) present an impression of a variable and at times unsatisfactory situation.

Furthermore, as all the interviewees during the interview sessions expressed the importance, in their view, of group liaison to the system, an improvement in this area of hearings system operations is perhaps desirable. With some exceptions it is the relationships between the four groups - panel members, social workers, guidance teachers and police officers - that require the closest attention. Interviewees who have experienced group liaison did elaborate on the advantages emerging from this. They emphasised the opportunities this provided for sharing information and views and for developing a realistic understanding of the work carried out by other agencies and of the role they play in the hearings system. This closer understanding, it was claimed, may in turn reduce possible tensions that can arise between groups at hearings. At present, as May concludes:

> By failing to explore beyond their shared rhetoric, panel members, social workers and others have [...] the quite erroneous belief that they also share a set of clearly defined objectives and a common conception of the system which they operate. (1977: 210)

Closer group liaison, most interviewees suggested, may allow a greater sharing of reality as well as rhetoric and may promote a shared understanding of what the hearings system is about.

Chapter Nine : Conclusions

Within the preceding analysis chapters an attempt has been made to present the perceptions of members of five participating groups on the operations of the hearings system in their areas, and to do so within the context of their groups' identified and predominant ideological stances. Many observations and comments have been made that present wide ranging possibilities for hearings system development in future years: this final and brief chapter is designed to provide an overview of these observations. Its aim is to highlight and converge the main concepts that have arisen in the study and to consider these as they relate to hearings system functions and practices.

Two aspects that provided the initial focus for the research were firstly, the concept of ideological affiliation and the influence this may have on practical perceptions and secondly, professionalisation and the part this may play in formalising ideological perspectives and in influencing opinions. The overriding aspect was the effect these two concerns may have on attitudes to operations within the hearings system.

Ideological Perspectives

The first aspect to be addressed by the research was the participating groups' ideological perspectives concerning juvenile justice. To assess this, ideological distinctions similar to those identified by Smith (1977) and Parsloe (1978) were

utilised and the participants asked to respond to ideological statements constructed around these.

From this procedure it became evident that variations in prevailing ideological stances did exist within the five participating groups in the study. The majority of panel members and reporters across the three regions recorded mean ideological scores which clearly favoured a welfare based juvenile justice system and one that involved lay people as the decision-makers and prescribers of treatment. This position proved to be in contrast with the majority of members in the other three groups (guidance teachers, social workers and police officers) who, while also preferring a justice system based on welfare principles, believed the decisions taken within such a system should be made by suitably qualified professionals.

A question arose from this discovery however - can these ideological differences prevalent with respect to juvenile justice be identified within attitudes specific to the hearings system?

In addressing this question some doubt began to emerge about the validity of the initial ideological positions assumed by some of the participating groups. Majorities within the three professional groups appeared to switch from their preferred ideological stance on juvenile justice supporting the welfare/professional ideal to endorsing the welfare/lay involvement model when commenting on future hearings system operations. On closer examination during interview however of

their reasons for such an ideological contradiction and after scrutinising their views on lay panel operations, an explanation consistent with their initial ideological stance was forthcoming. Using Smith's (1977) concept of 'situated accounts', it would appear that the majority of respondents from these groups were prepared to modify their underlying ideological position to take account of the inclusion of lay people in hearings system operations. Furthermore, to reinforce the notion that the initial ideological assessment of these professional groups still held, the desire expressed by interviewees from these agencies for greater professional input to panels, increased training for panel members and in some instances the complete replacement of lay panel members by professionals, clearly demonstrated a disposition towards increased professionalism within this area of hearings system operations. It is also worthy of note that substantial numbers of social workers, police officers and guidance teachers displayed no ideological contradiction between their welfare/professional attitudes to juvenile justice organisation and those for the future structure of the hearings system.

The ideological persuasions of the majority of panel members and reporters in favour of the welfare/lay involvement ideal also remained consistent between their perceptions on juvenile justice and their views on hearings system operations. Although a majority within the reporters' group were prepared to advocate increased general training for panel members, this concept was advanced only on the premise that with the growing number of care and protection cases appearing within the hearings system, panel members required improved instruction. For the majority of reporters there was no expressed intention or

desire in this action to professionalise panel operations by transforming lay panels into professional or even pseudo-professional bodies.

The intention behind most reporters' advocacy of increased panel member training may be different from that for the majority of police officers, guidance teachers and social workers, but for many panel member interviewees the result was the same - semi-professionalisation. As a panel member exclaimed:

> The danger of increased training is you take on the trappings of a professional - what you're taught begins to override what you think [...] that would destroy for me the idea of a truly lay panel.
>
> Central Region Panel Member

Frames of Relevance

To reiterate briefly, Asquith (1983) suggests that groups' or agencies' ideological and philosophical perspectives and the more tangible attitudes that emanate from these are the products of what he terms 'frames of relevance'. In the case of a profession the frame of relevance constitutes the stock of knowledge and the expertise and training that is associated with it, and it is these characteristics upon which the professional relies when making decisions and formalising ideas. For the lay person in a position of authority, such as a panel member, it is the stock of public knowledge (Schutz, 1970) - the knowledge necessary to make sense of every day life - that provides the framework for attitudes and decisions.

If it is accepted that professional frames of relevance depend upon professional knowledge and the training undertaken then it may be assumed, as Asquith (1983)

suggests, that each profession will have a unique frame of relevance and so an individual perception of the world.

The results obtained from this research concerning juvenile justice ideology were not designed to test this hypothesis as the respondents from the five agencies were only given three ideological perspectives from which to choose their preferred stance. The results obtained did however signify a difference in perspective between the professional groups trained and working in wider spheres than juvenile justice - education, social work, police operations - and those more specifically associated with and instructed in the practices of the hearings system. Members of the professional groups - social workers, police officers, guidance teachers - frequently referred throughout the research to the importance of expertise and specific knowledge in the handling of children's problems and in child care generally and the majority held reservations concerning a lay person's capability to make decisions relating to children without such expertise. This attitude is clearly evident in the predominant ideological stance of these three professional groups and in attitudes towards panel composition. The more precise training of reporters and panel members in hearings system ideals and practices, which includes an emphasis on the role of lay panel members and the significance of this to hearings system operations, is also evident in their ideological positions predominantly supporting the welfare/lay involvement model for both juvenile justice and the hearings system.

It was noted however that although no official specifications exist at present for

the qualifications needed to become a reporter to the children's panel - the prescription of basic qualifications for reporters is proposed in the Government's White Paper on Child Care in Scotland (1993: 33) - many reporters do originate from legal and social work backgrounds (Wilding, 1982; Finlayson, 1992) and these professional influences may be seen to be manifest in some reporters' difficulties in identifying a predominant ideological stance. A number of Central Region reporters, for example, appeared to experience some difficulty in choosing between the welfare/lay involvement ideal and the welfare/professional ideal in their deliberations on juvenile justice. The influence also of the unique role of a reporter to the children's panel, both as administrator of the system and as initial assessor of a child's need for care, and the overview of the hearings system this provides, appears evident in attitudes to certain proposals for hearings system development. The awareness this role generates of all aspects of hearings system operations, it was argued by reporters, makes for a cautious approach to extending the remit of panels or of the hearings system generally or altering hearings system procedures.

A similar scenario to that for reporters exists around police officer attitudes. Although all police officers in the sample used in this study had knowledge and experience of the hearings system and its operations, and although a number worked in special child care units and so were exposed to child care practices to a greater degree, and although these experiences were evident in their overall ideological stance in favour of a welfare system of justice, it is possible to identify some reactions and attitudes to hearings system operations that perhaps relate

more to police officers' initial criminal justice background. This was particularly apparent in the inclination by a majority in the police officers' sample to fine parents for their child's misbehaviour and to confine perpetual offenders in secure residential establishments.

Situated Accounts

The support given by members of the participating groups throughout the research to certain developments that may appear at first glance to be contrary to their identified ideological stance may perhaps again be explained using Smith's (1977) mechanism of situated accounts. It would appear that in those instances participants considered primarily the practical implication of the proposal on the basis of its impact for the effective execution, as they saw it, of hearings system practice. Under these circumstances respondents were prepared if so required to adjust their operational philosophies to suit a favoured proposal.

It is also worthy of note that the composition of the three main clusters formed within the questionnaire sample and used for selection of interviewees displayed a variation in ideological allegiance prevalent within groups as well as between groups. This is a factor noted by Smith (1977) in his study of social workers' ideologies and one that too helps account for the support amongst certain respondents in this research for initiatives that seem contrary to their groups' mean ideological stance.

The emphasis on expertise in handling children and their problems by social workers, guidance teachers and police officers in particular, may also be a product of professionalisation - the belief that only through training and the accumulation of knowledge should individuals be responsible for prescribing care and treatment. This 'expert model' (Cunningham and Davis, 1985) poses a dilemma and contradiction for hearings system operations, as within the hearings system it is lay panel members not professionals who exercise the power of decision-making. It is they who decide on the information they desire from the professionals present at a hearing and it is they, using their lay frames of relevance, who choose the course of treatment and the disposal to be applied. In so doing they undermine two key principles of professionalism (Johnson, 1972) - the right of the professional to define and be seen to be defining the parameters within which treatment is decided and the element of mystique that perpetuates around the processes wherein professional decisions are made. The lay panel members can request that the professionals define precisely the concepts and motives behind the treatment recommended and can thereafter reject the professional assessment of a case given by any relevant professional at a hearing. This process of demystification, forced professional justification and possible rejection of professional judgement can be one that is difficult for professionals to accept and the at times evident exposure of professionals before their clients can cause tension and confrontation within hearings. This less cordial aspect of hearing operations was recognised and admitted by professionals, particularly social

workers, and panel members in the three regions in this study and it is one articulated by May (1977) and acknowledged in the Kearney Report (1992) and in the comments of panel members in the research conducted by Lockyer (1992).

Panel members in this research, as in Lockyer (1992), in identifying and accepting this professional/lay dichotomy within hearings system operations were also conscious of preserving their independent role within the hearings system - an attitude consistent with their mean ideological scores. This was most obviously exhibited in the consideration of group liaison within hearings system operations.

Although panel members, like the majority in all the participating groups in the study, acknowledged that inter-agency liaison is beneficial to a social and caring entity like the hearings system which relies upon multi-agency participation, most did not wish to, as they saw it, endanger their independence as a decision-making body through increased contact with or exposure to professionals and their associated professional ethos. For this reason any development of inter-agency liaison, for most panel members, had to be limited, despite the potential and recognised benefits of broadened group understanding and improved group relations.

The wariness by panel members of professional contamination also applied to any widespread development of panel member training. This was viewed with much suspicion by most panel member interviewees in the study who saw it as a means of quasi-professionalising panels. A majority of all other interviewees in the

research favoured varying degrees of increased panel member training on the assumption that this would improve panel members' understanding of cases especially those involving child care provision.

Operations

The advocacy of the majority of members in all five groups in the study for a juvenile system based on the principles of welfare and not those of criminal justice was apparent in the proposals that were endorsed for hearings system development and for the promotion of hearings system operations. These included: the acceptance of the need for more and varied resources particularly those incorporating aspects of treatment and community care; the need for continued panel member recruitment across the spectrum of society and increased panel member continuity within cases where possible; the access by panel members to all reports on a case - although this was unanimously rejected by reporters; and the desire to have relevant professionals attend hearings on a consistent basis - especially so with respect to guidance teachers.

Professional rivalry, the protection of professional domains and divergent philosophies concerning child care were all suggested as contributing factors to the variable relations between education and social work - a predicament which does have relevance for hearings system operations. As education officials are considered to view the hearings system as primarily an organ of social work (Milne, 1984), their commitment to it and to teacher attendance at hearings can

be limited: an impression endorsed by all guidance teacher interviewees in this study. The aforesaid factors were also identified by Challis et al (1988) as primary inhibitors in the pursuit of closer cooperation between groups and this may account for the piecemeal nature of liaison between social workers and teachers suggested in this and other studies (Milne, 1984; Kearney, 1992).

Other initiatives which relate to the provision of a welfare system of justice for children and which were endorsed by substantial numbers of respondents and/or interviewees in the study included: more and clearer information for families on proceedings before and after hearings; allowing children the right to speak to panel members without the presence of their parents; an increased use and greater provision of safeguarders within the hearings system; the provision of child advocates or representatives to help present the child's view at a hearing; encouragement for parents and children to submit their own reports to panels and to have access to background reports or information; the power for panels to set review dates for supervision orders and to review cases where a child on supervision is to leave Scotland; a greater role for the hearings system in cases involving children embroiled in severe family difficulties including matters of access and child custody; and the ability for panels to consider and stipulate access conditions on place of safety orders - an aspect of child care spotlighted by the Clyde Report (1992).

All these issues and proposals above were considered in the context of extending the rights of the child and on occasions the parents within the realm of hearings

system practice. These rights can be the legal rights to review or appeal or the legal and moral rights to express individual opinions and to participate in the decision-making process and influence the final disposal at a hearing. Only within the panel members' group did a majority endorse all the aforementioned initiatives although substantial support and in many instances majority support for most of these issues was forthcoming from the other agencies.

Geographical Variation

It is interesting to note that despite the care taken in the selection of the geographical areas used in the study and designed to present a variation in environments that may be encountered by the hearings system in Scotland, this aspect appeared to influence and distinguish opinions and attitudes only variably and for the most part on an individual group basis. It rarely distinguished one region from the others across all or some of the participant groups. Geographical influence was most identifiable across groups however, in relation to agency liaison and in the closer existing liaison patterns, indicated by the survey sample, between groups - guidance teachers, panel members and police officers especially - in Dumfries and Galloway compared with those existing between the same agencies in Central Region and Glasgow South-West.

Summary

The historical development in juvenile justice in Britain since the nineteenth

century has been marked by the rise of the concept of welfare as an influencing ideology. In the case of Scotland the eventual dominance of this principle manifested itself with the emergence of the hearings system - a justice system overtly structured and organised on welfare ideals.

The commitment by the research sample, displayed both ideologically in their mean scores and empirically in the support expressed for changes to hearings system practice, to this principle of welfare is reassuring to those who wish the survival of the hearings system and its philosophy.

The co-existence of professionals and lay people within the system with the ultimate power of decision-making in the hands of lay panel members, however, as previous commentators (May, 1977; Martin, Fox and Murray, 1981; Kearney, 1992) and this research illustrate, continues to be an area of contention within hearings system operations; more so with the increasing number of care and protection cases being handled by the hearings system (Clyde, 1992; Finlayson, 1992) and the perception held by some that lay people, by lacking specific and detailed training, are not equipped in such cases to assume the decision-making role. The ideological divergence demonstrated in this study between the professionals (guidance teachers, social workers and police officers) and panel members in particular on this issue and their contradictory attitudes to the development of this area of hearings system operations, is the aspect more than any other within which internal difficulties for the hearings system in the future may lie.

Appendix One

Questionnaire

1. What is your role in the Hearings System?
   Please tick <u>one</u> of the following:

   Panel Member ☐

   Reporter ☐

   Social Worker ☐

   Guidance Teacher ☐

   Police Officer ☐

2. How many years have you had this role?
   Please tick <u>one</u> of the following:

   0-5 years ☐

   6-10 ☐

   11-15 ☐

   16-20 ☐

3. Are you: Male ☐

   Female ☐

4. How old are you?
   Please tick <u>one</u> of the following:

   18-24 years ☐

   25-34 ☐

   35-44 ☐

   45-54 ☐

   55-64 ☐

   65 and over ☐

5. Which Children's Panel area do you serve?
   Please indicate next to the appropriate heading

   Region: _____

   District: _____

   Local Division (e.g. Social Work Team, School, Police Division, Panel
   Area, Reporters' Area Office):

   _____

PANEL MEMBERS: KNOWLEDGE OF THE HEARINGS SYSTEM

6. Please <u>describe fully</u> the job you have outside the
   Hearings System.

   _____

   _____

   _____

   _____

7. How much knowledge would you say you have of the Hearings
   System?
   Please tick <u>one</u> of the following:

   considerable knowledge ☐

   good knowledge ☐

   some knowledge ☐

   little knowledge ☐

   no knowledge at all ☐

8a. In an average month how many individual Hearings do you attend?
    Please tick <u>one</u> of the following:

    less than 2 ☐

    2-4 ☐

    5-10 ☐

    11-20 ☐

    more than 20 ☐

8b. Please tick <u>one</u> of the following.
    In general do you attend Hearings:

    during daytime ☐

    during evening ☐

    roughly equal proportion
    day and evening hearings ☐

SOCIAL WORKERS AND REPORTERS: KNOWLEDGE OF THE HEARINGS SYSTEM

6. How much knowledge would you say you have of the Hearings System?
Please tick <u>one</u> of the following:

considerable knowledge	☐
good knowledge	☐
some knowledge	☐
little knowledge	☐
no knowledge at all	☐

7. In an average month how many individual Hearings do you attend?
Please tick <u>one</u> of the following:

none (move to Q.9)	☐
less than 2	☐
2-4	☐
5-10	☐
11-20	☐
more than 20	☐

8. Please tick <u>one</u> of the following.
In general do you attend Hearings:

during daytime	☐
during evening	☐
roughly equal proportion day and evening hearings	☐

POLICE OFFICERS: KNOWLEDGE OF THE HEARINGS SYSTEM

6. How much knowledge would you say you have of the Hearings System?
Please tick <u>one</u> of the following:

considerable knowledge	☐
good knowledge	☐
some knowledge	☐
little knowledge	☐
no knowledge at all	☐

7. To what extent do you participate in Hearings System operations? Please tick <u>YES</u> or <u>NO</u> for <u>each</u> option

Complete for the Reporters' Office reports for cases involving the police   YES ☐   NO ☐

Give warnings to children on the instructions of the Reporter   YES ☐   NO ☐

Participate in training programmes for panel members   YES ☐   NO ☐

Liaise with other groups working within the Hearings System:

Guidance Teachers	YES	☐	NO	☐
Social Workers	YES	☐	NO	☐
Panel Members	YES	☐	NO	☐

Other (please specify)

_____

_____

_____

8a. Would you like your relationship with the Hearings System to change?
Please tick <u>one</u> of the following:

<u>Greater</u> input	☐
<u>Less</u> input (Go to Q.9)	☐
As it is at present (Go to Q.9)	☐
D.K. (Go to Q.9)	☐

8b. If <u>you wish greater input</u> what form would you like this to take?
Please tick <u>YES</u> or <u>NO</u> for <u>each</u> option.

To be present at <u>all</u> Hearings of cases involving the police   YES ☐   NO ☐

To be present at <u>some</u> Hearings of cases involving the police   YES ☐   NO ☐

To have the right to be present throughout an entire Hearing   YES ☐   NO ☐

To be present only for the discussion of the police report   YES ☐   NO ☐

To participate in training programmes for panel members   YES ☐   NO ☐

To liaise with other groups working within the Hearings System:

Guidance Teachers	YES ☐	NO ☐
Social Workers	YES ☐	NO ☐
Panel Members	YES ☐	NO ☐

Other forms of input (please specify)

_____

_____

_____

6. How much knowledge would you say you have of the Hearings System?
    Please tick <u>one</u> of the following:

    considerable knowledge ☐

    good knowledge ☐

    some knowledge ☐

    little knowledge ☐

    no knowledge at all ☐

7a. In an average month how many Hearings do you attend?
     Please tick <u>one</u> of the following:

     none (move to Q.7c) ☐

     less than 2 ☐

     2-4 ☐

     5-10 ☐

     11-20 ☐

     more than 20 ☐

7b. In general do you attend Hearings:
     Please tick <u>one</u> of the following.

     during daytime ☐

     during evening ☐

     roughly equal proportion
     day and evening hearings ☐

7c. Do any specific factors limit your attendance at
     Hearings? Please tick as appropriate

     YES ☐

     NO (Go to Q.7d) ☐

     If <u>YES</u> do any of the factors below limit your
     attendance at Hearings? Please tick <u>YES</u> or
     <u>NO</u> for each factor.

Insufficient advance notice of a Hearing   YES ☐ NO ☐

A feeling that my presence at Hearings is   YES ☐ NO ☐
not valued

Few requests to attend Hearings from the   YES ☐ NO ☐
Reporters' Office

Difficulty over school timetabling, class   YES ☐ NO ☐
cover and obtaining time out of school

Other factors (please specify)

_____

_____

_____

7d. Do you think guidance teachers should be present.
     Please tick one of the following:

     At all Hearings where a school report has been submitted   ☐

     At most Hearings where a school report has been submitted   ☐

     At some Hearings where a school report has been submitted   ☐

     Only where the presence of the guidance teacher can add   ☐
     to the information already available on the child

     It is not necessary for guidance teachers to be present   ☐
     at all

     Don't know   ☐

8a. Do you think guidance teachers should have the right
     to be present throughout a Hearing:
     Please tick one of the following:

                    On all occasions   ☐

                    On most occasions   ☐

                    On some occasions   ☐

                    Only when specifically required   ☐

                    Not at all   ☐

                    Don't know   ☐

8b. For those guidance teachers <u>who have attended</u> a Hearing, have you been present throughout the <u>entire</u> Hearing?

Please tick as appropriate   YES   ☐

                                       NO   ☐

                                Sometimes   ☐

9. Please indicate your feelings about _each of_ the following statements. Please tick as appropriate

		Strongly agree	Agree	Uncertain	Disagree	Strongly disagree
A.	A child who breaks a law should receive a punishment appropriate to the offence.	☐	☐	☐	☐	☐
B.	The needs of a child who commits an offence and a child needing care and protection require the same treatment.	☐	☐	☐	☐	☐
C.	The treatment of children, whether they have committed offences or are otherwise in need of care should be determined by professionals.	☐	☐	☐	☐	☐
D.	Two children who commit the same offence should receive the same disposal regardless of circumstance.	☐	☐	☐	☐	☐
E.	The participation of lay people in decisions relating to children is important as a check on professionals.	☐	☐	☐	☐	☐
F.	Children in need of care and protection and children who commit offences should not be handled within the same system.	☐	☐	☐	☐	☐
G.	Lay people with a special knowledge of the local community are best placed to make decisions on children's problems.	☐	☐	☐	☐	☐
H.	The recommendations made by professionals should be the main guide in reaching a disposal at a Hearing.	☐	☐	☐	☐	☐
I.	A sanction appropriate to the offence will deter other children from breaking the law.	☐	☐	☐	☐	☐
J.	The treatment of children, whether they have committed offences or are otherwise in need of care, should be determined by lay people.	☐	☐	☐	☐	☐
K.	Professionals qualified in child care are the most suitable people to make decisions on treatment of children with problems.	☐	☐	☐	☐	☐

VIEWS ON THE HEARINGS SYSTEM

10a. In your view which of the following statements best describes how the Hearings System currently operates in your area? Please tick one of the following.

A. A system of law enforcement that applies to children. ☐

B. A system that ensures that professionals decide on the treatment for children. ☐

C. A system that ensures lay involvement in dealing with children's problems. ☐

10b. Which of the above A, B or C best describes how you think the Hearings System should operate? ☐

Please enter one choice only.

ROLES PLAYED BY PARTICIPANTS IN THE HEARINGS SYSTEM

In the next _five_ questions you will be given possible descriptions of jobs done by different groups in the Hearings System. Please <u>RANK</u> the <u>4</u> job descriptions given for <u>each participant group</u>, placing **1** next to the job you feel is <u>most important</u>, **2** next to the <u>second most important</u> and so on.

11. **SOCIAL WORKERS**

(a) To look after the interests of the child throughout the Hearing process. ☐

(b) To look after the interests of the family as a whole of which the child forms only a part. ☐

(c) To provide background reports on the child and family. ☐

(d) To recommend the appropriate decisions panel members should take concerning each case. ☐

12. **GUIDANCE TEACHERS**

(a) To provide information on a child's school background <u>at a Hearing</u>. ☐

(b) To represent the interests of the child during the Hearing process in terms of appropriate education provision. ☐

(c) To represent the interests of the school and the teachers who have to deal with the child concerned. ☐

(d) To complete educational background reports for the Hearings System. ☐

13. POLICE OFFICERS

(a) To apprehend juvenile offenders and where appropriate to refer them to the Reporter. ☐

(b) To provide formal and informal warnings to young people. ☐

(c) To provide reports to the Reporter when required. ☐

(d) To participate in child protection investigations as required by the Reporter. ☐

14. REPORTERS

(a) To deal with the administration of the Hearings System. ☐

(b) To act as initial assessor of the needs of each case and to refer accordingly. ☐

(c) To act as legal adviser to panel members during the course of a Hearing. ☐

(d) To select the relevant background information for panel members to aid their understanding of a case prior to a Hearing. ☐

15. PANEL MEMBERS

(a) To make a decision having had a full discussion with the family. ☐

(b) To be guided in the decision-making process by professionals who know the child and family concerned and are well placed to make recommendations. ☐

(c) To act as a check on the recommendations made by social workers and other professionals concerning children. ☐

(d) To act as lay representatives of the community whose special knowledge of that community is essential in dealing with young people and the problems they encounter. ☐

16a. Do you think that the roles of the following in the Hearings System should be changed? Please tick the appropriate boxes.

	Extended	Reduced	Neither	D.K.
Social Workers	☐	☐	☐	☐
Guidance Teachers	☐	☐	☐	☐
Police Officers	☐	☐	☐	☐
Reporters	☐	☐	☐	☐
Panel Members	☐	☐	☐	☐

16b. If you wish to see changes could you please specify below what they might be.

_____

_____

_____

_____

RESOURCES

17. In your opinion do any of the following limit Hearings
     System operations in your area? Please tick <u>YES</u> <u>NO</u> or
     <u>DON'T KNOW</u> for each option.

     Lack of Regional <u>Social Work</u> resources:-   YES   NO   D.K.

          Social Workers for supervision orders   ☐   ☐   ☐
          Intermediate Treatment facilities   ☐   ☐   ☐
          Residential Assessment facilities   ☐   ☐   ☐
          Children's Homes   ☐   ☐   ☐
          Community Carers/Foster Parents   ☐   ☐   ☐
          Residential Schools   ☐   ☐   ☐
          Specialist Day Units   ☐   ☐   ☐
          Psychological Services   ☐   ☐   ☐
          Other resources (please specify)

     _____

     _____

     A lack of control over the placement of
     children in local authority <u>education</u>
     establishments.   ☐   ☐   ☐

     Poor cooperation between the local
     authority and other Regions over the
     sharing of resources.   ☐   ☐   ☐

     Poor cooperation over care facilities between
     your local authority and voluntary social work
     agencies e.g. Church of Scotland, Aberlour
     Trust.   ☐   ☐   ☐

     Poor communication and liaison between
     participant groups within the Hearings System. ☐   ☐   ☐

     A lack of time on the part of social workers. ☐   ☐   ☐

     Other options (please specify)

     _____

     _____

18a. How would you rate liaison between your group and the other groups mentioned below in relation to the Hearings System in your area. Please tick accordingly:

	Very Good	Good	Adequate	Poor	Very Poor	Non-Existent	DK
Panel members	☐	☐	☐	☐	☐	☐	☐
Social workers	☐	☐	☐	☐	☐	☐	☐
Police officers	☐	☐	☐	☐	☐	☐	☐
Guidance teachers	☐	☐	☐	☐	☐	☐	☐
Reporters	☐	☐	☐	☐	☐	☐	☐

18b. Please indicate below the MOST USEFUL and LEAST USEFUL liaison mechanism (e.g. liaison committees, joint training, information sessions etc) that you have encountered in connection with the Hearings System and which GROUPS they involve.

MOST USEFUL: _____

_____

_____

LEAST USEFUL: _____

_____

_____

DISCUSSION AND DECISION-MAKING AT A HEARING

19. From your experience how often would you say informal discussion with a family at a Hearing is achieved?
Please tick <u>one</u> of the following:

        At All Hearings   ☐

        At Most Hearings   ☐

        At Some Hearings   ☐

        At Few Hearings   ☐

        Never achieved   ☐

        D.K.   ☐

20a. In your opinion could the promotion of informal discussion be enhanced? Please tick as appropriate:

        YES   ☐

        NO (Go to Q.21)   ☐

        D.K. (Go to Q.21)   ☐

20b. If <u>YES</u> how could this be initiated? Please tick <u>YES</u> or <u>NO</u> for each of the following options.

	YES	NO
More panel member recruitment from across the social spectrum.	☐	☐
More appropriate panel member training.	☐	☐
Letting families read background reports before a Hearing.	☐	☐
Greater encouragement to bring a friend of the family to a Hearing.	☐	☐
The presentation to panel members prior to a Hearing of <u>ALL</u> reports related to a case.	☐	☐
Permit Hearings to speak to children in the absence of a parent/s	☐	☐

Greater participation of the relevant professionals at Hearings:-

	YES	NO
Guidance Teachers	☐	☐
Educational Psychologists	☐	☐
Police Officers	☐	☐
Social Workers	☐	☐
Intermediate Treatment Officers	☐	☐
Others (please specify)		

_____

Other options (please specify)

_____

_____

EXTENDING THE HEARINGS SYSTEM

21. In your opinion should the REMIT of the Hearings System be changed to deal with the following areas? Please tick YES, NO or DON'T KNOW for each area.

	YES	NO	D.K.
(a) Applications for adoption relating to children under supervision.	☐	☐	☐
(b) Child custody in family breakdowns.	☐	☐	☐
(c) Access to children in cases of parental separation.	☐	☐	☐
(d) Applications for parental rights by the local authority relating to children under supervision.	☐	☐	☐
(e) The treatment of the family as a whole - the right to take decisions relating to parents as well as children.	☐	☐	☐
(f) All children up to the age of 18.	☐	☐	☐
(g) The power to apply financial penalties to children.	☐	☐	☐

(h) The power to compel a child to undertake community service. ☐ ☐ ☐

(i) The power to apply financial penalties to parents. ☐ ☐ ☐

Other areas (please specify)

_____

_____

THE RIGHTS OF PARENTS AND CHILDREN

22a. How well, in your opinion, are the rights of
(a) parents, (b) children protected within
the Hearings System?

	Very Well	Well	Adequately	Poorly	Very Poorly	DK
Parents	☐	☐	☐	☐	☐	☐
Children	☐	☐	☐	☐	☐	☐

22b. In your opinion should the use of safeguarders
within the Hearings System in your area be:
Please tick as appropriate.

Extended

Reduced

Remain the same

D.K.

☐
☐
☐
☐

22c. In your opinion should the Hearings System adopt any of the following? Please tick <u>YES</u>, <u>NO</u> or <u>DON'T KNOW</u> for each item.

	Yes	No	D.K.
(a) The power to determine the review dates of supervision requirements.	☐	☐	☐
(b) The power to exclude parents from part/s of a Hearing in order to hear the child's view.	☐	☐	☐
(c) The power to consider and attach access conditions to place of safety orders.	☐	☐	☐
(d) The availability of legal aid to allow parents and children to have legal representation at Hearings.	☐	☐	☐
(e) Notification and review procedures in any case where a child under a supervision order is to be removed from Scotland.	☐	☐	☐
(f) The right for the press to be present at all Hearings.	☐	☐	☐

Other areas (please specify)

_____

_____

_____

23a. Is it appropriate, in your opinion, for the Hearings System to continue handling cases involving truancy from school?   YES

NO

D.K. (move to Q24)

☐
☐
☐
☐

23b. Please give reasons for your reply.

_____

_____

_____

_____

PUBLIC AWARENESS OF THE HEARINGS SYSTEM

24a. Should there be more or less public information
about the Hearings System throughout your area?

More ☐

Less (Go to Q.25) ☐

As it is at present (Go to Q.25) ☐

D.K. (Go to Q.25) ☐

24b. If <u>MORE</u> how could this be achieved?
Please tick <u>YES</u> or <u>NO</u> for each of the following
options <u>and</u> for those you have indicated <u>YES</u>
please <u>RANK</u> in order of importance e.g.
1 = most important etc.

	YES	RANK	NO
(a) Newspaper advertisements	☐	☐	☐
(b) Television advertisements	☐	☐	☐
(c) Public talks/presentations	☐	☐	☐
(d) Leaflet distribution	☐	☐	☐
(e) Teaching pack for schools	☐	☐	☐

Other means (please specify)

_____

_____

25. Please indicate here any further comments you may have concerning issues or
areas related to the Hearings System.

26. This questionnaire constitutes the first stage of my study into the Children's Hearings System. The second stage involves individual interviews with a much smaller sample of respondents. It would be greatly appreciated if you could assist me in the selection of participants for this second phase by listing your name and address in the appropriate section below.

Name: _____

Address: _____

_____

_____

THANK YOU VERY MUCH FOR YOUR COOPERATION.

Appendix Two

Interview Schedule - Panel Members, Social Workers, Reporters

A. Decision-making (i) in hearings: - description of hearing process
- important aspects of process
- success of hearing process - rhetoric or reality?
- need improving?
- ways of achieving improvement.

(ii) within hearings system:
- need improving?
- ways of achieving improvement.

B. Present role within the hearings system.

C. Extending Role?
(role of other groups; need for development?)

D. Rights (parent/child)   (i)   present position
(ii)   development of rights?
(iii)   achievement of development.

E. Group Liaison   (i)   present position
(ii)   need for liaison and group communications?
(iii)   need for liaison development?
(iv)   liaison and communications mechanisms.

F. Lay Aspect   (i)   lay definition
(ii)   appropriateness of lay panel?
(iii)   panel member training?
(iv)   advantages/disadvantages of lay panel?
(v)   changes to panel make up?

G. Ideology   (i)   hearings system ideology definition
(ii)   fulfilment of ideology?
(iii)   appropriateness of ideology?
(iv)   elaboration of possible hindrances to ideology fulfilment and expansion on beliefs on appropriateness of ideology.

H. Hearings System Remit   (i)   possible changes?
(ii)   justification for changes in relation to ideology and practicality.

Appendix Three

Interview Schedule - Guidance Teachers, Police Officers

A. Present role within the hearings system.

B.	Extending Role?	(i)	attending hearings
		(ii)	participate in training
		(iii)	role of other groups.

C.	Group Liaison	(i)	present position
		(ii)	need for liaison and group communications?
		(iii)	need for liaison development?
		(iv)	liaison and communications mechanisms.

D.	Decision-making	(i)	in hearings (limited police knowledge likely)
		(ii)	within hearings system
		(iii)	need improving?
		(iv)	ways of achieving improvement.

E.	Lay Aspect	(i)	lay definition
		(ii)	appropriateness of lay panel?
		(iii)	panel member training?
		(iv)	advantages/disadvantages of lay panel?
		(v)	changes to panel make up?

F.	Rights (parent/child)	(i)	present position
		(ii)	development of rights?
		(iii)	achievement of development.

G.	Ideology	(i)	hearings system ideology definition
		(ii)	fulfilment of ideology?
		(iii)	appropriateness of ideology?
		(iv)	elaboration of possible hindrances to ideology fulfilment and expansion on beliefs on appropriateness of ideology.

H.	Hearings System Remit	(i)	possible changes?
		(ii)	justification for changes in relation to ideology and practicality.

Appendix Four

Table A.1 : Regional Population

	1990 Population	Area (hectares)	Persons per hectare	Persons per sq km
SCOTLAND	5,102,400	7,707,982	1	66
Borders Region	103,500	466,969	0	22
Berwickshire	19,070	87,553	0	22
Ettrick & Lauderdale	34,270	135,504	0	25
Roxburgh	34,990	154,047	0	23
Tweeddale	15,170	89,865	0	17
Central Region	**272,100**	262,732	1	104
Clackmannan	47,470	15,995	3	297
Falkirk	143,270	29,141	5	492
Stirling	81,360	217,596	0	37
Dumfries & Galloway Region	**148,400**	637,003	0	23
Annandale & Eskdale	36,580	155,341	0	24
Nithsdale	57,820	143,312	0	40
Stewartry	23,520	167,075	0	14
Wigtown	30,480	171,275	0	18
Fife Region	345,900	130,798	3	264
Dunfermline	129,910	30,155	4	431
Kirkcaldy	147,070	24,819	6	593
North East Fife	68,920	75,824	1	91
Grampian Region	506,100	870,738	1	58
Aberdeen City	211,080	18,446	11	1,144
Banff & Buchan	85,020	152,800	1	56
Gordon	74,600	221,444	0	34
Kincardine & Deeside	50,920	254,968	0	20
Moray	84,480	223,080	0	38
Highland Region	204,300	2,530,445	0	8
Badenoch & Strathspey	11,190	231,720	0	5
Caithness	26,790	177,576	0	15
Inverness	63,090	278,874	0	23
Lochaber	19,030	446,830	0	4
Nairn	10,420	42,243	0	25
Ross & Cromarty	48,910	497,582	0	10
Skye & Lochalsh	11,820	269,102	0	4
Sutherland	13,050	586,518	0	2

Lothian Region	749,600	175,559	4	427
East Lothian	85,480	71,331	1	120
Edinburgh City	434,520	26,112	17	1,664
Midlothian	81,310	35,805	2	227
West Lothian	148,290	42,311	4	350
Strathclyde Region	2,306,000	1,352,887	2	170
Argyll & Bute	66,150	649,730	0	10
Bearsden & Milngavie	40,900	3,641	11	1,123
Clydebank	46,920	3,544	13	1,324
Clydesdale	58,560	132,237	0	44
Cumbernauld & Kilsyth	63,100	10,298	6	613
Cumnock & Doon Valley	43,030	80,005	1	54
Cunninghame	137,530	87,820	2	157
Dumbarton	79,750	47,168	2	169
East Kilbride	83,060	28,504	3	291
Eastwood	61,010	11,521	5	530
Glasgow City	689,210	19,778	35	3,485
(Glasgow S W	143,100)			
Hamilton	106,560	13,094	8	814
Inverclyde	93,470	15,769	6	593
Kilmarnock & Loudoun	81,110	37,340	2	217
Kyle & Carrick	113,730	131,709	1	86
Monklands	104,460	16,384	6	638
Motherwell	146,760	17,202	9	853
Renfrew	201,030	30,742	7	654
Strathkelvin	89,660	16,401	5	547
Tayside Region	394,000	750,206	1	53
Angus	95,370	203,080	0	47
Dundee City	172,860	23,518	7	735
Perth & Kinross	125,770	523,608	0	24
Orkney Islands Area	19,570	97,580	0	20
Shetland Islands Area	22,270	143,267	0	16
Western Isles Islands Area	30,660	289,798	0	11

(Registrar General Scotland : Annual Report)

Table A.2 : Referrals to Departments of Reporter to the Children's Panel

1992 Regional Referrals/and as a Percentage of the number of young people aged 5-18 years in each region

	Number of referrals	% of 5-18 year olds
Central Region	3876	7
Dumfries and Galloway	890	3
Glasgow South-West	2032	8

1992 District Referrals/and as a Percentage of 5-18 year olds

	Number of referrals	% of 5-18 year olds
Central Region		
Falkirk District	2078	7
Stirling District	938	6
Clackmannan District	860	8.5
Dumfries & Galloway		
Wigtown District	228	4
Stewartry District	78	2
Nithsdale District	327	3
Annandale/Eskdale District	257	4

(Information provided by Regional Reporters)

A.3 : Referrals to Reporters by Source of Referral 1980, 1985-90

Source of Referral	1980 No	1989 No	1990 No	Percentage of Referrals from each Source						
				1980	1985	1986	1987	1988	1989	1990
Police (Local)	16,597	24,748	27,141	57	57	57	60	65	66	68
Police (Other)	598	783	795	2	2	2	2	2	2	2
Procurator Fiscal	6,063	3,132	2,683	21	21	21	19	11	8	7
Total Law Enforcement Agencies	23,258	28,663	30,619	80	80	80	81	79	77	76
Social Work Department	1,589	4,470	4,950	5	6	7	9	10	12	12
Educational Sources	2,855	3,105	3,493	10	11	10	8	8	8	9
Health Sources	46	88	132	-	-	-	-	-	-	-
RSSPCC	134	78	44	-	-	-	-	-	-	-
Parents	270	343	386	1	1	1	1	1	1	1
Others[1]	76	187	215	-	-	-	-	-	1	1
Transfers	103	94	106	-	-	-	-	-	-	-
Other Referrals	619	224	154	2	1	1	1	1	1	-
Total Referrals (=100%)	28,950	37,252	40,099	28,950	34,151	36,306	36,785	37,545	37,252	40,099

-    Denotes less than 0.5
1   Includes neighbours and relatives other than parent or guardian

(Social Work Services Group : Statistical Bulletin on Children's Hearings 1990)

Table A.4 : Grounds of Referral

Type of Ground		1980 No	1988 No	1989 No
A:	Beyond Control	889	1210	1322
B:	Moral Danger	210	409	433
C:	Lack of Parental Care	1322	3319	3518
D:	Victim of Offence	893	4039	5285
DD:	At Risk	38	246	339
E:	Same Household as Incest Victim	4	2	7
F:	Non-attendance at School	2803	2937	3031
GG:	Solvent Abuse	0	256	265
I:	Care of Local Authority	0	23	25
G:	Offence	22303	25902	24210
Educ (S) Act 1962			64	48
CP (S) Act 1975		(619)	174	177
Total Referrals (=100%)		**29081**	**38581**	**38660**

The major features of referrals between 1980 and 1989 were:

(a)   An overall increase of 9,579 (33%).

(b)   Within that, increases of 1,907 (8.5%) in offence referrals and 7,672 (113%) in non-offence referrals.

(c)   Non-offence referrals increased as a percentage of total referrals from 23% to 37% (non-offence referrals relate to all grounds except G).

(d)   Care and protection referrals relate to grounds B-E and constituted 25% of all referrals in 1989. This compares with 8.5% in 1980.

(Finlayson Report (1992: 8))

Table A.5 : School Sizes by Region

	Central Region (n=19)	Dumfries & Galloway (n=16)	Glasgow SW (n=11)
Less than 500 pupils	2 (10%)	8 (50%)	-
500-800 pupils	5 (26%)	4 (25%)	4 (36%)
801-1000 pupils	5 (26%)	3 (19%)	1 (9%)
1001-1500 pupils	7 (37%)	1 (6%)	5 (45%)
over 1500 pupils			1 (9%)

(The Education Authorities Directory 1992)

Adler, M. and Asquith, S. (eds.) (1981), *Discretion and Welfare*, Heinemann, London.

Adler, R. (1985), *Taking Juvenile Justice Seriously*, Scottish Academic Press, Edinburgh.

Aldrich, H.E. (1976), Resource Dependence and Interorganisational Relations, *Administration and Society*, vol. 7, p. 419-54.

Aldrich, H.E. (1979), *Organisations and Environments*, Prentice-Hall, Englewood Cliffs, NJ.

Alford, R.R. (1975), *Health Care Politics*, University Press, Chicago.

Allen, F.A. (1964), *The Borderland of Criminal Justice*, University Press, Chicago.

Anderson, M. (1971), *Family Structure in Nineteenth Century Lancashire*, University Press, Cambridge.

Asquith, S. (1977), Relevance and Lay Participation in Juvenile Justice, *British Journal of Law and Society*, vol. 4, no. 1, p. 61-76.

Asquith, S. (1983), *Children and Justice : Decision-making in Children's Hearings and Juvenile Courts*, University Press, Edinburgh.

Asquith, S. (1992), Coming of Age : 21 years of the Children's Hearings System in Paterson, L. and McCrone, D. (eds.) *Scottish Government Year Book*, University of Edinburgh, Department of Politics, Edinburgh.

Barber, B. (1963), Some Problems in the Sociology of the Professions, *Daedalus*, vol. 92, no. 4, p. 669-88.

Bean, P. (1981), *Punishment*, Martin Robertson, Oxford.

Bédarida, F. (1979), *A Social History of England 1851-1975*, Methuen, London.

Beier, A.L. (1974), Vagrants and the Social Order in Elizabethan England, *Past and Present*, vol. 64, p. 3-29.

Beier, A.L., Cannadine, D. and Rosenheim, J.M. (eds.) (1989) *The First Modern Society*, University Press, Cambridge.

Bell, C. and Newby, H. (eds.) (1977), *Doing Sociological Research*, George Allen and Unwin, London.

Benson, J.K. (1975), The Interorganisational Network as a Political Economy, *Administrative Science Quarterly*, vol. 20, p. 229-49.

Benson, J.K. (1982), A framework for policy analysis in Rogers, D.L. and Whetten, D.A. (eds.) *Interorganisational Co-ordination : theory, research and implementation*, University Press, Iowa.

Berger, P.L. and Luckman, T. (1971) *The Social Construction of Reality*, Penguin, Harmondsworth.

Berlant, J.L. (1975), *Profession and Monopoly : A Study of Medicine in the United States and Great Britain*, University Press, California.

Blau, P.M. and Scott, W.R. (1963) *Formal Organisations : A Comparative Approach*, Routledge and Kegan Paul, London.

Bloomfield, T. (1979), Delinquency and Social Control : The Foundations of the Scottish System in Brown, P.D. and Bloomfield, T. (eds.) *Legality and Community*, Aberdeen Peoples Press, Aberdeen.

Blumer, H. (1956), Sociological analysis and 'the variable', *American Sociological Review*, vol. 21, no. 6, p. 683-90.

Blumer, H. (1962), Society as Symbolic Interaction in Rose, A.M. (ed.) *Human Behaviour and Social Processes*, Routledge and Kegan Paul, London.

Blumer, H. (1966), Sociological Implications of the Thought of G H Mead, *American Journal of Sociology*, vol. 71, p. 535-44.

Braybrooke, D. and Lindblom, C.E. (1963), *A Strategy of Decision*, Free Press, New York.

Brown, P.D. (1979), The Hearing Process: 'telling it like it is' in Brown, P.D. and Bloomfield, T. (eds.) *Legality and Community*, Aberdeen Peoples Press, Aberdeen.

Bruce, N. (1982), Historical Background in Martin, F.M. and Murray, K. (eds.) *The Scottish Juvenile Justice System*, Scottish Academic Press, Edinburgh.

Bruce, N. and Spencer, J. (1976), *Face to Face with Families*, MacDonald, Loanhead.

Bryant, C.G.A. (1985), *Positivism in Social Theory and Research*, Macmillan, London.

Bryman, A. (1984), The debate about quantitative and qualitative research : a question about method epistemology?, *British Journal of Sociology*, vol. 35,

no. 1, p. 75-91.

Bryman, A. (1988), *Quantity and Quality in Social Research*, Unwin Hyman, London.

Bryman, A. and Cramer, D. (1990), *Quantitative Data Analysis for Social Scientists*, Routledge, London.

Campbell, R.H. (1965), *Scotland Since 1707 : The Rise of an Industrial Society*, Basil Blackwell, Oxford.

Campbell, T.D. (1977), Punishment in Juvenile Justice, *British Journal of Law and Society*, vol. 4, no. 1, p. 77-86.

Campbell, T.D. (1983), *The Left and Rights : a conceptual analysis of the idea of socialist rights*, Routledge and Kegan Paul, London.

Carpenter, M. (1968), *Reformatory Schools*, Woburn Press, London.

Carr-Saunders, A.M. and Wilson, P.A. (1933), *The Professions*, University Press, Oxford.

Carr-Saunders, A.M. and Wilson, P.A. (1962), The Emergence of Professions in Nosow, S. and Form, W.H. (eds.) *Man, Work and Society*, Basic Books, New York.

Challis, L., Fuller, S., Henwood, M., Klein, R., Plowden, W., Webb, A., Whittingham, P. and Wistow, G. (1988), *Joint Approaches to Social Policy - Rationality and Practice*, University Press, Cambridge.

Chambers, J.D. (1968), *The Workshop of the World : British Economic History 1820-1880*, University Press, Oxford.

Chambers, J.D. and Mingay, G.E. (1966), *The Agricultural Revolution 1750-1880*, B T Batsford, London.

Children Act (1908).

Children Act (1948).

Children and Young Persons Act (1963).

Children's Hearings (Scotland) Rules (1971).

Children's Hearings (Scotland) Rules (1986).

Cicourel, A.V. (1964), *Method and Measurement in Sociology*, Free Press, New

York.

Cicourel, A.V. (1968), *The Social Organisation of Juvenile Justice*, John Wiley, New York.

Cohen, L. and Holliday, M. (1982), *Statistics for Social Scientists*, Harper and Row, London.

Cohen, M., (1946), *A Preface to Logic*, George Routledge and Sons, London.

Cook, T.D. and Reichardt, C.S. (eds.) (1979), *Qualitative and Quantitative Methods in Evaluation Research*, Sage, Beverly Hills.

Cowperthwaite, D.J. (1988), *The Emergence of the Scottish Children's Hearings System*, Institute of Criminal Justice, Southampton.

Cuff, E.C. and Payne, G.C.F. (eds.) (1984), *Perspectives in Sociology*, George Allen and Unwin, London.

Cunningham, C. and Davis, H. (1985), *Working with Parents : Frameworks for Collaboration*, Open University Press, Milton Keynes.

Davis, K.C. (1974), *Discretionary Justice : a preliminary inquiry*, University of Illinois Press, Urbana.

De Francis, V. (1972), The Status of Child Protective Services in Helfer, R.E. and Kempe, C.H. (eds.) *Helping the Battered Child and His Family*, Lippincott, Philadelphia.

Deane, P. (1965), *The First Industrial Revolution*, University Press, Cambridge.

Deane, P. and Cole, W.A. (1967) *British Economic Growth 1688-1959*, University Press, Cambridge.

Denzin, N.K. (ed.) (1970), *Sociological Methods : a sourcebook*, Aldine, Chicago.

Denzin, N.K. (1970), *The Research Act : a theoretical introduction to sociological methods*, Aldine, Chicago.

Dickson, T. (ed.) (1980), *Scottish Capitalism*, Lawrence and Wishart, London.

Dingwall, R., Eekelaar, J. and Murray, T. (1983) *The Protection of Children : State Intervention and Family Life*, Basil Blackwell, Oxford.

Dinwiddy, J.R. (1989), *Bentham*, University Press, Oxford.

Dobash, R.P. (1983), Labour and Discipline in Scottish and English Prisons,

Sociology, vol. 17, no. 1, p. 1-27.

Dobash, R.P., Dobash, R.E. and Gutteridge, S. (1986), *The Imprisonment of Women*, Basil Blackwell, Oxford.

Douglas, J.D. (1976), *Investigative Social Research*, Sage, Beverly Hills.

Drews, K. (1972), The Child and His School in Helfer, R.E. and Kempe, C.H. (eds.), *Helping the Battered Child and His Family*, Lippincott, Philadelphia.

Durkheim, E. (1951) *Suicide : A Study in Sociology*, Free Press, New York.

Durkheim, E. (1964), *The Rules of Sociological Method*, Free Press, New York.

Elliott, P. (1972), *The Sociology of the Professions*, Herder and Herder, New York.

English, J. and Martin, F.M. (eds.) (1983), *Social Services in Scotland*, Scottish Academic Press, Edinburgh.

Etzioni, A. (1964), *Modern Organisations*, Prentice-Hall, Englewood Cliffs, NJ.

Etzioni, A. (ed.) (1969), *The Semi-Professions and Their Organisation*, Free Press, New York.

Evans, E.J. (1983), *The Forging of the Modern State : Early Industrial Britain*, Longman, London.

Evans, M. (ed.) (1978), *Discretion and Control*, Sage, Beverly Hills.

Everitt, B. (1980), *Cluster Analysis*, Heinemann, London.

Feinberg, J. (1980), *Rights, Justice and the Bounds of Liberty : essays in social philosophy*, University Press, Princeton.

Flew, A. (1969), The Justification of Punishment in Acton, H.B. (ed.) *The Philosophy of Punishment : a collection of papers*, Macmillan, London.

Flinn, M.W. (1966), *Origins of the Industrial Revolution*, Longman, London.

Flinn, M.W. (1967), Social Theory and the Industrial Revolution in Burns, T. and Saul, S.B. (eds.) *Social Theory and Economic Change*, Tavistock, London.

Forsythe, W.J. (1987), *The Reform of Prisoners 1830-1900*, Croom Helm, London.

Foster, J. (1974), *Class Struggle and the Industrial Revolution*, Weidenfeld and Nicolson, London.

Freidson, E. (1970), *Profession of Medicine : a study of the sociology of applied knowledge*, Dodd Mead, New York.

Gans, J.H. (1962), *The Urban Villagers*, Free Press, Glencoe.

Gans, J.H. (1967), *The Levittowners*, Allen Lane, London.

Gaskell, P. (1836), *Aritisans and Machinery : the moral and physical condition of the manufacturing population*, John W Parker, London.

Geertz, C. (1964), Ideology as a Cultural System in Apter, D.E. (ed.), *Ideology and Discontent*, Free Press, Glencoe.

Giddens, A. (1976), *New Rules of Sociological Method*, Hutchinson, London.

Gilbert, D.C. and Levinson, D.J. (1957), 'Custodialism' and 'Humanism' in Staff Ideology in Greenblatt, M., Levinson, D.J. and Williams, R.H. (eds.), *The Patient and the Mental Hospital*, Free Press, Glencoe.

Goode, W.J. (1966), Professions and Non-Professions in Vollmer, H.M. and Mills, D.C. (eds.), *Professionalisation*, Prentice-Hall, Englewood Cliffs, N J.

Gordon, G. (1973), Prosecuting Children, *Journal of the Law Society of Scotland*, vol. 18, pp. 346-8.

Gordon, G. (1976), The Role of the Courts in Martin, F.M. and Murray, K. (eds.), *Children's Hearings*, Scottish Academic Press, Edinburgh.

Grant, J.P. (1976), Protecting the Rights of the Child in Martin, F.M. and Murray, K. (eds.), *Children's Hearings*, Scottish Academic Press, Edinburgh.

Grant, J.P. (1982), The Role of the Hearing: Procedural Aspects in Martin, F.M. and Murray, K. (eds.), *The Scottish Juvenile Justice System*, Scottish Academic Press, Edinburgh.

Greenwood, E. (1962), Attributes of a Profession in Nosow, S. and Form, W.H. (eds.), *Man, Work and Society*, Basic Books, New York.

Halfpenny, P. (1979), The Analysis of Qualitative Data, *Sociological Review*, vol. 27, no. 4, pp. 799-825.

Halfpenny, P. (1982), *Positivism and Sociology : Explaining Social Life*, George Allen and Unwin, London.

Hallett, C. and Birchall, E. (1992), *Coordination and Child Protection : a review of the literature*, HMSO.

Hallett, C. and Stevenson, O. (1980), *Child Abuse : Aspects of Interprofessional Cooperation*, George Allen and Unwin, London.

Halsey, A.H. (1970), Introduction in Dennis, N. *People and Planning - the Sociology of Housing in Sunderland*, Faber and Faber, London.

Handler, J.F. (1979), *Protecting the Social Service Client*, Academic Press, New York.

Hardiker, P. (1977), Social Work Ideologies in the Probation Service, *British Journal of Social Work*, vol. 7, no. 2, pp. 131-54.

Harris, C.C. (1983), *The Family and Industrial Society*, George Allen and Unwin, London.

Harrison, R. (1983), *Bentham*, Routledge and Kegan Paul, London.

Hay, D., Linebaugh, P., Rule, J.G., Thompson, E.P. and Winslow, C. (1975), *Albion's Fatal Tree : Crime and Society in Eighteenth Century England*, Allen Lane, London.

Helfer, R.E. and Kempe, C.H. (eds.) (1972), *Helping the Battered Child and His Family*, Lippincott, Philadelphia.

Hobsbawm, E.J. (1969), *Industry and Empire*, Penguin Books, Harmondsworth.

Hoinville, G. and Jowell, R. (1985), *Survey Research Practice*, Gower, Aldershot.

Industrial Schools (Scotland) Act (1854).

Industrial Schools (Scotland) Act (1861).

Inglis, B. (1971), *Poverty and the Industrial Revolution*, Hodder and Stoughton, London.

Irvine, E.E. (ed.) (1960), *Ventures in Professional Cooperation*, Association of Psychiatric Social Workers, London.

Jackson, J.A. (ed.) (1970), *Professions and Professionalisation*, University Press, Cambridge.

James, J. (1977), Ethnography and Social Problems in Weppner, R.S. (ed.) *Street Ethnography*, Sage, Beverly Hills.

Jick, T.D. (1983), Mixing Qualitative and Quantitative Methods : Triangulation in Action in Van Maanen, J. (ed.) *Qualitative Methodology*, Sage, Beverly Hills.

Johnson, T.J. (1972), *Professions and Power*, Macmillan, London.

Jones, C. (1985), *Patterns of Social Policy*, Tavistock, London.

Jordan, W.K. (1959), *Philanthropy in England 1480-1660*, Allen and Unwin, London.

Kahn, A.J. (1967), *Planning Community Services for Children in Trouble*, University Press, Columbia.

Kane, E. (1985), *Doing Your Own Research*, Marion Boyars, London.

Kearney, B. (1987), *Children's Hearings and the Sheriff Court*, Butterworths, London.

Keat, R. and Urry, J. (1982), *Social Theory as Science*, Routledge and Kegan Paul, London.

Kerlinger, F.N. (1969), *Foundations of Behavioural Research*, Holt, Rinehart and Winston, London.

Knell, B.E.K. (1965), Capital Punishment : its administration in relation to juvenile offenders in the nineteenth century and its possible administration in the eighteenth, *British Journal of Delinquency*, vol. 5, pp. 198-207.

Laslett, P. (1972), *Household and Family in Past Time*, University Press, Cambridge.

Laslett, P. (1983), *The World We Have Lost : Further Explored*, Methuen, London.

Leggatt, T. (1970), Teaching as a Profession in Jackson, J.A. (ed.), *Professions and Professionalisation*, University Press, Cambridge.

Levine, S. and White, P.E. (1961), Exchange as a Conceptual Framework for the Study of Interorganisational Relationships, *Administrative Science Quarterly*, vol. 5, pp. 583-601.

Lewis, R. and Maude, A. (1952), *Professional People*, Phoenix House, London.

Ley, P. (1982), Satisfaction, Compliance and Communication, *British Journal of Clinical Psychology*, vol. 21, pp. 241-54.

Lindblom, C.E. (1959), The Science of Muddling Through, *Public Administration Review*, vol. 19, pp. 79-99.

Lindsay, J. (1975), *The Scottish Poor Law. Its operation in the North-East from 1745-1845*, Stockwell, Ilfracombe.

Lockyer, A. (1988), *Study of Children's Hearings Disposals in Relation to Resources*, Children's Panel Chairman's Group.

Lofland, J. and Lofland, L.H. (1984), *Analysing Social Settings*, Wadsworth, Belmont, California.

MacCormick, N. (1976), Children's Rights : a Test Case for Theories of Rights, *Archiv fur Rechts und Socialphilozophie*, vol. 62, pp. 305-17.

MacCormick, N. (1982), *Legal Right and Social Democracy : Essays in Legal and Political Philosophy*, Clarendon Press, Oxford.

McAllister, J. and Mason, A. (1972), A Comparison of Juvenile Delinquents and Children in Care - an analysis of socioeconomic factors, *British Journal of Criminology*, vol. 12, no. 3, pp. 280-6.

McLean, S. and Docherty, C. (1985), Prosecuting Children in Scotland, *The Scottish Child*, Issue 8, pp. 1-2.

Mapstone, E. (1972), The Selection of the Children's Panel for the County of Fife : a case study, *British Journal of Social Work*, vol. 2, no. 4, pp. 445-69.

Marshall, T.H. (1939), The Recent History of Professionalism in Relation to Social Structure and Social Policy, *Canadian Journal of Economic and Political Science*, vol. 5, pp. 325-40.

Martin, F.M., Fox, S. and Murray, K. (1981), *Children Out of Court*, Scottish Academic Press, Edinburgh.

Martin, F.M. and Murray, K. (eds.) (1976), *Children's Hearings*, Scottish Academic Press, Edinburgh.

Martin, F.M. and Murray, K. (1981), The Lay Component in Scottish Juvenile Justice, *Law and Human Behaviour*, vol. 5, pp. 149-59.

Martin, F.M. and Murray, K. (eds.) (1982), *The Scottish Juvenile Justice System*, Scottish Academic Press, Edinburgh.

Martin, F.M. and Murray, K. (1984), Principles, Practices and Policy in the Juvenile Justice System, *The Scottish Child*, Issue 2, pp. 6-10.

Martin, R. and Nickel, J.W. (1980), Recent Work on the Concept of Rights, *American Philosophical Quarterly*, vol. 17, no. 3, pp. 165-180.

Marx, K. (1970), *Capital : A critical analysis of capitalist production*, Lawrence and Wishart, London.

Mathias, P. (1969), *The First Industrial Nation : An Economic History of Britain 1700-1914*, Methuen, London.

May, D. (1977) Rhetoric and Reality : the Consequences of Unacknowledged Ambiguity in the Children's Panel System, *British Journal of Criminology*, vol. 17, no. 3, pp. 209-27.

May, D. and Smith, G. (1971), The Appointment of the Aberdeen City Children's Panel : a comment on the Social Work (Scotland) Act 1968, *British Journal of Social Work*, vol. 1, no. 1, pp. 5-25.

May, D. and Smith, G. (1980), Gentlemen v Players : Lay-Professional Relations in the Administration of Juvenile Justice, *British Journal of Social Work*, vol. 10, no. 3, pp. 293-315.

Melossi, D. and Pavarini, M. (1981), *The Prison and the Factory*, Macmillan, London.

Miller, A. (1993), Children's Hearings : Emergency Measures, *The Scottish Child*, April/May.

Miller, W.B. (1973), Ideology and Criminal Justice Policy : some current issues, *Journal of Criminal Law and Criminology*, vol. 64, no. 2, pp. 141-162.

Millerson, G. (1964), *The Qualifying Associations - a study of professionalisation*, Routledge and Kegan Paul, London.

Millerson, G. (1964), Dilemmas of Professionalism, *New Society*, pp. 15-16.

Milne, R. (1984), Education and the Children's Hearings System, *The Scottish Child*, Issue 5, pp. 2-7.

Milne, R. (1988), Interview with Lord Chancellor, Lord McKay, *The Scottish Child*, Spring 1988, pp. 28-9.

Milne, R. and Raeburn, J. (1984), Children's Hearings Reports - confidential for whom?, *The Scottish Child*, Issue 3, pp. 11-12.

Mitchison, R. (1974), The Making of the Old Scottish Poor Law, *Past and Present*, vol. 63, pp. 58-93.

Morris, A. (1974), Scottish Juvenile Justice : a critique in Hood, R. (ed.) *Crime, Criminology and Public Policy*, Heinemann, London.

Morris, A. and Giller, H. (eds.) (1983), *Providing Criminal Justice for Children*, Edward Arnold, London.

Morris, A., Giller, H., Szwed, E. and Geach, H. (1980), *Justice for Children*, Macmillan, London.

Morris, A. and McIsaac, M. (1978), *Juvenile Justice?*, Heinemann, London.

Morrison, W.G. and Beasley, R. (1982), The Future of the Children's Hearings System in Martin, F.M. and Murray, K. (eds.) *The Scottish Juvenile Justice System*, Scottish Academic Press, Edinburgh.

Moser, C.A. and Kalton, G. (1971), *Survey Methods in Social Investigation*, Heinemann, London.

Murray, K. (1983), Children's Hearings in English, J. and Martin, F.M. (eds.) *Social Services in Scotland*, Scottish Academic Press, Edinburgh.

Murray, K. (1988), Children's Hearings in English, J. (ed.) *Social Services in Scotland*, 3rd edition, Scottish Academic Press, Edinburgh.

Neild, J. (1812), *State of the Prisons in England, Scotland and Wales*, Nichols, London.

Newman, C. (1957), *The Evolution of Medical Education in the Nineteenth Century*, University Press, Oxford.

Nosow, S. and Form, W.H. (eds.) (1962), *Man, Work and Society*, Basic Books, New York.

Ollenburger, J.C. (1986), Panel Members' Attitudes Towards Justice, *British Journal of Criminology*, vol. 26, no. 4, pp. 372-384.

Parlett, M. and Hamilton, D. (1976), Evaluation as Illumination : a new approach to the study of innovatory programs in Glass, G.V. (ed.), *Evaluation Studies*, Sage, Beverly Hills.

Parsloe, P. (1978), *Juvenile Justice in Britain and the United States : The Balance of Needs and Rights*, Routledge and Kegan Paul, London.

Parsons, T. (1939), The Professions and Social Structure, *Social Forces*, pp. 457-67.

Paterson, J. (1972), Lay Bodies and Social Workers, *Social Work Today*, vol. 3, no. 2, pp. 13-14.

Pearce, J.D.W. (1952), *Juvenile Delinquency*, Cassell, London.

Pearson, G. (1975), *The Deviant Imagination*, Macmillan, London.

Perkin, H. (1969), *The Origins of Modern English Society 1780-1880*, Routledge and Kegan Paul, London.

Philip, A. and McCulloch, J. (1966), Use of Social Indices in Psychiatric Epidemiology, *British Journal of Preventive Social Medicine*, vol. 20, pp. 122-6.

Pinchbeck, I. and Hewitt, M. (1973), *Children in English Society, Volume Two*, Routledge and Kegan Paul, London.

Platt, A.M. (1969), *The Child Savers/The Invention of Delinquency*, University Press, Chicago.

Platt, A.M. (1970), The Rise of the Child Saving Movement in Lerman, P. (ed.), *Deliquency and Social Policy*, Praeger, New York.

Pound, J. (1971), *Poverty and Vagrancy in Tudor England*, Longman, London.

Priestley, P., Fears, D. and Fuller, R. (1977), *Justice for Juveniles*, Routledge and Kegan Paul, London.

Prosser, T. (1977), Poverty, Ideology and Legality : Supplementary Benefit Appeal Tribunals and their Predecessors, *British Journal of Law and Society*, vol. 4, no. 1, pp. 39-60.

Pugh, D.S., Hickson, D.J., Hinings, C.R., MacDonald, K.M., Turner, C. and Lupton, T. (1963), A Conceptual Scheme for Organisational Analysis, *Administrative Science Quarterly*, vol. 8, pp. 288-315.

Reader, W.J. (1966), *Professional Men*, Weidenfeld and Nicolson, London.

Report of the Departmental Committee on the Care and Treatment of Young Offenders 1927, *Molony Report*, HMSO, Cmnd. 2831.

Report of the Committee on Protection and Training (Scotland) 1928, *Morton Report*, HMSO.

Report of the Committee on Homeless Children (Scotland) 1946, *Clyde Report*, HMSO, Cmnd. 6911.

Report of the Committee on the Care of Children 1946, *Curtis Report*, HMSO, Cmnd. 6922.

Report of the Committee on Children and Young Persons 1960, *Ingleby Report*, HMSO, Cmnd. 1191.

Report of the Committee on the Prevention of Neglect of Children (Scotland) 1963, *McBoyle Report*, HMSO, Cmnd. 1966.

Report of the Committee on Children and Young Persons (Scotland) 1964, *Kilbrandon Report*, HMSO, Cmnd. 2306.

Report on Citizens' Service and Children's Panel Membership 1992, *Lockyer A*, HMSO.

Report on the Inquiry into the Removal of Children from Orkney in February 1991 (1992), *Clyde Report*, HMSO.

Report on the Inquiry on Child Care Policies in Fife 1992, *Kearney Report*, HMSO.

Reporters to Children's Panels : Their Role, Function and Accountability 1992, *Finlayson Report*, HMSO.

Review of Child Care Law in Scotland 1990, HMSO.

Riecken, W.R., Boruch, R.F., Campbell, D.T., Caplan, N., Glenan, T.K., Pratt, J.W., Rees, A. and Williams, W. (1974), *Social Experimentation : A Method for Planning and Evaluating Social Intervention*, Academic Press, New York.

Rist, R.C. (1977), On the Relations among Educational Research Paradigms : From Disdain to Detente, *Anthropology and Education Quarterly*, vol. 8, pp. 42-49.

Rock, P. (1973), *Deviant Behaviour*, Hutchinson, London.

Rock, P. (1979), *The Making of Symbolic Interactionism*, Macmillan, London.

Rose, A.M. (ed.) (1962), *Human Behaviour and Social Processes*, Routledge and Kegan Paul, London.

Rose, G. (1967), *Schools for Young Offenders*, Tavistock, London.

Roth, J.A. (1974), Professionalism - the Sociologist's Decoy, *Sociology of Work and Occupations*, vol. 1, pp. 6-23.

Rowe, A.J.B. (1972), *Initial Selection for Children's Panels in Scotland*, Bookstall, London.

Rowntree, D. (1981), *Statistics Without Tears*, Penguin, Harmondsworth.

Rueschemeyer, D. (1964), Doctors and Lawyers : A Comment on the Theory of Professions, *Canadian Review of Sociology and Anthropology*, vol. 1, pp. 17-30.

Rusche, G. and Kirchheimer, O. (1939), *Punishment and Social Structure*, University Press, Columbia.

Ryall, R. (1974), Delinquency : The Problem for Treatment, *Social Work Today*, vol. 5, pp. 98-103.

Salz, A. (1962), Occupations in their Historical Perspective in Nosow, S. and Form, W.H. (eds.), *Man, Work and Society*, Basic Books, New York.

Schaffer, M. (1987), The Reporting of Children Alleged to have Committed Offences, *The Scottish Child*, vol. 1, pp. 20-21.

Schatzman, L. and Strauss, A.L. (1973), *Field Research : Strategies for a Natural Sociology*, Prentice-Hall, Englewood Cliffs, N J.

Schumpeter, J.A. (1951), *Imperialism and Social Classes*, Basil Blackwell, Oxford.

Schutz, A. (1970), *On Phenomenology and Social Relations*, University Press, Chicago.

Schwartz, H. and Jacobs, J. (1979), *Qualitative Sociology*, Free Press, New York.

Scotland's Children : Proposals for Child Care Policy and Law 1993, HMSO.

Scott, M.B. and Lyman, S.M. (1968), Accounts, *American Sociological Review*, vol. 33, no. 1, pp. 46-62.

Scott, P. (1966), The Child, the Family and the Young Offender, *British Journal of Criminology*, vol. 6, no. 2, pp. 105-111.

Scott, W.G. (1971), Decision Concepts in Castles, F.G. (ed.) *Decision Organisations and Society*, Penguin, Harmondsworth.

Sharaf, M.R. and Levinson, D.J. (1957), Patterns of Ideology and Role Definition among Psychiatric Residents in Greenblatt, M., Levinson, D.J. and Williams, R.H. (eds.) *The Patient and the Mental Hospital*, Free Press, Glencoe.

Silverman, D. (1985), *Qualitative Methodology and Sociology*, Gower, Aldershot.

Sinclair, R. (1984), *Decision-making in Statutory Reviews on Children in Care*, Gower, Aldershot.

Smelser, N. (1959), *Social Change in the Industrial Revolution*, Routledge and Kegan Paul, London.

Smith, G. (1970), *Social Work and the Sociology of Organisations*, Routledge and Kegan Paul, London.

Smith, G. (1977), The Place of 'Professional Ideology' in the Analysis of 'Social Policy' : Some Theoretical Conclusions from a Pilot Study of the Children's Panels, *Sociological Review*, vol. 25, no. 4, pp. 843-865.

Smith, G. (1981), Discretionary Decision-making in Social Work in Adler, M. and Asquith, S. (eds.) *Discretion and Welfare*, Heinemann, London.

Smith, G. and Cantley, C. (1985) *Assessing Health Care*, Open University Press, Milton Keynes.

Smith, G. and Harris, R. (1976), Managing Social Need : A study in the Reorganisation of British Social Work, Unpublished document submitted to the Scottish Office.

Smith, G. and May, D. (1980), Executing Decisions in the Children's Hearings, *Sociology*, vol. 14, no. 4, pp. 581-601.

Smout, T.C. (1969), *A History of the Scottish People 1560-1830*, Collins, London.

Social Work (Scotland) Act (1968).

Social Work Services Group, Children's Hearings Booklet, 1970, HMSO.

Social Work Services Group, Statistical Bulletins on Children's Hearings Statistics 1988, 1989, 1990, 1991, 1992, 1993.

Sonquist, J.A. and Dunkelberg, W.C. (1977), *Survey and Opinion Research*, Prentice-Hall, Englewood Cliffs, N J.

Sparks, R.F. (1969), The 'Depraved' are not just 'Deprived', *New Society*, pp. 12-15.

Spradley, J.P. (1980), *Participant Observation*, Holt, Rinehart and Winston, New York.

Sprent, P. (1981), *Quick Statistics*, Penguin, Harmondsworth.

Stoll, C.S. (1968), Images of Man and Social Control, *Social Forces*, vol. 47, pp. 119-27.

Stone, L. (1965), *Social Change and Revolution in England 1540-1640*, Longman, London.

Stone, L. (1975), Rise of the Nuclear Family in Rosenberg, C.E. (ed.), *The Family in History*, Penguin, Harmondsworth.

Stone, L. (1979), *Family, Sex and Marriage in England 1500-1800*, Penguin, Harmondsworth.

Summary of the Main Provisions of the Children's Bill 1947-48, HMSO, Cmnd. 7306.

Tawney, R.H. (1912), *The Agrarian Problem in the Sixteenth Century*, Longmans, Green, London.

Thomas, D.A. (1974), The Control of Discretion in the Administration of Criminal Justice in Hood, R. (ed.) *Crime, Criminology and Public Policy*, Heinemann, London.

Thompson, E.P. (1968), *The Making of the English Working Class*, Penguin, Harmondsworth.

Thompson, E.P. (1971), The moral economy of the English crowd in the Eighteenth Century, *Past and Present*, vol. 50, pp. 76-136.

Tranter, N.L. (1973), *Population since the Industrial Revolution : the Case of England and Wales*, Croom Helm, London.

Trow, M. (1957), Comment on participant observation and interviewing : a comparison, *Human Organisation*, vol. 16, no. 3, pp. 33-35.

Vernon, J. and Fruin, D. (1986), *In care : A study of social work decision-making*, National Children Bureau, London.

Vollmer, H.M. and Mills, D.C. (eds.) (1966), *Professionalisation*, Prentice-Hall, Englewood Cliffs, N J.

Waldron, J. (1984), *Theories of Rights*, University Press, Oxford.

Walker, N. (1980), *Punishment, Danger and Stigma*, Basil Blackwell, Oxford.

Ward, J.T. (1962), *The Factory Movement 1830-1855*, Macmillan, London.

Watson, D. (1976), The Underlying Principles : a philosophical comment in Martin, F.M. and Murray, K. (eds.), *Children's Hearings*, Scottish Academic Press, Edinburgh.

Weber, M. (1930), *The Protestant Ethic and the Spirit of Capitalism*, Allen and Unwin, London.

Weiss, R.S. and Rein, M. (1972), The Evaluation of broad aim programs in Weiss, C. (ed.) *Evaluating Action Programs*, Allyn and Bacon, Boston.

Wessen, A.F. (1958), Hospital Ideology and Communication between Ward Personnel in Jaco, E.G. (ed.) *Patients Physicians and Illness*, Free Press, New York.

White, A.R. (1984), *Rights*, Clarendon Press, Oxford.

Who's Hearing?, Scottish Office Summary Document on a One Day Seminar on Children's Hearings in Scotland 1991, HMSO.

Whyte, W.F. (1955), *Street Corner Society*, University Press, Chicago.

Whyte, W.F. (1976), Research Methods for the Study of Conflict and Cooperation, *The American Sociologist*, vo. 11, no. 4, pp. 208-216.

Wilding, P. (1982), *Professional Power and Social Welfare*, Routledge and Kegan Paul, London.

Wringe, C.A. (1981), *Children's Rights*, Routledge and Kegan Paul, London.

Youthful Offenders Act (1854).