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http://hdl.handle.net/10026.1/416

http://dx.doi.org/10.24382/3356
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APPROPRIATE PRACTICE? A STUDY OF THE ROLE AND CO-ORDINATION OF VOLUNTEER APPROPRIATE ADULTS FOR YOUNG SUSPECTS

by

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A thesis submitted to the University of Plymouth

in partial fulfilment for the degree of

DOCTOR OF PHILOSOPHY

School of Sociology, Politics and Law

Faculty of Social Science and Business

September 2005

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ABSTRACT

This thesis reports on the first empirical study of the volunteer appropriate adult service for young suspects and the first attempt to determine the extent and nature of volunteer appropriate adult provision nationally. The investigation provides an original insight into the philosophy, role, practice and co-ordination of the appropriate adult.

At an empirical level, the investigation fills a gap in the current work on the appropriate adult by considering the use of volunteers in the role, in terms of their practice and co-ordination and the extent and nature of their use. The empirical research is based on a detailed case study of the Plymouth Youth Enquiry Service (henceforth YES) volunteer appropriate adult service and a national survey of YOT managers. The case study included participant observation, documentary analysis and a self-administered questionnaire survey at the YES volunteer appropriate adult service. The national study of YOT managers was based on a postal survey.

At a theoretical level, this thesis uses theoretical perspectives from the fields of youth justice (for example, Brown, 1998; Muncie, 1999a) and criminal process (for example, Packer, 1968; McBarnet, 1981; Choongh, 1997) to explain the philosophy, role and practice of the appropriate adult. It argues that role has been constructed to serve different, and sometimes conflicting, purposes, ranging from due process, crime control, welfare, crime prevention and managerialism. In terms of practice, parents rarely contribute in interviews and, when they do, their contributions tend to be consistent with the crime control model. Social workers may act according to a welfare or control ideology. The volunteer's role has included elements of due process, crime prevention and welfare.

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ACKNOWLEDGEMENTS

I would like to thank Professor Trevor Bennett and Dr Adrian Barton for their supervision and advice. I would also like to thank the volunteer appropriate adult service, at the Plymouth Youth Enquiry Service, which participated in the case study. Without the co-operation of the volunteer appropriate adults and their co-ordinator, the case study would not have been possible. I would like to thank the Youth Justice Board for providing the contact details for Youth Offending Team managers and the Youth Offending Team managers who participated in the national postal survey. Additionally, I would like to thank the Department of Social Policy and Social Work, University of Plymouth, and the School of Humanities and Social Sciences, University of Glamorgan, for their assistance in funding this project. Finally, I would like to thank everyone who has supported me during this study; my husband, mother, friends and colleagues. I am particularly grateful to Colin Gent for his assistance in formatting the thesis and to Dr Katy Holloway and Dr Fiona Brookman for proofreading the thesis, although any errors are mine. This thesis is dedicated to Joseph Paine and to Andrew and Mary Wightman.

AUTHOR'S DECLARATION

At no time during the registration for the degree of Doctor of Philosophy has the author been registered for any other University award.

This study was financed by the author, the Department of Social Policy and Social Work, University of Plymouth, and the School of Humanities and Social Sciences, University of Glamorgan.

A programme of advanced study was undertaken, that is a Postgraduate Diploma in Social Research at the University of Plymouth.

Relevant conferences were attended at which work was often presented and several papers were published.

Publications

- Pierpoint, H. (forthcoming) 'Reconstructing the Role of the Appropriate Adult in England and Wales', *Criminal Justice: The International Journal of Policy and Practice.* Accepted 5th August 2005.

- Pierpoint, H. (2005) 'Using the Internet for Criminology and Criminal Justice Research: Applications, Benefits and Pitfalls', *Crime Prevention and Community Safety: An International Journal*, 7(4), pp. 7-18.

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- Pierpoint, H. (2004) 'Reconstructing the Role of the Appropriate Adult' (Paper presented at the British Society of Criminology Conference 2004, 6th-9th July 2004, University of Portsmouth).

- Pierpoint, H. (2001) 'The Involvement of Volunteers as Appropriate Adult Services for Young Suspects' (Paper presented at the National Convention of Volunteering, 9th October 2001, Liverpool).

- Pierpoint, H. (with F. Brookman) (2001) 'The Implications of the Human Rights Act 1998 for Young Suspects and Remand Prisoners' (Paper presented at the International Corrections Symposium, 11th-13th September 2001, Central Missouri State University).

- Pierpoint, H. (2001) 'The Performance of Volunteer Appropriate Adults: A Survey of Call Outs' (Paper presented at the Society and Culture Research Seminar Series, 21st February 2001, University of Glamorgan).

- Pierpoint, H. (2000) 'Volunteer Appropriate Adults: A Survey of Call Outs' (Paper presented at the British Society of Criminology Conference 2000, 5th-7th July 2000, University of Leicester).

Further Conference Attended

- Criminal Justice Associates One-Day Conference (1999) Human Rights and Criminal Justice: Implications for Practitioners of the Human Rights Act 1998, London Probation Headquarters.

Signed .....

Date 26/01/06

PART ONE: INTRODUCTION

Chapter 1: Background to the Research

1. Introduction

The purpose of this study is to identify the role and practice of the appropriate adult. The thesis will argue that the role and practice of the appropriate adult has not been fully defined. As a result, there is a danger that different conceptions and different practices will operate in different areas and amongst different appropriate adults. The results of this could lead to differential treatment of young suspects. In order to examine the nature of the role and practice, the thesis will investigate what has been written in legal and policy documents about what the role of the appropriate adult should be and what was found in previous studies and in an original study of a volunteer appropriate adult service about the operation of the role in practice.

The official definition of the role of the appropriate adult for young suspects is ambiguous (Thomas, 1995; Palmer, 1996; Pierpoint, 2004; forthcoming) and contradictory (Fennell, 1994). It is accompanied by equally unclear guidance, case law and academic interpretation. From the appropriate adult-like predecessor in the *Judges' Rules* (Administrative Directions 4 and 4A, Home Office, 1978), to the creation of the appropriate adult in the first edition of the Police and Criminal Evidence Act 1984 Codes of Practice (Home Office, 1985), to the revisions of the role in some of the subsequent editions of the Codes of Practice (Home Office, 1988; 1991; 1995a; 1997; 1999; 2002a; 2003a; 2004) and in the Crime and Disorder Act 1998 and, finally, to the latest drive to use volunteers as appropriate adults (Home Office, 1995b; 1998a; Audit Commission, 1996), there has been little clarity provided on the philosophy behind the role or examination of the use of appropriate adults in practice. This is despite the fact that the way in which the role is performed can alter the young person's experience of police detention and questioning.

Overall, there does not appear to have been any official explanation of the rationale or principles behind the appropriate adult's role or what the appropriate adult is supposed to do. For example, it is not known whether the main aim of the role is to ensure that due process is respected or to protect the young person's welfare. Moreover, there has been little research done in relation to the various developments in the appropriate adult's role. For example, the latest suggestion to use

volunteers as appropriate adults (Home Office, 1995b; 1998a; Audit Commission, 1996) was not preceded by any substantial empirical research or debate on the current practices of volunteer appropriate adults.

What is known about the appropriate adult is that an appropriate adult should accompany a suspect, who is either "juvenile"[1], or "mentally disordered or mentally handicapped", at the police station (Code C para 11.16).[2] For the young suspect, who is of interest here, an appropriate adult can be a parent or guardian, a social worker or, failing this, another responsible adult aged 18 years or over who is not a police officer or employed by the police (Code C para 1.7(a); Crime and Disorder Act 1998 s. 65(7)).[3] The presence of an appropriate adult is required during the key stages of the young person's detention (Code C; Code D; Crime and Disorder Act 1998). The appropriate adult is expected generally to be present to 'assist and advise' the young person: "The person shall be advised by the custody officer that the appropriate adult (where applicable) is there to assist and advise him and that he can consult privately with the appropriate adult at any time." (Code C para 3.12). The role of the appropriate adult during the police interview is defined as follows:

> "Where the appropriate adult is present at an interview, he or she shall be informed that he or she is not expected to act simply as an observer; and that the purposes of his or her presence are, first, to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly, and secondly, to facilitate communication with the person being interviewed." (Code C para 11.16)

In brief, there are three main problems that beleaguer the official definition. Firstly, it is not known whether the appropriate adult should advise the young suspect on welfare and/or legal rights (Palmer, 1996; Pierpoint, 2004; forthcoming)? Secondly, it is unknown what 'properly and fairly' mean in respect of a police interview (Bean, 1997; Pierpoint, 1999; 2000a; 2000b; 2001; 2004;

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[1] A juvenile is someone who appears not to have attained the age of 17 years (Code C para 1.5). The Police and Criminal Evidence Act 1984 Codes of Practice do not identify a lower age limit in their definition. However, the age of criminal responsibility in England and Wales is ten years. Whilst this thesis will refer to juvenile or young 'suspects', an appropriate adult should also be present for the interview of a young person who has attended the police station under arrest or voluntarily (Haley and Swift, 1988; Spencer, 2001).

[2] The Police and Criminal Evidence Act 1984 Codes of Practice referred to throughout the thesis is the 1995 version of the Codes (Home Office, 1995a), which were in force at the commencement of the study in January 1998. These have now been superseded by new versions of which the last was published in 2004 (Home Office, 2004). Generally speaking, developments up to December 2003 are covered by the thesis.

[3] This study will focus exclusively on appropriate adults for young suspects because, amongst other reasons, the needs of young people are different to those of people with learning difficulties (Robertson *et al.*, 1996). Furthermore, as discussed below, local authorities have a statutory duty to provide appropriate adults only for young suspects (Crime and Disorder Act 1998 s. 38(4)(a)).

forthcoming)? From a due process point of view, the concepts of 'proper' and 'fair' have not been clearly defined by the Police and Criminal Evidence Act 1984 (henceforth PACE) nor by the accompanying Codes of Practice (henceforth Codes), and little guidance has been given by the courts (Palmer, 1996; Sanders and Young, 2000). Thirdly, it is not known what 'facilitating communication' means? Does it mean checking the comprehension of the suspect (see Drakeford, 1994; Littlechild, 1995a) or advocating for the suspect (see Walinets, 1985; Brayne and Martin, 1999), or advocating for the police in the pursuit of crime control? Surely the last of these would be inconsistent with ensuring that the interview was conducted properly and fairly (Pierpoint, 2004; forthcoming) and would contradict advising the suspect (Fennell, 1994).

One starting point in attempting to clarify the role is to consider the origins and history of the role of the appropriate adult. By looking at the key stages in the development of the role, it might be possible to determine at least generally what it was thought that the appropriate adult was supposed to do at various points in time. The remainder of the chapter will explore the chronology of the development of the appropriate adult's role and discuss the main research questions.

2. A Chronology of the Development of the Role of the Appropriate Adult

One of the aims of looking at the developments in the role of the appropriate adult and the broader contexts in which these developments occurred is to identify the thinking that has helped shape it.

Judges' Rules

Confession evidence emerged as a key feature of the administration of justice after the use of the jury trial emerged. By the sixteenth century, justices of the peace, and later the police, were allowed to 'examine' offenders or extract a confession. As time progressed, nascent rules developed concerning the circumstances in which confessions were obtained and the status of confession evidence (Bryan, 1997). However, prior to the issuing of the *Judges' Rules*, there was no systematic regulation of police powers. Powers were granted in statutes and common law on an ad hoc basis (Bridges and Bunyan, 1983; Reiner, 1992; Newburn and Reiner, 2004).

The *Judges' Rules* were first drawn up in 1912 because courts differed in their views of what was acceptable police practice when questioning suspects (Leigh, 1986; Bryan, 1997). The rules were revised in 1918, 1930 and 1964, and were accompanied by Administrative Directions (Home Office, 1978). Whilst expressed as 'rules', they were not rules of law at all. The *Judges' Rules* were a guide, rather than an absolute statement of what the court would and would not admit as evidence (Leigh, 1986; Koffman, 1985; Bryan, 1997).

One of the Administrative Directions alluded to an appropriate adult-like role. It required that, as far as practicable, young and mentally disordered suspects could only be interviewed in the presence of their parents, guardians or other independent persons of the same sex (Administrative Directions 4 and 4A, Home Office, 1978). The *Judges' Rules* did not state why a role akin to the appropriate adult was required. However, an examination of developments at the time points to two possible influences: those of due process and welfare.

Due process is most frequently explained in antithesis to crime control. The well-established distinction between the crime control and due process models was first articulated by Packer (1968). Essentially, the models differ in their consideration of the relative importance of the individual in relation to the suppression of crime. In the crime control model, the repression of criminal conduct is viewed as the most important function to be performed by the criminal process. It prioritises the conviction of the guilty, even at the risk of the conviction of some innocent people and with the cost of infringing civil liberties to achieve its goal. Pressures from the crime control model could result in, for example, fabricating evidence or neglecting rules (Davies *et al.*, 1998). Such actions or omissions could be seen as justifiable in order to ensure that an offender whom the police 'know' to be guilty is found guilty. Hence, an appropriate adult acting according to a crime control model might, for example, advocate for the police in an attempt to get the young suspect to confess or neglect rules.

By contrast, the due process model prioritises the acquittal of the innocent, even at the risk of the frequent acquittal of the guilty. It is most concerned with protecting civil liberties and upholding values of reliability, equality and moral standards. Therefore, an appropriate adult acting according

to a due process model would be concerned with ensuring, for example, that the rights of the young suspect were respected.

Clearly the *Judges' Rules* sought to bring regulation to areas of police practice where regulation was lacking. In fact, they may have been ineffective as a means of regulation (Fisher, 1977; Dixon, 1997), and this might even raise concerns that the desire to bring in such regulation was naïve or half-hearted. Nevertheless the notion of having an adult present when police officers interviewed young persons implicitly recognised the possibility of police oppression, in what must have been a very unequal encounter. In other words, the existence of such a need implicitly draws attention to a potential threat to due process.

The requirement to have an adult present during the police interview was also suggestive of a concern with young people's welfare. At the time when the *Judges' Rules* were drafted, the assumption was that an adult, notionally any adult, would protect a vulnerable child in such situations, despite this assumption seeming somewhat naïve today given the grim history of child protection in England and Wales (for example, Noyes, 2001). This would have been entirely consistent with the contemporaneous influence of welfare on the fast developing juvenile justice system (see, for example, Newburn, 1997; 2002; Brown, 1998).

In brief, the history of juvenile justice shows the singling out of young people as a category apart from adult offenders, based in turn on Victorian notions of childhood as involving a particularly acute period of dependency and vulnerability (Garland, 1985). Developments included the foundation of a separate Juvenile Court in 1908, the establishment of borstals to complement the reformatory and industrial school provision for younger children, and the expansion of probation with its mandate to 'advise, assist and befriend' what were then predominantly younger offenders in the community (Newburn, 1997; 2000). The Children and Young Persons' Act 1933 formally wrote the welfare principle into the business of the then Juvenile Court.

Welfare can be explained as the concept that children who commit criminal offences are not merely criminals but have unmet social needs, such as poor parental care. Welfarism assumes that

delinquency is a pathological condition. Given that this is beyond the control of the young person, it is argued that young offenders should not be held accountable for their actions. Hence, the state should not be concerned with the punishment of such children, but rather with their treatment (Brown, 1998). It is also argued, from this position, that informality and flexibility are necessary if young people's needs are to be correctly identified and treated. Strict procedural rules can impede the identification of needs (Muncie, 1999a). Also, subjecting young people to proceedings is not considered to be in their best interests and, traditionally, welfarists have been concerned with diverting young people out of the criminal justice system (Scraton and Haydon, 2002). However, as with 'pathology' and 'medicalialization', the effect of informality and flexibility can be to deny the child citizenship rights (Brown, 1998).

	Welfare	Justice
Causes of offending	Multiple deprivation/neglect/lack of parental care	Opportunity/choice/rational decisions
Purpose of intervention	Treatment/rehabilitation	Due process
Key agency	Social work	Law
Key personnel	Welfare professionals	Lawyers
Key characteristics	Indeterminate sentencing/care proceedings	Determinate sentences
Objectives	Respond to individual needs	Respect individual rights

Figure 1: Two strategies of youth justice (Adapted from Muncie, 1999a:301)

As shown in Figure 1 above, whereas the objective of due process is to respect individual rights, the objective of the welfare strategy is to respond to individual needs (Muncie, 1999a). Perhaps the drafters of the *Judges' Rules* had in mind the idea that adults, acting according to the welfare perspective, would be able to provide for young suspects' vulnerability and respond to immediate, emotional and physical needs, such as ensuring that they were not held in poor custodial conditions nor subjected to excessively stressful interrogations. Appropriate adults acting in line with welfare principles might also be concerned with diverting young people out of custody and out of the criminal justice system as soon as possible.

In this way, therefore, welfare might be regarded as a route to due process, just as, in a liberal view, welfare provision more generally might be rationalised as providing a means of achieving a level playing field for citizens or stakeholders. In other words, the young person may be less likely to

make a false confession if his or her physical and emotional welfare is protected. The suspects in the *Confait case*, discussed below, confessed to escape the pressure of oppressive questioning and the experience of custody (Sanders and Young, 2000). Had their welfare been protected, they might not have falsely confessed. Moreover, the young person's welfare is protected when justice is done and he or she, if appropriate, is diverted out of the criminal justice system having not made a false confession. As Evans and Rawstorne argued, in relation to the lack of appropriate adult training offered to social workers, that:

> "It could be argued that appropriate adults should not need to have this type of criminal or legal knowledge as they are primarily there to look after the 'welfare' of the suspect. But this begs the question of whether it is possible to disentangle 'welfare' and 'justice' issues in such a neat way...Ultimately the suspect's 'welfare' is in part ensured when 'justice' is done although there may be another layer of welfare considerations, for example preventing children being exposed to undue amounts of distress which need to be attended to in addition." (1994:63)

In sum, in starting to try to determine the nature of and influences on the role of the appropriate adult by looking at the contexts in which its predecessor emerged, possible influences include due process and welfare, although, in practice, it may be difficult to extricate the two.

Police and Criminal Evidence Act 1984 and the Codes of Practice

Moving forward, it became apparent that many police officers and lawyers, the very people supposed to be bound by or scrutinise practices with reference to the rules, were unaware of the provisions of the *Judges' Rules* (Dixon, 1997). This was most graphically highlighted by the *Confait case*, in which, according to Blackie (1996), much of the interest in the appropriate adult has its roots. In this case, three youths were wrongly convicted of the murder of Maxwell Confait in South East London. In the subsequent *Fisher Inquiry*, which investigated the police's handling of the *Confait case*, the first youth was assessed as being 'mentally subnormal'[4], the second was 'highly suggestible' and the third was only 14 years old (Fisher, 1977). The police had infringed the *Judges' Rules* on a number of counts, including the fact that neither the youths' parents, their guardians nor other independent persons of the same sex had been present. The *Fisher Inquiry* also reported that the requirement to inform suspects of their right to legal advice "was unknown to

[4] The language of the legislation of the day.

counsel and senior officers who gave evidence" and was "not observed" in the Metropolitan Police District (Fisher, 1977:13).

In response to the findings by the *Fisher Inquiry* and the widespread concerns about the 'consistent flouting' of the *Judges' Rules* by the police when investigating crime and interviewing suspects (Koffman, 1985: 17), the Labour government of the day established, in 1978, the *Royal Commission on Criminal Procedure* (henceforth *RCCP*). However, another stimulus for the establishment of the *RCCP* was the somewhat contradictory public concern that the police lacked the necessary powers to cull the rise in crime (Brown, 1997; Newburn and Reiner, 2004). The *RCCP* was tasked with providing a thorough review of criminal procedure with an eye to obtaining the correct 'balance' between crime control and due process (see Brown, 1997). Before publishing its report in 1981, the *RCCP* had heard evidence from a range of bodies representing crime control and due process concerns and commissioned a large number of research studies. The report recommended that the *Judges' Rules* should be replaced with a statutory code of practice to achieve greater clarity.

What followed was a period of heated public and parliamentary debate, with the law and order lobbyists claiming that the pendulum had swung too far in favour of due process and civil libertarians claiming that there were inadequate safeguards for suspects and predicting a new draconian strategy of policing by coercion (Reiner, 2000; Sanders and Young, 2000). Nevertheless most of the recommendations of the *RCCP* were enacted in PACE (Choongh, 1997), and the accompanying Codes, which came into force on 1st January 1986 (Knight and Giller, 1986; Blackwell, 1990).

PACE, and the accompanying Codes, represented the extension and codification of police powers and suspects' rights simultaneously (and included the requirement that an appropriate adult accompany the young suspect during the key stages of police detention and questioning). It has been argued that the increase in police powers was nominal rather than real, given that the statute merely rationalised what already existed in statutes and common law on a piecemeal basis and legitimated what was already operating in police practice (Bridges and Bunyan, 1983; Reiner,

1992; Newburn and Reiner, 2004). However, the operation of these new police powers (new in the sense that henceforth they existed on a statutory basis) was now apparently counterbalanced by safeguards in PACE and the accompanying Codes. These Codes, which have been revised several times since their first edition (Home Office, 1988; 1991; 1995a; 1997; 1999; 2002a; 2003a; 2004), provided procedures regulating stop and search, search and seizure, the detention and questioning of suspects, identification procedures and the tape-recording of interviews.

A combination of the rationalisation of powers and safeguards resting fundamentally on recording requirements characterises all the major provisions of PACE and the Codes (Reiner, 1992; Newburn and Reiner, 2004). The detention and questioning provisions, for example, rely on a custody officer, another role created by PACE, to inform the suspect of his or her rights to have someone informed of his or her whereabouts[5], to have access to legal advice and to have a copy of the Codes (Code C para 3.1). When a young suspect arrives at the police station, the custody officer should also inform the appropriate adult of the grounds for the young suspect's detention and of his or her whereabouts, and ask the adult to come to the police station (Code C para 3.9). It is also the custody officer's role to inform the young suspect that the appropriate adult is there to 'assist and advise' him or her (Code C para 3.12). Most significantly, the custody officer should start a custody record (Code C para 2.1), on which all significant events in the period of detention should be entered, including the detention reviews.[6] There are also rules in the Codes on how an interview should be conducted, concerning, for example, breaks from interviews for meals and refreshments (Code C para 12.7), adequate heating, light and ventilation (Code C para 12.4), seating (Code C para 12.5) and the recording of interviews (Code E).

Hence, PACE and the Codes are heavily reliant on recording and internal self-regulation by the police (Bryan, 1997). The problem is that, where regulation is internal, it can be neglected, particularly in the context of a 'police culture'. A variety of research has found the police to be

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[5] This right is also referred to the right not be held incommunicado or to intimation (Sanders and Young, 2000).

[6] After six hours of detention, a series of reviews should be carried out by a senior officer, usually a custody officer, and then at least every nine hours to ensure grounds justifying detention still exist (PACE s. 40(3)). At these reviews, the custody officer may decide that there is sufficient evidence to charge the suspect. Outside of these reviews, an officer should inform the custody officer as soon as it becomes apparent that there is sufficient evidence to charge the suspect (Code C para 16.1).

characterised by a police or 'cop' culture, that is certain collective behaviours (Dixon, 1997; Brown, 2000; Reiner, 2000). Firstly, research has found that the police are characterised by resistance to change and loyalty to colleagues (Brown, 2000). For example, whilst a custody officer is intended to be independent and impartial (Haley and Swift, 1988), as recognised by the *Royal Commission on Criminal Justice* (1993:31), "it may...be unrealistic to expect a police officer to take an independent view of a case investigated by colleagues". Secondly, the police station is an 'inner sanctuary' (Holdaway, 1983), where decisions are taken behind closed doors, and some deviations from the Codes will, therefore, go unnoticed. The system of internal regulation was precisely why the civil libertarians feared that the police would exceed their new extended powers and that the safeguards would be ineffective (Newburn and Reiner, 2004).

As Koffman (1985) argued, the *RCCP* missed the point of the criticism levied at the system; both the *Judges' Rules* and the Codes could be disregarded by the police. Failure to observe the provisions of the Codes does not of itself render a person liable to any criminal or civil proceedings. The suspect, whose rights under the Codes have been breached, has only two options. Firstly, the suspect can make an official complaint about the police officer responsible for the breach. The police officer concerned may then be subject to disciplinary procedures under internal police procedure. Secondly, the suspect can seek to have any evidence obtained in breach of a Code excluded from a subsequent trial.

In a criminal trial, a judge may exclude evidence if it was obtained 'unfairly' (PACE s. 78) or by 'oppression' (PACE s. 76). The judge has the discretion to exclude evidence obtained in breach of a Code under PACE s. 78, if "the admission of the evidence would have such an adverse effect on the fairness of the proceedings". However, it is not every breach that will lead to exclusion of evidence. In Walsh (1990) 91 Cr App R 161 it was stated in considering the application of section 78:

> "...so far as a defendant is concerned, it seems to us also to follow that to admit evidence against him which has been obtained in circumstances where these standards have not been met, cannot but have an adverse effect upon the fairness of the proceedings. This does not mean, of course, that in every case of a significant or substantial breach of section 58 or the Code of Practice, the evidence concerned will automatically be excluded. Section 78 does not so provide. The task of the court is not merely to consider whether there would be an

adverse effect on the fairness of the proceedings, but such an adverse effect that justice requires the evidence to be excluded".

Hence, the power afforded to judges is not always invoked; it has been described as a "loose discretion" (Reiner, 1992:12). Arguably, the Human Rights Act 1998 (henceforth HRA), brought fully into force on 2nd October 2000, could alter practice in this area in a number of ways. It incorporated the European Convention on Human Rights (henceforth ECHR) into domestic law in a number of ways. Firstly, judges will have to take account of the ECHR in deciding cases. It has been argued that the HRA adds strength to the argument for excluding such evidence at trial owing to the suspect's right to a fair trial (Ashworth, 1998; Colvin, 1999). Secondly, individuals may bring proceedings against public authorities, including the police, when their ECHR rights have been breached. Courts may grant any remedy which is within their powers and which is just and appropriate, including releasing the defendant or quashing a conviction, or paying damages under HRA s.8 (Parsons, 2001). This may increase the deterrent effect of the Codes.

However, Wilson (2000) noted that it is currently very unclear as to how the new domestic legislation will work in practice. Indeed, in the light of the undeveloped European Court of Human Rights case law, it is not possible to draw conclusions with absolute certainty (Brookman and Pierpoint, 2002; 2003).[7] Moreover, there is evidence to suggest that courts are over-dependent on police summaries of tape-recorded interviews, rather than the interviews themselves, which may favour police objectives (Choongh, 1997). In fact, most cases do not reach trial. The majority of cases are disposed of under no further action (henceforth NFA), by cautions[8] and by guilty pleas (Sanders and Young, 2000).

Hence, setting aside the unknown implications of the HRA, the current provisions for external regulation by the judiciary are inadequate. This can only heighten concerns about the internal

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[7] Of course, for the HRA to have any effect, it must be argued by the legal profession and enforced by the courts. The recent establishment of several new chambers of lawyers, specialising in human rights issues, is a useful development (Wilson, 2000; Brookman and Pierpoint, 2002; 2003). Also, a right is an empty right unless people are aware of the right, as the claims literature has established (Felstiner *et al.*, 1980) and, to date, there has been insufficient information passed to the rest of the general public in the UK about the HRA (Brookman and Pierpoint, 2002; 2003).

[8] During the study period, cautions were abolished for young people on 1st June 2000 and replaced by reprimands and final warnings (Orr-Munro, 2000).

regulation of police powers. Using McBarnet's (1981) words, these supposedly due process measures are for crime control. McBarnet (1981) argued that Packer's (1968) dichotomy is false because the law provides rights for the accused, but the police and courts are able to subvert, negate and abuse them. McBarnet (1981) did have a number of critics (see, for example, McConville and Baldwin, 1981; McConville et al., 1991). McConville and Baldwin (1981) suggested that her argument referred to arrangements as they existed before PACE, and that she failed to distinguish between situations where the law appeared to confer certain rights but in reality did not, and situations where the law did give the suspect rights but they were not enforced. In this instance, the courts may choose not to enforce the rules because, given limitations in the rule formulation, the court has discretion not to enforce them: "The major weakness in the whole structure lies in its unenforceability." (Haley and Swift, 1988:373). The lack of remedies in this area has, as stated by Sanders and Young (2000:241), "a limited deterrent effect on the police, making rules as much presentational as inhibitory." In other words, the rules do not succeed in preventing the police following their working assumptions.

The short-comings in regulation are demonstrated by some of the findings in the body of empirical research on the impact of PACE, which has grown steadily since the enactment of PACE (although there is comparatively little research on the appropriate adult). For example, research suggests that, as predicted, the establishment of the custody officer as an independent check has been illusory; detention is authorised almost automatically (McKenzie *et al.*, 1990 as cited by Reiner, 1992; Newburn and Reiner, 2004). Substantially more suspects are legally represented than in the past (Philips and Brown, 1998). However, research has shown that it was more common for juveniles not to be informed of their rights than adults and, when they were actually relayed, it was often done in a vague manner (Brown *et al.*, 1992) and the consultation rate is lower for young suspects than it is for adults (Philips and Brown, 1998). Hence, Newburn and Reiner argued (2004:608) that: "the burden of police powers still falls disproportionately on the young, economically marginal, ethnic minority males, who are the overwhelming majority of those who are arrested and detained."

Choongh (1997) went further in his social disciplinary model. Based on his interviews with suspects upon their release from police custody and on observation of charge-room interactions between police officers and suspects, he proposed that the main concerns of the process, specifically of the police, are to maintain authority, extract deference, reproduce social control and inflict punishment, particularly in relation to certain marginalised segments of society, such as young people and people from ethnic minorities. Choongh (1997) criticised Packer's (1968) models by arguing that neither of the models explained the full range of police motivations, objectives and behaviour. He questioned the assumption of both models that the process always operates to determine guilt or innocence and argued that police decisions were influenced by the aforementioned non-legal considerations.

In fact, according to Bridges and Bunyan (1983), the origins of PACE as told above represent the official version of events. They argued that the government was keen to portray PACE within its strictly legal context as a product of rational law reform, originating from the investigation of the police's handling of the *Confait case* in the *Fisher Inquiry* (Fisher, 1977) and the *RCCP*, and as the codification and clarification of police powers. However, Bridges and Bunyan (1983) argued that to appreciate the full significance of PACE, one needs to look beyond the strictly legal context and look at the wider political context of policing at that time. They argued that the stimulus for PACE was to cope with industrial and social unrest during the 1980s.[9] The decade began with, most notoriously, the Brixton and Broadwater Farm riots, and mass unemployment.

So, how should PACE's provision for the formal establishment of the appropriate adult role be regarded in the context of these criminal procedural reforms? On the face of it, it would appear to re-affirm a view of the appropriate adult as a due process safeguard. This is particularly evident in the requirement placed upon the appropriate adult at interview "to observe whether or not the interview is being conducted properly and fairly" (Code C para 11.6), since due process is clearly concerned with questions of fairness and procedural propriety. It would be easy to stop at this point, situating the appropriate adult within the due process reforms that are closely associated with

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[9] However, Levi (1985) argued that since the critics like Bridges and Bunyan (1983) also argued that the police already operated these powers in practice, there is an apparent contradiction in this analysis.

the *RCCP* and PACE, particularly given that Code C recognises that young people are especially prone to providing information, which may be unreliable, misleading or self-incriminating (Note for Guidance 1B). In other words, young suspects are likely to find custody more distressing than adults and to be keen to get away whatever the consequences (Littlechild, 1998).[10] They have more limited mental capacities than adults (Asquith, 2002) and may, therefore, fail to "appreciate how their answers will be viewed within a framework of criminal justice parlance" (Littlechild, 1995b:544). Finally, young people are more susceptible to 'interrogative suggestibility'[11] than adults (Gudjonsson and Singh, 1984 as cited by Gudjonsson, 1992a). All of these factors increase the risk of young people making false confessions. Yet to assume that an appropriate adult is simply a due process safeguard might also be a mistake.

It has been argued above that PACE tried to steer a very difficult political course between opposing lobbies, namely the police, who argued that their crime control role was unnecessarily hindered by due process controls that could leave them feeling as if they were operating with one hand tied behind their backs, and civil liberties groups, who regarded police powers as inevitably oppressive of individual rights and freedoms (Reiner, 2000; Sanders and Young, 2000). The impossible task of appeasing both groups perhaps shows in the definition Code C para 11.16 conferred on the appropriate adult. Ensuring that interviews are "conducted properly and fairly" is clearly about due process, but asking the appropriate adult "to facilitate communication" can be interpreted as something altogether different.

Even if this was not the intention of the drafters of the Codes, the idea of facilitating communication could be taken to suggest at first sight that the appropriate adult might be there in part to help the police to interview the young suspect, given the notoriety of young people's uncommunicativeness, to which many social researchers will bear testimony. Indeed, if, as noted above, young people are prone to giving information that is unreliable (Code C Note for Guidance 1B), could not the appropriate adult's role to facilitate communication be taken to mean 'assisting'

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[10] The distress experienced by young people in police detention may be exacerbated by their previous experiences and/or preformulated attitudes of the police (see Hurst and Frank, 2000; Lyon *et al.*, 2000).
[11] Interrogative suggestibility "involves suspects receiving messages in ways which affect their subsequent response" (Sanders and Young, 2000:307).

the young person to provide more reliable information by advising or 'insisting' that a suspect tell the truth?

At first sight, again, the idea of facilitating communication seems to run against the right to silence (Brown *et al.*, 1992; Evans, 1993), thereby addressing a long-standing police complaint that such a right was abused to the detriment of their crime control efficacy (Denham, 1991). Might facilitating communication, then, be more about crime control, and might not its inclusion in Code C be a perfect illustration of the uneasy 'balance' that PACE sought to achieve between crime control and due process lobbies, seeking not to go too far in either direction?

Due to the vagueness surrounding the appropriate adult role, it is impossible to provide a definite answer to such questions. Some might take deep offence at the idea that the role accommodates crime control interests as well as those of due process, yet the possibility cannot be excluded. If one accepts McBarnet's (1981) argument, that due process is for crime control, because criminal procedure, even when closely adhered to, allows for an uneven playing field between suspect and police, then it is possible to argue that the pendulum swings decisively in favour of crime control as far as the appropriate adult role is concerned.

The role of the appropriate adult does not only bear a resemblance to the two models of crime control and due process. The welfarism, discussed above in relation to the *Judges' Rules*, did not disappear with the arrival of Code C. Rather, it was perpetuated with the requirement that the appropriate adult should be present to 'assist and advise' the young suspect. The phrase could be interpreted as requiring the appropriate adult to advise the young suspect about his or her welfare rights (Palmer, 1996), particularly given it was intended by the *RCCP* that an appropriate adult would be someone "to befriend, advise and assist [suspects] make decisions" (para 4.103). Interestingly, these duties echo the now-discarded welfarist duties imposed upon probation officers to 'advise, assist and befriend' the offender: perhaps the appropriate adult was there to provide a link of welfarist continuity at the earliest stages of criminal procedure? PACE may have been enacted and implemented at a time when welfarism was on the wane within youth justice and when

there was a growing reliance on justice and punishment (Newburn, 1997)[12]. However, the idea of the appropriate adult was being moulded not long after the *Fisher Inquiry* in 1977, and thus not that far from the commonly regarded "high point of 'welfarism'", the Children and Young Persons Act 1969 (Newburn, 1997:641).

In sum, from looking at the contexts in which the formal, but unclear, role of the appropriate adult was first established in the first edition of Code C, one can identify the possible influences of due process, crime control and welfare. The Codes were revised in 1988, 1991, 1995, 1997, 1999, 2002, 2003 and 2004. In 1991, for example, there was a revision prohibiting parents fulfilling the role of appropriate adult if he or she had been involved in the offence as a perpetrator, victim or witness (Code C Note for Guidance 1C; Code D Note for Guidance 1A). The real opportunity for revision came after the *1993 Royal Commission on Criminal Justice* (henceforth *RCCJ*), albeit an opportunity which was largely missed.

Appropriate Adult Review Group 1995

Following a string of further miscarriages of justice, including the Guildford Four, the Maguire Seven, the Birmingham Six and Judith Ward (Reiner, 1992; Bentley, 2002; BBC, 2003), the *RCCJ* was tasked with examining the criminal justice system from the stage at which the police investigate an alleged offence right through to the stage at which a defendant, who has been found guilty, has exhausted his or her right to appeal. Amongst its recommendations, it requested a review of the role, resulting in the establishment of a Home Office working party, specifically the *Appropriate Adult Review Group* (henceforth the *Review Group*).

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[12] The Children and Young Person Act 1969, with its proposed prevention of prosecution of young people less than 14 years of age for any crime other than murder and its proposed restrictions on custodial sentences, was not fully implemented. The change in government in 1970, the seemingly endless rise in juvenile offending in the 1970s, and the finding by a parliamentary committee that the treatment of juveniles was expensive to operate in 1975, created the conditions whereby the justice and punishment models gained ascendancy. Opponents of the welfare model argued that it had resulted in the collapse of due process. They emphasised the importance of legal process and rights, and proportionality in sentencing rather than unbridled discretion (Brown, 1998). Sentences also became more focused on punishment. For example, the Criminal Justice Act 1982 re-introduced the 'short, sharp shock' in the form of detention centres, and the period from 1972 to 1981 saw rises in the use of custody for the 14 to 16 age group.

The *Review Group* called for a clear statement of the role to be included in the Codes and offered its own clarification of the appropriate adult role in 1995, which was somewhat different from that provided in Code C:

> "In the Group's view, their [the appropriate adults'] essential role is to help ensure that vulnerable suspects are not subject to undue pressure, arising from their vulnerability, whilst in police detention as suspects. In effect, the appropriate adult should help to ensure equity for vulnerable persons, assisting them to cope with the situation in the same way as other suspects." (Home Office, 1995b:5).

So what does this tell us about the *Review Group*'s view of the role of the appropriate adult? The notion of vulnerability to undue pressure could be interpreted as alluding to, among other things, the potential for false confessions, and the *Review Group*'s understanding appears to be that this vulnerability can be offset by an appropriate adult 'assisting them to cope with the situation', so that the vulnerable person would be no more vulnerable than anyone else and, hence, the notion of equity is introduced. The presence of an appropriate adult may be conceived of as one way of trying to avoid this.

This appears to offer a nod in the direction of due process, given the centrality of the notion of fairness to this particular criminal justice value. Yet it still leaves unclear precisely how this equity is to be achieved: how is a young person's perceived vulnerability, assuming indeed that they are more vulnerable than others, to be 'neutralised' through the actions of an appropriate adult? The *Review Group* also made wide ranging recommendations of which the main ones are summarised below:

- PACE should be amended to ensure 17 year olds are regarded as juvenile suspects.
- Appropriate adults should be entitled to confidential interviews with suspects and the content of the interviews should be protected by legal privilege.
- The Codes should be revised to set out the suspect's right to object to a particular person acting as an appropriate adult for him or her.
- The Codes should be revised to include updated terminology in respect of learning disabilities and under the provisions of the Children Act 1989 (henceforth CA).

- The Codes should be revised to use plain English and, wherever possible, to incorporate the Notes for Guidance into the body of the Codes themselves.

- Custody records should record whether consideration was given to calling an appropriate adult.

- The circumstances of the arrest should be recorded on the custody record.

- A solicitor should always be called where a suspect requires an appropriate adult.

- Posters, leaflets and training for police officers and professional appropriate adults should be developed on the role of the appropriate adult, the persons who can act as an appropriate adult, the recognition of vulnerability, what type of communication the appropriate adult should facilitate, confidentiality, legal advice, complaints/improper conduct and searches.

- The Home Office should promote local appropriate adult panels of members of the public.

Some of *Review Group's* recommendations above shed further light on its interpretation of the role. For example, when the *Review Group* recommended that guidance should be developed on what type of communication an appropriate adult should facilitate, they suggested that it should include the advice that: "the adult should not encourage admissions or appear to "side" with the police interviews" (Home Office, 1995b para 29). This, along with the recommendations concerning confidentiality and legal privilege, legal advice and guidance on complaints/improper conduct, lends support for the due process role.

Finally, the *Review Group* advocated the creation of local appropriate adult panels of volunteers, considering that the use of volunteers would enhance the availability of appropriate adults, as well as promoting 'good citizenship' (Home Office, 1995b para 31). In recent years, there has been renewed interest in the notion of social democracy. At the societal level the debate has concerned the desirability and feasibility of organising economic, political and social institutions in order to facilitate economic development and allow democracy to flourish simultaneously (Giddens, 2000 as cited by Gaston and Alexander, 2001). However, at a micro level, individuals have been encouraged to 'get involved' and to help build or revivify local communities (Ackerman and

Fisher, 1998 as cited by Gaston and Alexander, 2001; Wardell *et al.*, 2000). It has been argued that voluntary work has the function of increasing social cohesion. Gill and Mawby (1990a) explained this function by citing Titmuss' (1971) comparative study of blood donorship.

It is also conceivable that this recommendation to use volunteers was motivated by managerial concerns. The rise of managerialism (or new public management) in criminal justice can be traced back to the Thatcher government of the 1980s (Raine and Willson, 1995; 1996; Pitts, 2001; Wright, 2002; Ball, 2004) and elements of most of the components of the new public management were present by the mid-1990s (Raine and Willson, 1996; McLaughlin *et al.*, 2001). Even the conclusions of the *RCCJ* were criticised as reflecting too much the values of parsimony and cost-efficiency (Field and Thomas, 1994 as cited by Raine and Willson, 1996). The managerial approach involved three parallel strategies; firstly, greater standardisation of work to curb the autonomy of individual professionals, secondly, reorganisation of agencies into hierarchies, supported by performance targets and monitoring, to sharpen accountability and, thirdly, the requirement that agencies give better 'value for money' (Raine and Willson, 1995; 1996; McLaughlin *et al.*, 2001). This third strategy involved the promotion of competitive tendering (Raine and Willson, 1995; 1996) and the enlargement of the role of civilian staff (Raine and Willson, 1996) and the voluntary sector (see Rickford, 1998; Wardell *et al.*, 2000).

The recommendation to use volunteers was later picked up in guidance on the Crime and Disorder Act 1998 (henceforth CDA) (Home Office, 1998a). The motivation for this most recent recommendation was much more explicit as it was the Audit Commission's (1996) report *Misspent Youth* which provided the impetus for many of the CDA's provisions (Fionda, 1999; Loveday, 2000). The Audit Commission had been highly critical of the youth justice system accusing it of being expensive and inefficient and riddled with delay and inconsistency.

Crime and Disorder Act 1998

The CDA, the New Labour government's first term legislative flagship, provided the next opportunity to examine official pronouncements on the appropriate adult. The aim of the CDA was

purportedly "to tackle crime and disorder and help create safer communities" (Home Office, 1998b). It had a broad remit with the main strands relating to local crime and disorder partnerships and strategies, youth justice and dealing with youth offending, but also included provisions relating to, for example, sex offenders, racially aggravated offences, sentencing and curfews.

Despite the odd dissenting view (see, for example, Jones, 2002), the more common view is that the youth justice provisions in the CDA bear a striking resemblance to the last Conservative government's commitment to penal populism (Fionda, 1999; McCurry, 1999; Muncie, 1999b; Pitts, 2003; Ball, 2004). Commentators question, for example, the rhetoric of crime prevention, cited as the youth justice system's new aim (CDA s. 37), and restoration, when presented alongside provisions such as the abolition of the rebuttable presumption of doli incapax (s. 34), child safety orders (s. 11), child curfews (s. 14), parenting orders (s. 8) and detention and training orders (s. 73) (Fionda, 1999; Muncie, 1999b). The latter developments are considered to represent the 'responsibilisation of children' (Bandalli, 1998; 2000), as well as of their parents.

Included amongst the CDA's provisions was, firstly, section 38(4)(a), which explained that the role of the appropriate adult was "to safeguard the interests of children and young persons detained or questioned by police officers". One interpretation of this is that the New Labour government took on board the *Review Group*'s perception of the role, but the CDA definition is so broad that it could also be interpreted as upholding the Code C definition or something completely different.

The idea of safeguarding the interests of children and young people, in adversarial terms, appears to put the appropriate adult on the side of the young person and, therefore, to clearly disassociate the appropriate adult from a crime control role, although it does not make clear whether the interests to be safeguarded are of a legal or welfare kind, if indeed the two can be separated. However, it is equally possible to argue, particularly in the light of the moral responsibilisation that underpins much contemporary criminal justice practice (for example, Bandalli, 1998; 2000) based upon rational choice, that a strong dose of crime control or discipline would be very much in the interests of the young person.

Replacement of cautions for young people with reprimands and final warnings

The CDA also extended the role of the appropriate adult to being present where a police constable gives a reprimand or final warning (s. 65(5)(a)).[13] Nationwide, cautions were abolished for young people and replaced by reprimands and final warnings on 1st June 2000 (Orr-Munro, 2000).[14]

A reprimand is given for the first offence provided the offence is not serious. The Home Secretary has issued guidance regarding seriousness of offences to try to ensure that reprimands, final warnings and prosecutions are consistent. A final warning is given for the second offence or first serious offence (with the exception of prostitution). A subsequent offence results in prosecution (CDA, s. 65). Police can be assisted by prior assessment by the Youth Offending Team (henceforth YOT) to help decide whether a final warning will be a sufficient response, and can still prosecute for any offence. An appropriate adult must be present where a police constable gives a reprimand or final warning to an offender under the age of 17 years (CDA s. 65(5)(a)).

The reprimand and final warning scheme was designed to end repeat cautioning for juveniles, to ensure appropriate and effective action to help prevent re-offending and to ensure that juveniles who do re-offend after a warning are dealt with quickly and effectively through the courts (Home Office, 2002b). The moral panic in the 1990s led to the conceptualisation of a caution as an unacceptably lenient method of dealing with 'yobs' (Goldson, 2000). Cautions were found to be less effective as they were repeated. The Audit Commission (1996) found that after three occasions, prosecution was more effective than cautioning in preventing re-offending. Moreover, the cautioning system was criticised as being inconsistent across forces (Evans and Ellis, 1997) where, all too often, follow up intervention to turn young people against crime did not occur (Home Office, 1997).

Conversely, it was hoped that the statutory framework of reprimand and final warning scheme would reduce these inconsistencies and that its certainty would increase the deterrent effect.

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[13] The *Youth Justice Board National Standards for Youth Justice 2004* maintain that it is unacceptable to use a non-relative appropriate adult in relation to a reprimand or final warning except in exceptional circumstances and with the agreement of the YOT manager (Youth Justice Board, 2004 para 2.12).

[14] Although final warnings were issued in pilot areas (of which Plymouth was not one) from 30th September 1998 (Home Office, 2003b).

Finally, it was expected that final warnings would normally be followed up by intervention. Specifically, the YOT is statutorily obliged, unless they consider it inappropriate to do so, to arrange for the offender to participate in a rehabilitation (change) programme. Moreover, the final warning could be delivered as part of a restorative conference (Home Office, 2002b).

Regarding the deterrent and rehabilitative effect, Hine and Celnick (2001) conducted a one year reconviction study of final warnings. They did find a lower rate of further criminal proceedings for those given a final warning. However, they found no difference in rates between those who YOT assessed as appropriate for a 'change' programme, those who were assessed as not appropriate, and those who were not seen by YOT. This could indicate that the final warning has a deterrent effect, but the restorative mechanisms are not effective.

Indeed, Evans and Puech (2001) have argued that the reprimand and final warning scheme embodies values of punishment and crime control rather than those of restorative justice and social inclusion. Restorative justice "generally stands for the repair of harms and ruptures to social bonds resulting from crime; it focuses on the relationships between crime victims, offenders and the community" (Hughes, 2001:247). This would imply that the active participation of the young person would be involved, whereas the young people and parents, whom Evans and Puech (2001:804) interviewed, felt that: "the warning is a process done to them rather than one in which they participate, feel they have any control over or are given any responsibility for." Moreover, for the young people, the scheme led to social exclusion from, for example, employment and school, rather than reintegration. The young people, who had received final warnings, feared bullying at school because the bullies knew that if the young people, who had received final warnings, fought back it could result in their prosecution. Hence, one interpretation of this development is that the appropriate adult will take part in the punishment of the young person, as opposed to restorative justice and crime prevention. However, the CDA did cite crime prevention as the new aim of youth justice (s. 37).

Duty to prevent offending by young people

The CDA imposed a duty to prevent offending by young people on all those involved in the youth justice system:

> "It shall be the principal aim of the youth justice system to prevent offending by children and young persons. In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim." (s. 37).

This provision was implemented on 30th September 1998 (Home Office, 1998c). The extent to which some appropriate adults, particularly parents, form part of the youth justice system is debatable. However, Williams (2000a) argued that the youth justice system includes appropriate adults. He referred to section 42(1) which explains that, for the purposes of the CDA, 'youth justice system' means the system of criminal justice in so far as it relates to children and young persons. He stated that: "By virtue of being present at the police station to assist the detainee, appropriate adults fall within this definition." (Williams, 2000a:915-916).

Like crime control, crime prevention is concerned with the repression of crime, but, unlike crime control, does not necessarily strive to repress crime via conviction. Social crime prevention is concerned with changing the social environments and motivations of potential or actual offenders to deter them from future offending (Hughes, 1998). One might expect that an appropriate adult acting in accordance with a crime prevention model would, for example, discuss with the young suspect why he or she committed the offence of which he or she has been accused and explore what would assist them in not committing further offences.

In the light of this extension to the role by the CDA, coupled with the requirement for an appropriate adult to be present when a young person is given a reprimand or final warning (CDA s. 65(5)(a)), it could be argued, assuming one believes the rhetoric, that the appropriate adult's role had taken a marked turn towards a 'welfare and crime prevention approach' (Williams, 2000a: 914).

Use of volunteers as appropriate adults

The final implication of the CDA for the appropriate adult scheme is the encouragement to use volunteers. Following the imposition of a statutory duty on local authorities to ensure the provision of appropriate adults (CDA s. 38(4)(a)) and on YOTs to co-ordinate the provision of appropriate adults (CDA s. 39(7)(a)), guidance suggested that, in practice, appropriate adults would be provided in many areas by volunteers, including through partnership arrangements with voluntary organisations (Home Office, 1998a).

Official support for the use of volunteers seemed to be motivated, in particular, by the managerial goals of economy and efficiency because volunteers do not necessarily replace parents or social workers acting as appropriate adults. Logically, if parents and social workers were considered to be entirely problematic as appropriate adults, one would have expected their involvement in the role to have been fully terminated. The fact that they have been retained in the CDA s. 65(7) suggests that parents and social workers, generally speaking, are not considered to be entirely hopeless. Consequently, in considering the reasons behind the recommendation to use volunteers, the explanatory spotlight must shift from the potential defects of parents and social workers to the potential attributes of the appropriate adult, which, thus far, appear to be financial and timesaving in nature.

Since the time of the implementation of PACE, social work departments have tallied the number of hours expended on servicing requests for appropriate adults (for example, Knight and Giller, 1986). On average each case involving a juvenile takes up over three hours of the social worker's time (Knight and Giller, 1986). Whilst, initially, the demand for social workers to act as appropriate adults was minimal (Knight and Giller, 1986), as time has progressed demand will have increased. Increases in demand would have been attributable to, for example, the revisions to Codes mentioned above prohibiting parents from fulfilling the role of appropriate adult in certain circumstances (Brown *et al.*, 1992) and, probably, to the improved knowledge of provisions. Consequently, the drain on the limited resources of such departments has been acute (Haley and Swift, 1988). Hence, the Audit Commission supported the use of volunteers as appropriate adults

because it estimated that it would "free around 10 per cent of the time of youth justice workers (equivalent to around £2 million a year)" (1996:14).

This interpretation of the stimulus for the introduction of volunteer appropriate adults is entirely consistent with the managerial movement described above, which the New Labour government picked up where the previous Conservative government had left off through its programme of 'modernisation' (McLaughlin *et al.*, 2001). In an attempt to provide better value for money, the programme of 'civilianisation' (Raine and Willson, 1996) and 'volunteerisation' has continued. The government demonstrated what contribution it felt the voluntary sector could make to public services when, for example, it chose, as one of its seven cross cutting reviews informing the 2002 Spending Review, to investigate the role of the voluntary sector in service delivery (see, for example, Department of Constitutional Affairs, 2004). The government also illustrated its commitment to increase volunteering by, for example, in 2001, making funding for a number of youth services was made available by the cross-government Volunteering Strategy with the aim of increasing volunteer participation (Youth Justice Board, 2002) and, in May 2004, the Russell Commission was established by the Chancellor and the Home Secretary to develop a new national framework for youth action and engagement (Her Majesty's Treasury, 2005). Most recently, the government has declared 2005 the 'Year of the Volunteer'. Examples of work in which volunteers are involved in the criminal justice system now include youth offender panels, prison boards of visitors, lay visitors to police stations, crime prevention panels, special constabulary, prison visiting, prison visitors' centres/play projects and mentoring, plus nationwide voluntary organisations such as NACRO: The Crime Reduction Charity, Victim Support and the National Neighbourhood Watch Association (Churches Criminal Justice Reform, 2005).

However, there is considerable concern that the managerial pursuit of efficiency and economy can undermine other themes of criminal justice, such as the protection of due process principles and human rights (Jones, 1993; Raine and Willson, 1995; 1996). In support of this, one might point to, for example, the squeeze on public spending which led to reductions in eligibility for legal aid, before it was replaced by the Criminal Defence Service, and a previous Home Secretary's curtailment of the right to silence (Raine and Willson, 1995). Others have pointed to casualties on

the welfare side (see, for example, Ball, 2004). In relation to the use of volunteers as appropriate adults, there is not enough empirical research on their practices to ascertain whether such undermining could be the case here.

3. Research Problem and Questions

The role of the appropriate adult has been examined so far by focusing on the way that the role has developed over time based on what has been written in official documents, such as statute, legislative guidance and a working party report and an examination of the contexts in which these developments occurred. This approach has shown a general lack of specificity about the role of the appropriate adult. Using the theoretical tools from the fields of criminal process and youth justice, it has been possible to identify a number of different aspects in the description of the role including due process, welfare, crime control and crime prevention. It seems clear from the outset, therefore, that the role has not emerged out of one overarching philosophy, but has been constructed out of many different perceptions of what the appropriate adult should do.

The chronology above has provided some evidence on what appropriate adults are supposed to do. However, there are further sources of evidence that could be examined to reveal current thinking on the role. It is also important to learn more about the way in which appropriate adults operate in practice, as this can impact on the young person's experience of police detention and questioning. Hence, the main aims of the thesis are to bridge this gap in knowledge by investigating further the philosophy, role and practice of appropriate adults. In addition, the thesis will seek to identify any important disparities between the intentions and practices of appropriate adults. Specifically, the research questions are:

1) What is the appropriate adult supposed to do?

    a) What philosophies underlie what the appropriate adult is supposed to?

    b) What is the role of the appropriate adult?

2) What do appropriate adults do in practice?

    a) What do parents acting as appropriate adults do in practice?

b) What do social workers acting as appropriate adults do in practice?

c) What do volunteers acting as appropriate adults do in practice?

In discussing what appropriate adults do in practice, it is important to distinguish between three categories of appropriate adults: parents, social workers and volunteers. What appropriate adults do in practice, in effect, is a combination of what is done by these three groups.

4. Research Aims and Objectives

Against this backdrop, this study has the following aims and objectives shown in Table 1 below.

Research aims		Research objectives
1) To investigate what the appropriate adult is supposed to do	a) To identify the philosophies and principles which underlie the role of the appropriate adult	• To identify and review the literature relevant to the history of the development of the appropriate adult's role • To identify and review current official documents, case law and the academic and practitioner literature on the role of the appropriate adult
	b) To examine the role of the appropriate adult	• To identify and review the literature relevant to the history of the development of the appropriate adult's role • To identify and review current official documents, case law and the academic and practitioner literature on the role of the appropriate adult
2) To investigate what appropriate adults do in practice	a) To examine the practices of parents acting as appropriate adult	• To identify and review the empirical literature on parents acting as appropriate adults
	b) To examine the practices of social workers acting as appropriate adult	• To identify and review the empirical literature on social workers acting as appropriate adults
	c)To examine the practices of volunteers acting as appropriate adults	• To conduct a case study of a volunteer appropriate adult service • To conduct a national postal survey of YOT managers

Table 1: Research aims and objectives

In order to investigate what the appropriate adult is supposed to do, it is possible to map out the developments in the appropriate adult's legislative history, as has been done above. However, legislation always requires interpretation by case law and accompanying guidance. In determining what the appropriate adult is supposed to do, it is also necessary to look at current thinking on the

responsibilities and rights of the appropriate adult by considering how the Codes have been interpreted by the courts, practitioners and academics.

In order to investigate the practices of parents and social workers, the thesis will review the comparatively large body of empirical literature on these two categories of appropriate adults. However, there is very little research on the use of volunteers in this role. As far as can be determined, there have only been two studies on volunteer appropriate adults and neither has considered the use of volunteer appropriate adults exclusively for young suspects (Revolving Doors Agency, 1996; Bean and Nemitz, 1997; Nemitz and Bean, 1998). This is perhaps surprising given that this category of appropriate adults has received the most recent attention of the government in the last few years. In order to provide additional information on this group, the thesis includes an original empirical study of volunteer appropriate adults.

5. Research Design

The relationship between theory and the research will be explored further in Chapter 4. However, suffice to say for now that this study is not a process or outcome evaluation and it does not seek to test a hypothesis. Rather it aims to provide a comprehensive view of appropriate adult practice and then to consider which philosophies and principles might assist in explaining the practices recorded. However, the approach is not purely inductive in that a number of theoretical models that may be useful in understanding the role and practices of the appropriate adult have been identified. This combination of deductive and inductive approaches is sometimes referred to as adaptive theory (Layder, 1998). The idea is that the initial theoretical framework can be adjusted in response to the findings, which could involve, for example, abandoning an existing model and adopting a new one. The key advantage of this approach is that that the researcher is not restricted only to revealing data within the remit designated by the wording of the hypothesis or evaluation criteria, but can expose a broader and more detailed view of the phenomenon being studied. A number of data collection methods were combined in order to gain a complete picture of volunteer appropriate adult practices.

The research design for the empirical study conducted as part of this thesis is explained in detail in Chapter 4. In brief, a case study of the volunteer appropriate adult service, at Plymouth Youth Enquiry Service (henceforth YES), was conducted to determine the practices of volunteer appropriate adults. The main data collection methods were: a self-administered questionnaire survey of volunteer appropriate adult call outs, participant observation by the author whilst she was registered as a volunteer appropriate adult and the analysis of the various documents, namely the agreement between the Youth Justice Team (henceforth YJT) and YES, local appropriate adult protocols, recruitment and training materials, co-ordinator correspondence, minutes of volunteer meetings and completed monitoring forms.

In addition to the case study, a postal survey of YOT managers was conducted to explore the arrangements for the provision of volunteer appropriate adults nationally and to establish the context in which the practice of volunteers takes place. It was also conducted to compare the characteristics of the volunteer appropriate adult service in the case study with appropriate adult co-ordination more generally. It has been argued that one method of dealing with the problem of external validity in relation to a case study is to combine it with quantitative measure of the population to assess its representativeness (Hammersley, 1992; Denscombe, 1998).

6. Structure of the Thesis

Part two will review the literature. Chapter 2 will build on this chapter by reviewing current official documents, case law and the academic and practitioner literature to try to explain more fully what the appropriate adult is supposed to do and to identify the philosophies and principles that inform the role. Chapter 3 will review the existing literature on the practices of appropriate adults. As little research has been conducted on volunteer appropriate adults, this body of literature focuses mainly on parents and social workers acting as appropriate adults. Part three will describe the research design. Part four will present the results. Chapter 5 will present the results of the national postal survey of YOT managers to set the scene for what is the context in which volunteer appropriate adults operate and to consider the representativeness of the volunteer appropriate adult service examined in the case study. Chapter 6 will present the case study results to analyse the practices of volunteer appropriate adults. Part five will discuss the literature reviewed and the

results of the empirical study to answer the research questions, and discuss the implications of the study's findings.

PART TWO: LITERATURE REVIEW

Chapter 2: The Role of the Appropriate Adult

1. Introduction

The previous chapter examined the origins of the role of the appropriate adult by considering the key developments in its history as told by official documentation, such as statute, legislative guidance and a working party report. This approach has begun to tell us what an appropriate adult is supposed to do and what philosophies may have informed its development. However, it is also important to consider the way in which the appropriate adult's role, responsibilities and rights are currently defined and operated in practice. Hence, this chapter will examine the role of the appropriate adult by looking at the Codes, current case law and the ways in which the role has been interpreted within the academic and practitioner literature. This examination will also reveal some of the criticisms that have been made about the role in the academic literature. It should also assist in further clarifying what philosophies inform the definition of the role.

Hence, the aim of this chapter is to continue the process of investigating the first aim of the thesis to determine the philosophy and role of appropriate adults. Specifically, the chapter aims to consider how the Codes have been interpreted:

- To determine who can act as the appropriate adult
- To determine the responsibilities of the appropriate adult at interview
- To determine the responsibilities of the appropriate adult at other stages of the young person's detention
- To determine the rights of the appropriate adult
- To determine the legal status of the appropriate adult

2. Who can Act as an Appropriate Adult?

This section will investigate the current position on who is eligible to act as an appropriate adult and the way in which one is selected. In doing so, it is hoped that this will reveal, at least in part, the ideology behind the role.

Who is Eligible to Act as an Appropriate Adult?

As noted in Chapter 1, Code C para 1.7(a) and the CDA s. 65(7) describe the categories of persons who can act as an appropriate adult for a young suspect. An appropriate adult can be:

- a parent or guardian (or, if the young person is in care, the care authority or voluntary organisation. The term 'in care' is used in the Code to cover all cases in which a young person is 'looked after' by a local authority under the terms of the CA);
- a social worker;
- failing either of the above, another responsible adult aged 18 years or over who is not a police officer or employed by the police.

The fact that parents and social workers are eligible to act as appropriate adults, whereas someone who is employed by the police is not, may indicate that the role is more concerned with looking after the welfare of the young suspect, as opposed to enforcing crime control. Parents are probably recognised as being most able to attend to their charge's welfare needs and, as shown in Figure 1 on page 19, the key agency engaged in the protection of welfare is social work (Muncie, 1999a). The categories of person who are ineligible to act as appropriate adults may also reveal the intended nature of the role.

Who is Disqualified from Acting as an Appropriate Adult?

Solicitors and lay visitors, who are present at the station in those capacities, are excluded from acting as appropriate adults (Code C Notes for Guidance 1F; Code D Note for Guidance 1D). As shown in Figure 1 on page 19, lawyers are the key personnel involved in ensuring respect for due process (Muncie, 1999a), which could imply that that this is not the main function of the appropriate adult's role.

All categories of persons can be disqualified if they have received admissions (Code C Note for Guidance 1C; Code C Note for Guidance 1D; Code D Note for Guidance 1A). Moreover, a person, including a parent or guardian, is excluded from acting as appropriate adults; if he or she is "suspected of involvement in the offence in question, is the victim, is a witness, is involved in the

investigation or has received admissions prior to attending to act as the appropriate adult" (Code C Note for Guidance 1C; Code D Note for Guidance 1A). Similarly, the principal of an educational establishment or his or her nominee cannot act as the appropriate adult for the purposes of the interview if the interviewee is suspected of an offence against the educational establishment (Code C para 11.15). Indeed, in DPP v Morris (Queen's Bench Div. (Crown Office List), 8th October 1990, as cited by White (2002), the manager of a Children's Home acted as the appropriate adult. The Court of Appeal quashed the conviction partly because it had been the manager who had initially suspected young people in his care of theft and called the police.

An estranged parent is not considered to be suitable if the young suspect objects to his or her presence (Code C Note for Guidance 1C; Code D Note for Guidance 1A; DPP v Blake [1989] 1 WLR 432). In DPP v Blake [1989] 1 WLR 432, the Court of Appeal held that there "is no point in the police officer seeking to protect a juvenile by persisting with steps to facilitate the attendance of an adult, parent or otherwise, whom the juvenile has made plain that he or she does not want present." However, as summarised in the previous chapter, the *Review Group* recommended that the Codes should be revised to "set out the suspect's right to object to a particular person acting as an appropriate adult" (Home Office, 1995b para 21) to solidify the position.

DPP v Blake [1989] 1 WLR 432 suggests that the appropriate adult should have some empathy with the suspect (Williams, 2000a). In the same vain, the appropriate adult should not be an authority figure (Williams, 2000a). For example, in R v O'Neill (Birmingham Crown Court, 16th October 1990) (as cited by Sheppard and Blackie (2000)), the defendant's probation officer acted as the appropriate adult. The judge excluded the interviews partly because the probation officer, particularly in relation to a mentally vulnerable person, is a person in some authority over the suspect.

Conversely, in R v Palmer (Acton Crown Court, 17th January 1991), the judge stated that the brother of 17 years of age was not be an appropriate adult as he was too close in age to the appellant of 16 years of age to exercise any authority over him. The judge was correct in that the appropriate should be at least 18 years old (Code C para 1.7(a); CDA s. 65(7)). However,

according to Williams (2000a), the judge had misunderstood the relationship between an appropriate adult as prescribed by Code C, which calls for a supportive figure as opposed to an authority one. Williams stated:

> "This dictum misunderstands the relationship between appropriate adult and detainee. The idea of the appropriate adult exercising authority runs contrary to the supportive role that underpins the transient relationship with the detainee. An appropriate adult may well have a longer-term relationship with the detainee by virtue of being a parent or a social worker working with the family. However, when acting as an appropriate adult the relationship must be focussed on the setting and the duration of the detention." (2000a:914).

These conflicting dictums create further confusion in terms of the, already vague, requirements of the role. On one hand, assuming that the appropriate adult is required to have some authority over the suspect would imply that the appropriate adult's role is concerned with control and/or discipline, whereas, on the other hand, assuming that the appropriate adult is required to have some empathy with the suspect would indicate that the role is concerned with welfare.

How is an Appropriate Adult Selected?

In terms of whom the custody officer should ask to come to the police station (Code C para 3.9), according to Spencer (2001), the choice of appropriate adult initially lies with the child. However, Littlechild (1998) referred to Code C para 1.7(a), which describes the categories of persons who can act as an appropriate adult, as a 'knock down' list. He remarked that the parent or guardian is approached first, then the social worker and, finally, some other appropriate adult. The parent probably appears at the top of the list because of his or her perceived right to be with his or her child when he or she is in trouble (Dixon, 1990) and, as discussed below, can, unlike other appropriate adults, give 'appropriate consent' to identification procedures (Code D). Indeed, some local authorities had developed policies, that parents must be encouraged to be present unless there are special circumstances that make this inappropriate, some time ago (Drakeford, 1994). The fact that parents appear first may lend support to the claim that the role is welfare orientated. The fact might also mean that there is an additional function for the appropriate adult in ensuring that the police do actually try to ensure the attendance of the parent (Sandell, 1992). Hence, according to Drakeford (1994:137), the first question, which a person requested to act as an appropriate adult, should ask him or herself is: "Am I the best person for the job?"

On the other hand, according to Haley and Swift (1988:356):

> "The wording of the Code leaves no doubt that the precise selection of the appropriate adult is in the alternative and, as regards the choice between family and social services, not listed in order of priority or preference. Recourse to some other party is, however, a measure of last resort."

Therefore, according to Haley and Swift (1988), the list is not a 'knock down' list. As will be explored in Chapter 3, Blackwell (1990) found that the police preferred parents to social workers as appropriate adults, whereas Sandell (1992), Brown *et al.* (1992) and White (2002) have suggested that the police might prefer professional appropriate adults or social workers to parents. In the aftermath of the CDA, which placed a statutory duty on local authorities to ensure the provision of persons to act as appropriate adults (s. 38(4)(a)), custody officers may favour professional appropriate adults (Williams, 2000b) considering that they would arrive sooner than a parent, being easier to track down (see Haley and Swift, 1988; Drakeford, 1994). In Kay and Quao's (1987) experiences as social worker appropriate adults, the police have stated that the parent(s) are not available when they were in reality expected home within one or two hours. However, failure to give a parent the opportunity to attend would neglect his or her right to be with his or her child when in trouble (see Dixon, 1990). As pointed out by Walinets (1985:14): "Many parents would not thank you afterwards if they thought you were in league with the police to usurp their rights."

Hence, it is unclear from the existing literature which criteria the police use in selecting an appropriate adult and whether they would always respect young people's wishes. It is, however, possible to ascertain from the literature that certain types of appropriate adults have been favoured over others. Indeed, most recently, Philips and Brown's (1998) study, which comprised observation for five weeks at ten police stations, found that parents and social workers acted as appropriate adults in 63 and 20 per cent of cases respectively (n=599). Volunteers (or, more precisely, members from local panels of appropriate adults) were used in 2 per cent of cases, and this percentage is expected to increase following the developments discussed in the previous chapter culminating in the official recommendation for local authorities to use volunteers for their appropriate adult provision (Home Office, 1998a).

3. What are the Responsibilities of the Appropriate Adult at the Interview?

The role of the appropriate adult and the underlying philosophies can also be investigated by examining his or her specific responsibilities according to the Codes and their interpretations. The responsibilities of the appropriate adult can be most clearly divided into those that relate to the time of interview and those that relate to other stages of the young person's detention.

Presence of the Appropriate Adult at the Interview

The appropriate adult should be present when the young suspect is interviewed or asked to provide or sign a written statement (Code C para 11.14). The interview of a young suspect is one of the few situations where an external party is allowed into the police's 'inner sanctuary' (Holdaway, 1983). According to Drakeford (1994:138), the simple presence of an extra adult "alters interaction and provides, even in the social sense, a support system for the detainee." Moreover, it has been proposed that the mere fact that a third party is present renders it more likely that correct procedures will be followed (Brayne and Martin, 1999). Furthermore, an observer could act as a witness in court if, for example, the propriety of interview procedures was ever questioned (Home Office, 1995b; Brayne and Martin, 1999).

These arguments assume that interviews with young suspects could be the context for procedural impropriety. This is a reasonable assumption given some of the events which preceded the formal creation of the role of the appropriate adult reviewed in Chapter 1. It is also borne out by some of the empirical work on interviewing suspects, which raises considerable concerns about the questioning of suspects (Evans and Ferguson, 1991 as cited by Kearns, 1996; MacKenzie, 1991; Baldwin, 1993; Evans, 1993; Irving and McKenzie, 1989; Kearns, 1996). For example, Evans (1993:46) observed oppressive questioning, such as 'haranguing, belittling or threatening' the young suspect. He also observed that some young suspects were more likely to be subjected to unfair techniques, if they were believed to be 'criminals', as a result of previous contact, background or address. Indeed, according to Choongh (1997), the police use such powers to 'discipline' certain marginalised segments of society, such as young people. Kearns (1996) argued that often the police try to induce the suspect to guess the nature of the offence to obtain a

confession, using leading questions, such as: 'you do know why you're here, don't you'. Indeed, in one study, 38.5 per cent of suspects, in a sample of 164 taped interviews, were not told the precise offence about which they were being questioned (Evans and Ferguson, 1991 as cited by Kearns, 1996). In fact, MacKenzie (1991) has identified 14 police techniques to persuade the suspect to answer questions.

However, more recently Pearse and Gudjonsson (1996a) found that the police employed less challenging manipulative tactics compared with earlier studies. It has been argued that there have been moves away from 'tough' questioning towards ethical interviewing (Thomas, 1995; Ashworth, 1998). For example, psychologists have developed new questioning techniques, which move away from an adversarial approach towards a search for the truth (Milne and Bull, 1999 as cited by Wright, 2002).

In sum, it is at least a possibility that interviews with young suspects, who are already more vulnerable by virtue of their age (Gudjonsson and Singh, 1984 as cited by Gudjonsson, 1992a; Littlechild, 1995b; Littlechild, 1998; Asquith, 2002), may be subject to impropriety. It is against the backdrop that the appropriate adult is required to observe whether or not the interview is being conducted properly and fairly, as discussed below. In addition to this an appropriate adult is not expected to act simply as an observer and should advise and facilitate communication with the person being interviewed. It is the police's responsibility to inform the appropriate adult of these four requirements (Code C para 11.6).

Instruction of the Requirements of Role of the Appropriate Adult

Instructing the appropriate adults on what the role entails at the interview, other than simply citing the relevant paragraph, cannot be an easy task for the police given the requirements of the role at interview are unclear.[15] Evans (1993), in his analysis of the transcriptions of interview tapes from six police stations in one police force, found that there was no evidence to suggest that the appropriate adults had been informed of their role during the interview, although Evans (1993) and Brown (1997) have questioned the external validity of this study. Nevertheless, Evans and

[15] There is no requirement prior to the interview for the appropriate adult to be instructed on what the role entails (Palmer, 1996).

Rawstorne (1994) suggested, from their semi-structured interviews of custody officers and interviewing officers and social workers who had experience of acting as appropriate adults, that the police only tell appropriate adults what their role entails in very vague terms. On the other hand, Dixon (1990) referred to contradictory explanations being offered to appropriate adults including one police officer explaining the role to a social worker as being: "You are wallpaper, pal."

The police might withhold the information because the definition is so unclear or for other reasons. McConville *et al.* (1991) suggested that phenomena, which introduce an efficient and effective independent social force into interactions between police and suspects, will be condemned by police culture. Whilst the police are required to explain the role to the appropriate adult, they might withhold this information so they can maintain crime control (McBarnet, 1981) or authority (Choongh, 1997). However, there is some evidence that the level of instruction by the police on the requirements of the role might be changing at least in relation to mentally vulnerable suspects (Palmer and Hart, 1996). Moreover more recent reports, by, for example, one youth justice worker, have been that the interviewing officer has informed the appropriate adult of the requirements of the role (Kearns, 1996).

Not Acting Simply as an Observer

Returning to the requirements of the appropriate adult's role at interview, the appropriate adult is not expected to act simply as an observer. As noted above, simply observing or being present does have a number of benefits (Drakeford; 1994: Home Office, 1995b; Brayne and Martin, 1999), and no contribution is needed of course if the interview is properly conducted and communication flows well without the appropriate adult's assistance. However, according to the courts, merely observing will not be sufficient in all cases. In DPP v Blake [1989] 1 WLR 432, the appropriate adult was the suspect's father from whom she was estranged. The only communications between them was for the father to ask his daughter if she was all right to which she did not answer. The court, subsequently, ruled that an adult must not just be present, but must be capable of advising the suspect.

Advising the Person Being Questioned

As Palmer (1996:6) pointed out, "what are appropriate adults meant to advise the suspect about – welfare or legal rights? Should they advise whether to answer questions?" If they are supposed to advise the suspect about legal rights, this calls into question the distinction between the roles of the appropriate adult and legal adviser.

A number of writers have separated the involvement of an appropriate adult and a legal adviser (Kay and Quao, 1987; Haley and Swift, 1988; Sandell, 1992; Littlechild, 1995a; 1995b; White, 2002). According to White (2002), the fact that the Codes refer separately to appropriate adults and legal advisers implies that they have different roles to play. As Littlechild (1995a; 1995b) also pointed out, the fact that a solicitor, who is present at the station in that capacity, is excluded from acting as the appropriate adult (Code C Note for Guidance 1F; Code D Note for Guidance 1D) emphasises that the roles of legal adviser and appropriate adult are two distinct roles.

However, the Codes do not explain the specific distinction between the roles of legal adviser and appropriate adult (Haley and Swift, 1988; White, 2002). As Evans and Rawstorne (1994:63) pointed out: "PACE guidance is arguably itself ambiguous on the point of any assumed division of labour between the appropriate adult and any legal representative". Moreover, as Littlechild (1995b) pointed out, it is possible, albeit unlikely, that the situation could arise where an appropriate adult attended an interview of a suspect who had been legitimately denied access to a solicitor or from which a solicitor had been barred (Code C Annex B; paras 6.9-6.11). In fact, only a small proportion of young suspects receive legal advice (Brown *et al.*, 1992) and, in the past, it has been found that solicitors are rarely active in police interviews (Evans, 1993; Nemitz and Bean, 1998) and, where advice is given, it is generally poor (Brown *et al.*, 1992).

In the past, much of this could have been due to the fact that many legal advisers were not qualified solicitors and, consequently, their ability to advise their clients was called into question (Pearse and Gudjonsson, 1996b; McConville and Hodgson, 1993). Solicitors' representatives were used, who were, for example, trainee solicitors, legal executives, paralegals and employees of outside agencies supplying legal advice services to firms of solicitors on contract. It was argued that

representatives could have lacked legal expertise and confidence or may have over-identified with the police if they had been former police officers themselves (McConville and Hodgson, 1993).

However, the growth in use of representatives has now been reversed (Bucke and Brown, 1997; Philips and Brown, 1998). Where Philips and Brown (1998) were able to establish the status of the legal adviser in cases they observed, they found that 74 per cent were qualified solicitors and only 26 per cent were representatives (n=776, data were missing in 196 cases). The decline was mainly the result of the introduction in 1995 of a Law Society accreditation scheme for police station representatives. Those who had not been accredited or had not registered to become accredited are not entitled to remuneration from the Legal Aid budget (Bridges and Choongh, 1996 as cited by Philips and Brown, 1998; Bridges and Choongh, 1998). Moreover, the police had the discretion to exclude non-accredited or probationary representatives (Code C para 6.12A).[16] There is also evidence to suggest that, since the introduction of the accreditation scheme, the development of training materials for police station lawyers and the incorporation of quality targets into the General Criminal Contract, the quality of advice has significantly improved in recent years (Bridges and Choongh, 1998; Cape, 2002; Cape and Hickman, 2002).

In instances where legal representation is still poor, young suspects may have to rely on appropriate adults for advice on legal rights. Indeed, the limited case law assimilates the two roles. The judge in Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180 compared the role of the appropriate adult for a mentally vulnerable suspect to that of a solicitor. He reported:

> "It is true that there is a difference between an appropriate adult for this purpose and a solicitor, although their functions may be very similar. An appropriate adult may have a greater insight into the disabilities of a mentally handicapped person who is suffering from a low IQ. Nevertheless, the functions of such appropriate adult and a solicitor are very largely the same, namely to see that the accused fully understands his rights, fully understands that he does not have to say anything unless he wishes to do so, to see that the interview is conducted correctly and that the police do not abuse their position, and that the accused is able to make himself clearly understood and clearly understands what is being put to him. In those respects the functions of an appropriate adult and a solicitor are very similar."

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[16] The definition of a 'solicitor' in the 1995 version of Code C included trainee solicitors, duty solicitor representatives and accredited representatives (Code C para 6.12). Now a 'solicitor' for the purposes of Code C means a solicitor or a accredited or probationary representative (Home Office, 2004, Code C para 6.12) and the police have the discretion to exclude a non-accredited, probationary and accredited representatives.

Whilst it has been argued that the needs of mentally vulnerable suspects are different to those of young suspects (Robertson *et al.*, 1996), this is the only case, to the author's knowledge, which has given guidance on this issue. Moreover, in the author's search of the literature, she could not find any data on young people's thoughts on the distinction between the roles of the appropriate adult and legal adviser, maybe because of the special considerations surrounding gaining access to (Homan, 1991; Greig and Taylor, 1999) and researching children (British Society of Criminology, 1999). Presumably, a young person is less likely to perceive that there is a distinction between a social worker or volunteer and a legal adviser, than between a parent and a legal adviser.

In sum, the division of labour between the appropriate adult and any legal representative remains very unclear (Haley and Swift, 1988; Evans and Rawstorne, 1994; White, 2002). This could create a number of problems including if both are present and the advice of appropriate adult and legal adviser conflicts (Pearse and Gudjonsson, 1996c). The separate issues of the suspect's and appropriate adult's right to legal advice are discussed below. The interpretation of the role being similar to that of a legal adviser and involving advising the suspect about, for example, his or her legal rights reflects due process concerns.

Observing Whether the Interview is Being Conducted Properly and Fairly

As well as advising the suspect, the appropriate adult should observe whether the interview is being conducted properly and fairly.

Identifying improper and unfair interviews

Fennell (1993) argued that knowledge of PACE and the Codes would be needed to observe whether the interview was being conducted properly and fairly. However, due process concepts of fairness and propriety have not been clearly defined by the law in this context. Article 6 of the ECHR guarantees the right to a fair trial and this right has been reinforced by the HRA which incorporated the ECHR into domestic law. The case law of the ECHR confirms that the right to a fair trial pervades the pre-trial process and, therefore, covers the police interview (see, for example, Averill v United Kingdom, The Times, 20 June 2000; Magee v United Kingdom, The Times, 20 June 2000). Article 6 guarantees the following minimum rights:

- the presumption of innocence
- to be told of the details of the case
- to have time and facilities to prepare a defence
- to have legal assistance of his or her own choosing and to be given it free where necessary
- to call witnesses and examine the witnesses for the prosecution
- to have the free assistance of an interpreter

As will be seen below, many of these rights, such as the right to free legal advice and the free assistance of an interpreter, are echoed in PACE and the Codes. The regime for detention and questioning established by PACE is thought generally to comply with the ECHR (Cheney *et al.*, 1999) and sometimes to exceed the ECHR's requirements (Sanders and Young, 2000). Therefore, presumably a neglect of PACE's regime would constitute an unfair interview.

A further principle of a fair trial is that no admission or confession should be received in evidence unless voluntarily (Saunders, 1989). As explained in the previous chapter, in a criminal trial, a judge has the discretion to exclude evidence if it was obtained 'unfairly' (PACE s. 78) or by 'oppression' (PACE s. 76). Oppression "includes torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture" (PACE s. 76(8)). The Codes also give some brief guidance on what are and what are not acceptable interviewing techniques. Code C para 11.3 provides:

> "No police officer may try to obtain answers to questions or to elicit a statement by the use of oppression. Except as provided for in paragraph 10.5C, no police officer shall indicate, except in answer to a direct question, what action will be taken on the part of the police if the person being interviewed answers questions, makes a statement or refuses to do either. If the person asks the officer directly what action will be taken in the event of his answering questions, making a statement or refusing to do either, then the officer may inform the person what action the police propose to take in that event provided that action is itself proper and warranted."

In other words, Code C para 11.3 prohibits oppressive techniques, and the offering of inducements (Sanders and Young, 2000) and the use of threats. However, the courts are yet to clarify what constitutes oppression (Sanders and Young, 2000).

Interpretations by the courts of unfair conduct have included questioning involving lies and deception (Mason [1988] 1 WLR 139 as cited by Sanders and Young, 2000) and failure to record statements contemporaneously (Canale [1990] 2 All ER 187 cited by Sanders and Young, 2000). There are also certain rules in the Codes concerning how an interview should be conducted summarised in Chapter 1. For example, the suspect should be cautioned and reminded of his or her right to free legal advice (Code E). It is conceivable that deviations from these rules could be considered as unfair conduct.

In sum, given the vagueness of PACE ss. 76 and 78, the brevity of Code C para 11.3 and the little and inconsistent guidance given by the courts (Palmer, 1996; Sanders and Young, 2000), academic writers have been left to question what conduct would be considered as improper or unfair. For example, Bean (1997) questioned whether being persistent, raising one's voice or adopting an aggressive posture would be classified as unfair. Drakeford (1994:138) included "statement-questions", such as "You hit him, didn't you?" as unfair conduct. Finally, the fairness or propriety of an interview is not only dependent on the police. Potentially, legal representatives, interpreters and appropriate adults themselves could also act unfairly or improperly.

Intervening in the face of improper and unfair interviews

Once an appropriate adult has identified conduct within an interview as improper or unfair, which is in itself problematic, he or she should presumably intervene given the requirement that the appropriate adult should not act merely as an observer (Code C para 11.6). However, the Codes do not specify what form these interventions should take (White, 2002). It has been recommended that the appropriate adult should record and verbally challenge and, if necessary, terminate the interview by leaving, in the face of breaches of the Codes and oppressive techniques (Drakeford, 1994; Spencer, 2001). Indeed, non-verbal displays of disapproval not be taped, nor would disapproval voiced after the interview (White, 2002) given it is only the interview which has to be audio taped (Code E). The ability of an appropriate adult to fulfil this due process role and recognise improper and unfair conduct will be questioned in the next chapter.

Facilitating Communication with the Suspect

As well as advising the person being questioned and observing whether the interview is being conducted fairly and properly, an appropriate adult is expected, during the interview, to facilitate communication with the person being interviewed (Code C para 11.6). As Palmer (1996:6) pointed out: "Does [this] mean ensuring that questions are put simply and clearly and that any replies reflect what the suspect intended to say, or is the appropriate adult required to encourage an otherwise silent suspect to answer police questions?" In Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180 cited above, one judge stated that one of the appropriate adult's functions is "to see that...the accused is able to make himself clearly understood and clearly understands what is being put to him." This could involve checking comprehension of questions and processes and advocating for the suspect, which will now be considered. Whether an appropriate adult is required to encourage an otherwise silent suspect to answer police questions, that is to advocate for the police, will also be considered.

Checking comprehension of questions and processes

One interpretation of facilitating communication involves checking that the suspect understands the questions that are asked of him or her and the implications of his or her answers to those questions (Littlechild, 1995b). Drakeford (1994) recommended that the seating arrangements in an interview should allow for the appropriate adult to maintain eye contact with the suspect. In this way, the appropriate adult might be able to gauge the level of the suspect's comprehension. Where the appropriate adult becomes aware that the suspect does not understand or has doubts about the suspect's comprehension, the appropriate adult might have to interrupt the interview (Spencer, 2001), or stop it, to check (Blackie, 1996). An appropriate adult might also stop an interview for legal advice (Blackie, 1996). For example, as suggested by Littlechild (1995b), the interviewing officer might ask the suspect whether he or she knew that the car that he or she had been driving had been stolen, to which the suspect might reply 'yes'. In this case, the appropriate adult should clarify whether the officer was questioning whether the suspect knew that the car had been stolen at the time of driving it or whether the suspect had not known that the car had been stolen at the time of driving it, but had subsequently become aware that it had been stolen when, for example, the police intervened. The appropriate adult might also wish to confirm terms used by the police which could be subject to various interpretations. For example, Walinets (1985) referred to an

interview he attended where the police officer repeatedly used the word 'knife' to refer to a battered, minute key-ring penknife belonging to the suspect. Walinets asked the officer to describe this "knife" to avoid any subsequent confusion in court when the statement was read out. Drakeford (1994:136) added that the role includes "checking their understanding of processes". This might involve, for example, that the young suspect understands the police caution, which should be read in the presence of the appropriate adult (Code C para 10.6), as discussed below.

According to Spencer (2001), stopping the interview is not considered to be damaging for the suspect in the eyes of the police and courts. On the contrary, as explained above, McConville *et al.* (1991) suggested that police culture takes a dim view of any party who intervenes in exchanges between police and suspects. On the other hand, some police officers apparently consider the presence of an appropriate adult to be useful as it would be difficult to challenge the accuracy of record or way in which the interview was conducted if an appropriate adult was present. Evans and Rawstorne (1994) suggested that the present situation suits the police well, when appropriate adults act merely as passive witnesses. In such cases, the presence of an appropriate adult protects the admissibility of evidence without intruding on the police's work. Similarly, Hodgson (1997) pointed out that appropriate adults are helpful to the police, not only in validating the interview, but also in providing background information and calming the suspect. This appears to offer a nod in the direction of the welfare perspective.

Advocating for the suspect

'Seeing that the accused is able to make himself clearly understood' (Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180) might involve interpreting the young person's explanation for the police, if, for example, it was peppered with slang. Moreover, Walinets (1985) suggested that the appropriate adult should intervene if the juvenile provides an answer, which, because of limited self-expression, could be taken to mean something which was not actually meant. Arguably, considerable care would have to be taken not to put words into the young person's mouth and to clarify that the young person agreed with the appropriate adult's interpretation. It may be more desirable to simply advise the young person to try to rephrase his or

her answer. In the neighbouring jurisdiction of Scotland, guidance was issued in 1998 to encourage arrangements which ensure that, whenever a mentally vulnerable suspect is interviewed by the police, there is an 'appropriate adult' present, who, on account of his or her expertise in dealing with mentally vulnerable people, can facilitate the interview (Scottish Executive, 1998). Interestingly, this guidance recommended that the appropriate adult should not lead the suspects or be an active advocate (Scottish Executive, 1998). As White (2002:61) pointed out: "These are proper and acceptable limitations on the role." On the other hand, presumably Brayne and Martin (1999:249) disagreed as they interpreted 'facilitating communication' as 'advocating on behalf of the detainee'. In sum, ambiguity reigns.

Advocating for the police

Returning to Palmer's (1996) question of whether an appropriate adult is required to encourage a silent suspect to answer police questions, 'facilitating communication' does not, apparently, exclude encouraging the young person to tell the truth and doing so in a 'robust' manner. In R. v Jefferson [1994] 1 ALL ER 270, the defendant was 15 years old. His father was present as appropriate adult. He intervened in the interview "robustly", often questioning his son himself and contradicting him on occasion. The defendant appealed on the ground that the interviews were defective. However, the court held that, although the defendant's father may have been a critical observer, he was not under a duty to protect the juvenile from being questioned by the police and his encouragement to tell the truth was not a failure by him to fulfil his role.

This case raises an important question. Should the judge have distinguished between an appropriate adult questioning a suspect him or herself, that is acting as an 'agent' for the police, and an appropriate adult encouraging a suspect to tell the truth? Arguably, acting as an 'agent' for the police exceeds simply encouraging the suspect to tell the truth. The categories of persons permitted to act as appropriate adults are independent of the police (Code C para 1.7(a); Crime and Disorder Act 1998 s. 65(7)) and such a person must not be involved in the investigation (Code C Note for Guidance 1C; Code D Note for Guidance 1A). This would imply that acting as an 'agent' for the police would be unacceptable. In the absence of the guidance recommended by the *Review Group* in the previous chapter (Home Office, 1995b), the requirement remains ambiguous and, consequently, appropriate adults have to rely on the lead of the police, increasing the likelihood of

them becoming the police's agents (Fennell, 1994). This is, therefore, an example of McBarnet's (1981) argument that due process is for crime control. In other words, the law provides a safeguard for the accused, in the form of the appropriate adult, but the police are able to subvert, negate and abuse the safeguard.

The judge in another case mentioned above, R v Aspinall [1999] 2 Cr App Rep 115 (Court of Appeal (Criminal Division)), confirmed that an appropriate adult would be expected to advise a suspect to tell the truth at interview. The appellant had, at interview, denied that others had been present when the crime in question had been committed. However, the police had already detained the appellant's co-defendant, who was linked by evidence to the appellant's car. At the time of interview, the appellant had thought he was assisting his case by denying others had been present. However, at trial, the appellant had admitted that others had been present. According to the judge, assuming the account given at trial was the truth, an appropriate adult or legal adviser, had one been present, would have urged the appellant to tell the truth, because the patent lies could only harm his defence.

This case raises another important question. In this case it would have been in the best interests of the suspect to be advised to tell the truth. However, would an appropriate adult still be expected to encourage the suspect to tell the truth if being fairly interviewed, if it would be in the suspect's best interests to advise him or her to exercise the right to silence? Indeed, Brown *et al.* (1992) and Evans (1993) submitted that the effect of the parent in facilitating communication from the child may detract from the child's (now curtailed) right to silence.

In sum, the Codes lack an explanation of what constitutes an unfair and improper interview. Moreover, the requirement for the appropriate adult to facilitate communication is ambiguous, borne out by the contradictory interpretations of academic and practitioner writers of which some allude to due process and others to crime control concerns. As such, there is a danger of an appropriate adult acting as the police's 'agent' and detracting from the suspect's (albeit curtailed) right to silence. Hence, Fennell (1994:67) referred to: "the internal contradictions between

advising the suspect and facilitating the investigation inherent in the role." Moreover, the limited case law clouds the issue even more.

4. What are the Responsibilities of the Appropriate Adult at Other Stages?

As well as at interviews, the appropriate adult's presence is also required when the young person is: informed of his or her rights (Code C para 3.11), cautioned (Code C para 10.6), interviewed or asked to provide or sign a written statement (Code C para 11.14), subject to an identification procedure (Code D para 1.14), strip or intimately searched (Code C Annex A paras 5; 11c) or charged (Code C para 16.1-3). The fact that the appropriate adult is required to be present at these stages and his or her responsibilities at the stages also shed light on the nature of the role.

Informing the Young Suspect of His or Her Rights

The young suspect's rights should be repeated in the presence of the appropriate adult if he or she was not there originally (Code C para 3.11). Procedures might vary from custody officer to custody officer, but, normally, the appropriate adult will, on arrival at the police station, be taken to meet the child and witness the reading of rights (Spencer, 2001). The appropriate adult should be asked to counter-sign the custody record to confirm that he or she has witnessed this (Spencer, 2001).

In the past, research has shown that it was more common for juveniles not to be informed of their rights than adults and, when they were actually relayed, it was often done in a vague manner (Brown *et al.*, 1992). Moreover, as McNally (1996) pointed out in relation to mentally vulnerable suspects, young suspects might find the leaflet, which should be given to them by the custody officer to explain their rights, too complicated to understand. Similarly, retaining the information may be difficult. Therefore, as well as the appropriate adult ensuring that the rights are repeated to the young suspect in his or her presence, he or she may have a role in ensuring that the suspect understands his or her rights.

Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180 cited above confirmed that the role of the appropriate adult includes ensuring that the suspect understands his or her rights (Thomas, 1995). Indeed, the social worker, who acted as an

appropriate adult for the juveniles suspected of the murder of Police Constable Blakelock at the Broadwater Farm disorders, was excluded from the interview when actively advising the suspects of their rights, and this was one of the reasons which led to the juveniles' acquittals (Townsend, 1987).

In R v Aspinall [1999] 2 Cr App Rep 115 (Court of Appeal (Criminal Division)), also cited above, it was held that a significant part of the duty of an appropriate adult was to advise the suspect about the presence of a solicitor at interview. In this case, the appellant was deprived of such advice, which in all likelihood would have urged him to have legal representation. However, there is a difference between advising a suspect about his or her right to free legal advice and encouraging him or her to execute that right. Presumably, an appropriate adult can encourage a suspect to execute his or her right to legal advice, as an appropriate adult can choose to exercise the right to legal advice on behalf of the juvenile (Code C para 3.13), but this is a separate issue that will be discussed more appropriately below in relation to the appropriate adult's rights.

In the experience of Kearns (1996:111), a youth justice worker appropriate adult, advising the young person of the advantages of requesting a solicitor was often a "sticking point" with the young person and the police. It is conceivable that a young person may not ask for legal advice because he or she does not understand what a solicitor is or what a solicitor does. Alternatively, the young suspect might consider him or herself to be an 'old hand' and not to require the presence of legal advice or there will have probably been a delay in waiting for the appropriate adult and, as Dixon (1990) pointed out, the idea of a further delay makes an offer of legal advice most unappealing. Moreover, the police may bring pressure on the young suspect not to request legal advice (Sanders *et al.*, 1989; Leng, 1993; Kearns, 1996). In general, it is worth recognising that, where an appropriate adult does offer advice, his or her influence on the young suspect may be minimal. As Kay and Quao (1987:22) found, in relation to the issue of advising young suspects to exercise their right to silence, "influence on many juveniles is limited, and they have often decided themselves whether or not to answer." The point is that, assuming an appropriate adult should encourage a suspect to execute the right to legal advice, the young suspect may not oblige.

An appropriate adult might also wish to monitor whether the young suspect is given the opportunity to exercise his or her rights, given the findings that juveniles have often not had someone informed of the arrest (Brown *et al.*, 1992) and have not always received legal advice when requested (Philips and Brown, 1998). This, along with ensuring that the young person understands his or her rights presumably so that he or she can exercise them his or herself, is reminiscent of a due process model.

Cautioning the Young Suspect

The juvenile should be read the police caution in the presence of the appropriate adult, even if he or she was read the caution when he or she was initially arrested (Code C para 10.6). Currently, the caution reads: "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence." (Code C para 10.4). Research has shown that few people, among the general population, understood the caution, with many believing they had to answer police questions (Shepherd, undated as cited by Langdon-Down, 1996), and vulnerable people have less chance of understanding the position (Gudjonsson and Clare, undated as cited by Langdon-Down, 1996). Moreover, as McNally (1996) pointed out in relation to mentally vulnerable suspects, young suspects might claim to have understood the caution when in fact they have not, owing to acquiescence or a tendency to answer 'Yes' when asked whether or not they understand something. Juveniles may give false explanations from fear of inferences being drawn from silence (Dodds, 1995).

Whilst Cape (1996) argued, in relation to mentally vulnerable suspects, that the defence lawyer can minimise the risks, the reliability of legal advisers for young suspects in the past has been questioned above (Brown *et al.*, 1992; Evans, 1993; Nemitz and Bean, 1998; Philips and Brown, 1998). Therefore, the appropriate adult may have a role in explaining the caution. As advised by Spencer (2001: supp 4): "The appropriate adult will need to make sure that the caution takes place, and that the child understands what is being said to him or her. The appropriate adults should consider carefully if the child is not legally represented at this point – should they be?"

Searching the Young Suspect

These provisions regarding the 'intimate search'[17] and the 'strip search'[18] of a young suspect are the same as for an adult, except that an appropriate adult of the same sex must be present, unless the juvenile specifically requests the presence of an appropriate adult of the opposite sex who is readily available and unless the young person signifies in the presence of the appropriate adult that he or she prefers the absence of the appropriate adult and the appropriate adult agrees (Code C Annex A paras 5 and 11 respectively). There is no requirement for an appropriate adult to be present for a 'non-intimate search'[19].

Charging the Young Suspect

If there is sufficient evidence to charge the young suspect, [6 see page 22] the subsequent charging should take place in the presence of the appropriate adult (Code C para 16.1). When a suspect is charged, he or she should also be given a notice of charging. If the person is a juvenile, the notice should be given to the appropriate adult (Code C para 16.3). After charging, the suspect should not be subjected to further questions about the offence, without being cautioned again (Ball, 1996) and without the presence of an appropriate adult (Spencer, 2001). The suspect also has the right to a solicitor if subjected to further questions (Spencer, 2001).

Identification of the Young Suspect

The police procedures to confirm the identity of a suspect, to which a young suspect could be subjected during his or her detention, include body samples, identity parades, fingerprints and photographs. The provisions which govern these actions are found in Code D. The identification provisions apply equally to adults and juveniles subject to two provisos. Firstly, for young suspects, most actions require 'appropriate consent', as opposed to just the suspect's consent. That said, Code D also makes provision for continuing with most procedures where consent is refused. Secondly, most actions require the presence of an appropriate adult (Code D 1.13 and 1.14). The appropriate adult also has specific rights when present at certain identification procedures.

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[17] An intimate search is a search which consists of the physical examination of a person's body orifices other than the mouth (Code C Annex A para 1).
[18] A strip search is a search involving the removal of more than outer clothing (Code C Annex A para 9).
[19] A non-intimate search is the removal of outer clothing and an inspection of the mouth (Code C Annex A).

'Appropriate consent'

Most actions require 'appropriate consent', although no consent is required for confrontation by a witness (Code D para 2.13) and covert group identification (Code D Annex E para 2). In the case of an action requiring consent, the consent of a young suspect, of between 14 and 16 years of age, is only valid if the consent of the parent or guardian is also given. In other words, the consent of the juvenile and the parent is required. If the suspect is between ten and 13 years of age, then the consent of the parent or guardian is sufficient in its own right (Code D para 10). An appropriate adult, who is not a parent or guardian, cannot normally give consent.

However, Code D Note for Guidance 1E provides: "1E For the purposes of paragraph 1.11 above, the consent required to be given by a parent or guardian may be given, in the case of a juvenile in the care of a local authority or voluntary organisation, by that authority or organisation" Therefore, Littlechild (1996) argued that a social worker acting as an appropriate adult for a juvenile on a care order can give consent, but maintained that it was unclear whether or not a social worker could give consent for an 'accommodated' juvenile. He advised that consent should only therefore be given if the young person is subject to a court order. Whether a volunteer, acting as an agent of social services, should give consent is not clear.

Besides, Code D also makes provision for continuing with most procedures where consent is refused. A non-intimate body sample (Code D para 5.5), fingerprints (Code D para 3.2) and photograph (Code D para 4.2) can be taken in certain circumstances where consent is refused, including where the person has been charged with a recordable offence or informed that he or she will be reported for such an offence (Code D paras 3.2ii; 4.2 ii; 5.5 ii). Identity parades (Code D paras 2.4; 2.7; 2.10), group identifications (Code D para 2.8) and video identifications (Code D para 2.11) can also take place in certain circumstances when consent is refused. Moreover, if the parent does not give his or her consent for an intimate sample, the court can be told of his or her refusal and can draw such inferences as seem proper (PACE s.62).

Presence of the appropriate adult for the purposes of Code D

The term 'appropriate adult' for young suspects in Code D has the same meaning as for Code C (Code D paras 1.6; 1.14; Notes for Guidance 1A; 1B; 1C; 1D; 1H). The appropriate adult's

presence is required when the young suspect participates in any Code D procedure (Code D paras 1.13; 1.14). The exception is the covert group identification where the appropriate adult's presence is not required (Code D para 34). According to Littlechild (1996:73), the appropriate adult's role during procedure under Code D is to: "ensure that the detainee understands the processes that are taking place, the consequences of them, and to advise the detainee about these, including free legal advice if not already obtained."

The appropriate adult can be of either sex with the exception of strip and intimate searches and the collection of body samples. In these cases, the appropriate adult should be of the same sex, unless the juvenile specifically requests the presence of an appropriate adult of the opposite sex who is readily available and unless the young person signifies in the presence of the appropriate adult that he or she prefers the absence of the appropriate adult and the appropriate adult agrees (Code D para 5.12). Littlechild (1996:81) argued that, in such situations, legal advice is essential.[20]

Specific rights when present at certain identification procedures

As well as being present, the appropriate adult also has specific rights at certain identification procedures. At identity parades, the appropriate adult should witness anything said to or by the witness during the procedure regarding the identification (Code D Annex A). At group identity parades, the appropriate adult can make representations to the identification officer regarding the location of the group identification (Code D Annex E para 3). At video identifications, the appropriate adult is entitled to see the video film and make reasonable objection to the video film or any of its participants before it is shown to witnesses (Code D Annex B para 7).

In sum, the provisions regarding the appropriate adult at other stages during the young suspect's detention are confusing in that elsewhere only the presence of an appropriate adult is required. However, for identification procedures, if the appropriate adult is not a parent or guardian, then the

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[20] There may be other times when emulating the demographic characteristics of the suspect might be desirable. For example, Jones (1987) questioned his suitability, as a white social worker, to act as an appropriate adult for a black suspect, when three young, black people were charged with the murder of Police Constable Blakelock. Emulating characteristics may help create the required empathy explained above (DPP v Blake [1989] 1 WLR 432; Williams, 2000a).

presence of a parent or guardian is required, to give his or her consent to the procedure. Whilst it might not be desirable to allow another person, such as a social worker or volunteer, to usurp what might be considered by some as a parent's exclusive right, insisting on consent from a parent could result in considerable delays. If a parent is not already in attendance, he or she may have either been unavailable (Signy, 1997) or reluctant to attend when requested at the outset of the young person's detention (Drakeford, 1994; Palmer, 1996), particularly if he or she other children to look after, or if it is at night or if their children are persistent offenders, and is unlikely to want to attend when asked again. Delays, from a welfare point of view, are not in the interests of suspects (Littlechild, 1995a) and, from a due process point of view, at least according to Dixon (1990), increase the risk of unsafe confessions. Moreover, delays do not accord with a managerialist vision of criminal justice. In any event, the requirement of 'appropriate consent' appears to be largely illusory, as most of the paragraphs dealing with identification procedures provide for the continuance of the procedures without this consent, albeit only in certain circumstances.

5. What are the Rights of the Appropriate Adult?

In addition to the responsibilities discussed above, the appropriate adult has certain rights; to consult with the suspect privately if requested by the young person (Code C para 3.12), to request legal advice on behalf of the young person (Code C para 3.13) and to consult the custody record (Code C paras 2.4-5). An appropriate adult may also review certain other documents, that is reading and signing the interview record or written statement or the statement/interview of another person (Code C paras 11.11 and 16.4 respectively), decide whether or not to agree to a police interpreter (Code C para 13.9), interrupt or delay the young suspect's rest period (Code C para 12.2 and participate in representations to the custody officer when the suspect's detention is reviewed (Code C para 15.1). The role of the appropriate adult and the underpinning philosophy can also be investigated by looking at some of these rights.

Private Consultation between the Appropriate Adult and the Young Suspect

Code C para 3.12 provides that: "The [young suspect] shall be advised by the custody officer that...he can consult privately with the appropriate adult at any time." However, Brown *et al.* (1992) found that this requirement was not being met. If the juvenile is not informed that he or she can consult with the appropriate adult in this way, it is suggested that it is unlikely that he or she

will take advantage of the opportunity.[21] In order to develop a sense of independence from the outset, Drakeford (1994) recommended that the appropriate adult should meet with the suspect. This is to allow for:

> "an assessment of the cause and extent of that individual's 'vulnerability' and to obtain a preliminary response to any particular needs. Such an interview should also include an explanation of the role and purpose of the appropriate adult service and provide an opportunity to check whether or not a solicitor has been requested...a discussion of [requesting a solicitor] can be undertaken at this stage." (Drakeford, 1994:137)

Walinets (1985) advised that, if the child does not know the appropriate adult, the appropriate adult should write down his or her name and position and explain why he or she has been called and the reasons for the non-attendance of parents. He also advised the appropriate adult to ask the juvenile how long he or she has been detained and whether he or she has been treated reasonably. Finally, he recommended that the appropriate adult should seek information about the incident, but, arguably, this is inadvisable in the light of the lack of legal privilege. Focusing on assessing the suspect's vulnerability, responding to his or her needs and the length of his or her detention all show a concern for the suspect's welfare.

Legal privilege

Whilst a suspect can consult privately with the appropriate adult (Code C para 3.12), information imparted to appropriate adults is not legally privileged, unlike information imparted to legal advisers (Evans and Rawstorne, 1994). As explained above, all categories of persons can be disqualified from acting as appropriate adults if they have received admissions (Code C Note for Guidance 1C; Code C Note for Guidance 1D; Code D Note for Guidance 1A). In addition, Code C Note for Guidance 1D provides that if a child in care admits an offence to a social worker outside the interview, then another social worker should fill the role of the appropriate adult. The Code does not, however, cover admissions made during the detention process (White, 2002). Hence, there is no restriction on appropriate adults passing such admissions onto the police. Nor is there any restriction on the police questioning the appropriate adult in efforts to obtain information the suspect disclosed to him or her or on a court subpoenaing the appropriate adult to appear as a

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[21] However, in Robertson *et al.*'s (1996) more recent study of vulnerable adult suspects, they found that the police ensured without exception that the appropriate adult and suspect met privately before the interview, although this does not mean that they would have found the same for young suspects.

witness (Home Office, 1995b; Brayne and Martin, 1999). Failure to reveal such information under subpoena would constitute contempt of court, risking imprisonment or a fine. Under the Criminal Law Act 1967 s. 5, failure to communicate information about an arrestable offence is not an offence in itself, unless information is withheld for profit or gain. However, in certain circumstances, failing to disclose information about criminal activity can constitute an offence in itself.[22]

Indeed, there are examples in the literature of appropriate adults passing such admissions onto the police. For example, in one case, a mentally vulnerable suspect confessed to a murder to his solicitor in front of the social worker acting as an appropriate adult. Having consulted her director of social services, she then reported this information to the police (Ogden, 1992; Littlechild, 1993). Indeed, Bean and Nemitz (1994) suggested that the social worker's duty of care towards his or her client may support disclosure, whereas, they argued, that the advocate/supportive role of the appropriate adult seems to support the opposite. However, a search of the literature did not uncover any examples of a court subpoenaing an appropriate adult, although it is theoretically possible (Home Office, 1995b; Brayne and Martin, 1999).

An appropriate adult, who refuses to offer such information or answer the police or court's request, may be ignoring an ethical, as well as a legal, duty to uphold justice and maintain a safe society.[23] Indeed, during the course of general social work, it is expected that information would be passed to the police. Whilst the Data Protection Act 1998 normally prohibits the disclosure of personal information, certain personal information is exempt from compliance with aspects of the non-disclosure requirements, including information passed to the police for the prevention or detection of crime (Department of Health, 2000). However, the role of the appropriate adult is distinct from general social work and perhaps this principle should not apply. As Thomas (1995:153) argued:

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[22] For example, if a person fails to disclose, to the proper authorities, information which he or she knows or believes might be of material assistance in preventing an act of terrorism or in securing the apprehension, prosecution or conviction of a person for a terrorist offence, he or she is guilty of an offence under the Prevention of Terrorism (Temporary Provisions) Act 1989 s. 18 (Allen, 1996).

[23] Some commentators even argue that solicitors' duty to ensure that justice is achieved should be given greater weight than their duty to their clients (Fry, 1997).

"In the normal course of events this would appear to be the correct course of action assisting the police, as Department of Health guidelines advise (Department of Health, 1988, paras. 28-30[24]), but in the context of a police interview perhaps the 'normal course of events' do not apply."

Similarly, Evans and Rawstorne (1994:66-67) argued that:

"It can be argued that such information ought to be 'privileged' although this raises problems for appropriate adults when they are employees of the local authority...If appropriate adults were similarly empowered by statute [like Approved Social Workers under the Mental Health Act 1983] this would get around any possible conflicts of interests between status as appropriate adults and that as employees."

The British Association of Social Workers (henceforth BASW) and the Association of Directors of Social Services considered that social workers have a duty to assist in the prevention and detection of crime, including passing on information to the police when asked (Spencer, 2001). Following the aforementioned case (Ogden, 1992; Littlechild, 1993), the BASW and Law Society drew up guidelines suggesting that the consultation with a solicitor should take place in the absence of an appropriate adult (Ogden, 1992; Littlechild, 1995a), and the Law Society called for an amendment to the Code (Ogden, 1992). Consequently, one of the revisions to the Codes in 1995 was that solicitor's initial interview should take place in the absence of the appropriate adult (Code C Note for Guidance 1EE).

Both the *RCCJ* and the *Review Group* expressed concern about the lack of legal privilege (Home Office, 1995b). Their positions were supported by White (2002:63), who argued that: "If we expect the appropriate adult to have a broad understanding of the legal issues of detention and to be in a position to provide [a degree of legal advice], it should follow that legal professional privilege is extended to them." However, the position remains that information imparted to appropriate adults is not legally privileged. In this sense, appropriate adults differ from the key personnel in the due process model namely lawyers. On a practical level, in the absence of legal privilege to protect private conversations between the suspect and appropriate adult, the consequences of discussing the incident should be clearly explained to the suspect (Palmer, 1996; White, 2002) and appropriate adult (Palmer, 1996).

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[24] The Department of Health's (1988) guidelines have now been replaced by new guidelines following the implementation of the Data Protection Act 1998 (Department of Health, 2000).

Confidentiality

Whilst the *Review Group* did not object to appropriate adults being called as witnesses to interviews, which would be necessary, for example, where the propriety of interview procedures was questioned, it considered that other discussions between the appropriate adult and suspect should remain confidential (Home Office, 1995b). However, currently such interviews are not confidential. The appropriate adult may negotiate with newspapers to sell the story of his or her conversations with the suspect, as Ms Leach did. She was a volunteer appropriate adult for Frederick and Rosemary West, who were presumably deemed mentally vulnerable and, therefore, required appropriate adults (BBC, 2002). The appropriate adult's role has been criticised, by Palmer (1996) and Bean (1997), for the lack of confidentiality rules. Arguably, this type of publicity seems inappropriate given that an appropriate adult could appear as a trial witness (Home Office, 1995b; Brayne and Martin, 1999) and his or her newspaper story could lead to miscarriages of justice (BBC, 2002). However, it seems unavoidable for an appropriate adult to share a suspicion of risk of harm to the child or others, for example child abuse, with the appropriate authorities.

Right to Request Legal Advice on Behalf of the Young Suspect

The appropriate adult may choose to exercise the right to legal advice on behalf of the juvenile (Code C para 3.13). Brown *et al.* (1992) found that one quarter of appropriate adults were not told about the right to legal advice. Sanders *et al.* (1989) found that, when appropriate adults were asked whether they wanted a legal representative, the question was asked in such a way as to presume the answer was 'no'. Indeed, in Robertson *et al.*'s (1996) study of vulnerable adult suspects, they did not witness any instances of an appropriate adult requesting legal advice on the suspect's behalf.

In one youth justice worker's experience, ignoring the police's efforts to dissuade the young suspect from requesting legal advice and executing the appropriate adult's right to request legal advice on the suspect's behalf, can result in the "wrath of the custody officer" (Kearns, 1996). Kearns (1996) reported that she and other colleagues had experienced, for example, being made to stand for three hours or wait in the car at night, whilst waiting for the solicitor's arrival. She attributed these experiences to the police's frustration at the thought of a 'no comment interview'

prompted by the solicitor and to police culture. As discussed above, McConville *et al.* (1991) suggested that measures, which interfere with communications between police and suspects, will be unwelcome in police culture. Moreover, if the appropriate adult does override the suspect's decision, he or she may have to use his or her skills "to re-establish a rapport with the young person" (Kearns, 1996:111), presumably to be able to attend to the suspect's welfare and emotional needs.

Regarding whether or not appropriate adults should exercise their right to exercise the entitlement to legal advice on behalf of the young suspect (Code C para 3.13), experienced, professional appropriate adults have argued that recourse to a solicitor should be taken as soon as possible (Haley and Swift, 1988; Drakeford, 1994; Blackie, 1996). This demonstrates a concern for due process.

Right to Consult the Custody Record

An appropriate adult is entitled to consult the custody record during the suspect's detention and for 12 months after the suspect's release from detention (Code C para 2.4). In order to develop a sense of independence from the outset, Drakeford (1994) recommended that appropriate adults should consult the custody record, to check that the Codes have been adhered to and to acquire preliminary details of the arrest and length of detention. When inspecting the custody record, Spencer (2001:3) advised appropriate adults to consider:

- What time was the child arrested and where?
- Has a doctor been called? If so, why?
- Has the child been allowed all his or her rights? If so, has he or she contacted a solicitor?
- When was the last time the child had a drink, meal, rest and visit to his cell by a jailer or female officer?

Drakeford (1994) also recommended that they should consult the custody record before leaving, to check its accuracy and that any issues of concern have been noted. The appropriate adult is requested to sign the record, but, if he or she is not convinced by its accuracy or by the propriety of

the process, he or she can refuse to sign it. In this case, the fact of and reasons for the appropriate adult's refusal should be recorded (Drakeford, 1994). The advice of both Spencer (2001) and Drakeford (1994) shows a concern for both welfare and due process issues.

As stated above, an appropriate adult is also entitled to consult the custody record for 12 months after the suspect's release from detention (Code C paras 2.4; 2.5). Given that the record may be significant in determining the admissibility of evidence under PACE ss. 76 and 78, Haley and Swift (1988) advised appropriate adults to make a copy of the record.

Representations by the Appropriate Adult at the Detention Review

An appropriate adult may make representations to the review officer considering whether the continued detention of the young suspect is required (Code C para 15.1). Haley and Swift (1988:367) have advised that "an appropriate adult should use this opportunity to put forward the client's argument for release and, if relevant, for the exercise of the rights to have someone informed of the detention and see a solicitor." If the suspect is not released, social work writers strongly discourage overnight stays at the police station (Sandell, 1992) in line with a welfare perspective, so an appropriate adult might argue against this.

In sum, the appropriate adult's rights, including the right to make representations, enable him or her to try to attend to the immediate needs of the young suspect (see Haley and Swift, 1988; Drakeford, 1994; Spencer, 2001). Indeed, Haley and Swift (1998), Drakeford (1994) and Kearns (1996), who were social workers, a probation officer and a youth worker respectively, considered that the role of the appropriate adult included having concern for the suspect's physical and emotional welfare. Kearns (1996:109) argued that: "The primary function of the role is to be an adult who will provide comfort and support to a child who might otherwise be disorientated in such strange surroundings." However, fulfilment of the appropriate adult's responsibilities and execution of the appropriate adult's rights is dependant on information and co-operation provided by the police, which may not be forthcoming.

6. What is the Legal Status of the Appropriate Adult?

Given that an appropriate adult should be present at the significant stages of the young person's detention, the question arises as to what happens if an appropriate adult is not present or if the adult present is not capable of fulfilling the requirements of the role of the appropriate adult. In other words, to what extent is the role of the appropriate adult enforceable?

As explained in Chapter 1, in a criminal trial, a judge may exclude evidence if a Code has been breached under PACE s. 78, but this power is a discretionary one. In this context, evidence can be, but is not necessarily, excluded if an appropriate adult is not present (R v Fogah [1989] Crim LR; Glaves [1993] Crim LR 685, CA; R v Weekes (Trevor Dave) [1993] Crim LR 211, CA) or is incapable of giving advice (DPP v Blake [1989] 1 WLR 432; R v Morse [1991] Crim LR 195, Wisbech CC). One argument is that the HRA adds strength to the argument for excluding confession evidence gained without, for example, providing a young suspect with a capable appropriate adult (Brookman and Pierpoint, 2002; 2003; Pierpoint, forthcoming). Indeed, Kilkelly recognised that, given the lack of precedent in the area of ECHR rights and young people, "this is an area ripe for challenge under the Human Rights Act" (2000:467). At the same time, however, in the light of the undeveloped European Court of Human Rights case law regarding ECHR rights and young people, it is not possible to draw conclusions with absolute certainty (Brookman and Pierpoint, 2002; 2003). Setting aside the possible implications of the HRA, if the appropriate adult is intended to be a due process safeguard, its lack of enforceability could allow it to be used for crime control (McBarnet, 1981).

7. Conclusion

This chapter has analysed the role of the appropriate adult by examining the Codes, guidance from the courts and academic and practitioner commentary. It has helped identify key elements of what the appropriate adult is supposed to do. However, there still remains a lack of clarity and some inconsistencies about the way in which the role is supposed to operate.

The main problems that have been identified are:

- The lack of clarity in terms of the selection process for an appropriate adult

- The lack of precision regarding the nature of an unfair and improper interview
- The ambiguity of the requirement to facilitate communication and consequential danger of an appropriate adult acting as the police's 'agent' and detracting from the suspect's (curtailed) right to silence
- The internal contradictions between advising suspects and facilitating the investigation inherent in the role
- The complexity of provisions regarding consent, which are, in any event, largely illusory
- The lack of legal privilege and confidentiality rules

In addition to the criticisms surrounding the role of the appropriate adult, the police have sometimes flouted the requirement to instruct the appropriate adult on the role (Dixon, 1990; Evans, 1993; Evans and Rawstorne, 1994), perhaps to undermine due process and maintain crime control (McBarnet, 1981) or deference (Choongh, 1997). The police are not deterred from omitting or giving incorrect instructions owing to the lack of remedies in this area. Therefore, additional criticisms can be summarised as:

- The over-reliance on the police for arranging the presence of the appropriate adult and informing him or her of the role, for example, of the right to request legal advice on behalf of suspect
- The limited status of the role of the appropriate adult, resulting from the lack of remedies for non-execution of the role

During the course of this chapter, it has become more apparent that there are a number of contradictions about the main purpose of the appropriate adult. Due process could start to be ensured by the appropriate adult checking the suspect understands his or her rights (see Thomas, 1995; Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180), observing that the interview is conducted fairly and properly, checking the suspect's comprehension of questions and processes (see Walinets, 1985; Drakeford, 1994; Littlechild, 1995b; Blackie, 1996; Spencer, 2001) and advocating for the suspect (see Walinets, 1985; Francis

v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180; Brayne and Martin, 1999), but the Codes, and hence their interpretation by the courts, are not legally enforceable and academic and practitioner interpretations certainly are not. Moreover, other aspects of the role appear to contradict due process. For example, advocating, or acting as an 'agent', for the police (see R. v. Jefferson 1994] 1 ALL ER 270) would be more consistent with the control model to attempt to 'encourage' the suspect to confess to inculcate moral responsibility in the suspect for what he or she is alleged to have done (see Kay and Quao, 1987) and would be easier if the appropriate adult had authority over the suspect (see R v Palmer (Acton Crown Court, 17th January 1991). On the other hand, assuming that the appropriate adult is required to have some empathy with the suspect (see DPP v Blake [1989] 1 WLR 432; Williams, 2000a), this would indicate that the appropriate adult's role is concerned with welfare, as opposed to due process or control. Therefore, some responsibilities and rights, as they have been interpreted thus far, are consistent with ensuring due process, whereas others are more concerned with control or welfare.

In sum, judges' interpretations have alluded to the due process model (see Francis v. Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180), but also to crime control (see R. v. Jefferson [1994] 1 ALL ER 270) and welfare (see DPP v Blake [1989] 1 WLR 432) perspectives. Academic and practitioner writers have also wavered in their analyses; sometimes alluding to due process (see Walinets, 1985; Drakeford, 1994; Littlechild, 1995b; Blackie, 1996; Brayne and Martin, 1999; Spencer, 2001) and at other times explicitly referring or alluding to welfare (see Evans and Rawstorne, 1994; Littlechild, 1995a; Kearns, 1996: Spencer, 2001). Hence, the case law and the academic and practitioner literature lend further support to the argument that the role has been constructed from divergent positions.

Chapter 3: The Practices of Appropriate Adults

1. Introduction

Thus far this thesis has considered what is it that the appropriate adult is supposed to do. However, it is the interpretation of those who perform the role of the appropriate adult which will most strongly impact on young person's experience of police detention and questioning. Hence, this chapter will consider what appropriate adults do in practice and attempt to explain their practices, by reviewing the comparatively sizeable body of empirical literature on parents and social workers and the rather more limited literature on volunteers acting as appropriate adults. It will identify what is known about what the various kinds of appropriate adult do in practice and consider the extent to which their practices accord with welfare, due process, crime control, crime prevention and/or social discipline.

2. The Practices of Parents as Appropriate Adults

Research on parents acting as appropriate adults has tended to focus on the time taken to obtain their presence and their contribution and demeanour at interview. This section will focus on these findings which describe parents' practices when acting as appropriate adults.

Time Taken to Obtain Parents as Appropriate Adults

The time taken for a parent when acting as an appropriate adult to attend the police station is important both in terms of the amount of delay incurred in the police investigation process and the period over which the young suspect has access to an appropriate adult. Extensive delays can result in the young person being in custody longer than would otherwise be necessary. As explained in Chapter 2, delays, from a welfare point of view, are not in the interests of suspects (Littlechild, 1995a) and, from a due process point of view, could increase the likelihood of false confessions (Dixon, 1990).

Sometimes the police find it very difficult to locate a parent or social worker (Signy, 1997). As Littlechild (1998:8) argued: "In some situations, the police have been unable to secure the attendance of an appropriate adult, and suspects have been held for many more hours than they should have been." Parents may be at work or have other children to look after. Once an appropriate adult has been contacted and promised to attend, the police and suspect must then wait

for the appropriate adult to arrive. In Philip and Brown's survey (1998), in half the cases the appropriate adult attended the police station within one hour of being contacted by the police, and in a further 30 per cent within two hours (n=599). However, in a minority of cases the delay was much longer. For example, in 14 per cent of cases the time taken was between two and four hours, and in 7 per cent it was over four hours. Philip and Brown (1998) did not report on the precise differences in the time it took for parents and social workers to attend, but did report that, on average, there was greater delay where a social worker was required. The custody officers interviewed by Evans and Rawstorne (1994) reported that, when parents were called as appropriate adults, they usually arrived within half an hour to an hour.

Contributions of Parents as Appropriate Adults

Perhaps the most important stage in understanding what appropriate adults do in practice is the contribution that they make during the police interview. The appropriate adult may influence the conduct of the interview and may even have an effect on whether a confession is obtained and, hence, on the outcome of the case. A young suspect who has admitted his or her guilt may be given a reprimand or final warning or charged and, at least in some cases, the suspect's confession is critical to a finding of guilt (Baldwin and McConville, 1980). Also, the appropriate adult's official responsibilities during the police interview appear to be the least clear of all their responsibilities and rights and, therefore, potentially subject to the most differences in interpretations.

Evans (1993:39) found that in 74.8 per cent (n=98) of interviews, "parents and other appropriate adults who attended interviews"[25] made no contribution whatsoever. In line with a due process model, in cases where the police use oppressive techniques, such as 'haranguing, belittling or

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[25] Evans (1993) did not specify the proportion of parents in this sample of appropriate adults. This sample was unlikely to have included social workers as, in the previous paragraph, he stated that: "Parents or an appropriate adult, other than a social worker or solicitor, were present in interviews in around 80 per cent (131) of the cases in the sample" (Evans, 1993:39) and, on the next page, he stated that solicitors and social workers attended interviews in approximately 11 per cent (18) and 18 per cent (29) of cases respectively. Other people who filled the role of the appropriate adult around that time included other relatives and responsible people (Brown, 1992) and, therefore, Evans' (1993:39) "other appropriate adults", who made no contribution whatsoever could have included these people.

threatening' the young suspect, as witnessed in some cases by Evans (1993:46), the appropriate adult should not 'act simply as an observer' (Code C para 11.16).

Evans (1993) found that, when parents did contribute, they were unsupportive in 50.4 per cent of cases (n=66). Evans (1993) found that parents, when unsupportive, generally put pressure on their children to confess, or told the police that they washed their hands of their children or that their children should have known better. For example, Evans (1993:40) cited a father commenting: "It's against the law, it's as simple as that. As a 16 year old he or she should have more sense."

Other parents perceive their role as one of 'assisting' the police in extracting a confession, even to the extent of chastising their children. According to Gudjonsson (1993), it is not unusual for parents to resort to intimidatory tactics. Dixon *et al.* (1990:119) referred to an incident, that they observed in one of the three subdivisions (covering the contrasting geographical areas of city centre, outer estate and rural/seaside/market town mix) in a medium sized force in the north of England, in which a mother promised to "get my fist round his lug". Irving and McKenzie (1989) cited a similar case of a young suspect's uncle who saw his role as expediting a confession. This may be the result of "frequent problems of family conflict" (Littlechild, 1995a:542), or, as Thornton (1988) found, of some officers co-opting appropriate adults to their side against the juvenile. Indeed, as highlighted in Chapter 2, one possible interpretation of 'facilitating communication' is 'advocating, or acting as an 'agent', for the police (see R. v. Jefferson [1994] 1 ALL ER 270; Palmer, 1996).

Bean (1997) suggested that there are two types of parent appropriate adult, the aforementioned "wait till I get you home and I'll wallop you" type, or the "don't tell them anything" type. Indeed, Brown *et al.* (1992:73) observed that some parents "vehemently took sides against the police". Bucke and Brown (1997:11) characterised the disposition of 5 per cent of family members as 'hostile/unsupportive' towards the police. This behaviour hardly 'facilitates communication'.

In contrast to Evans' (1993) findings, Bucke and Brown (1997:11), from their observations in 25 police stations in ten police forces, characterised the demeanour of only 8 per cent of family

members as 'hostile/unsupportive' towards the suspect (n=415). They found that most frequently family members were 'neutral' (30 per cent) followed by 'co-operative/supportive' (26 per cent) towards the suspect (n=415). The inconsistency between findings of Bucke and Brown (1997) and Evans (1993) could be attributable to different operationalisations of the concept of 'unsupportive' in the two studies. Alternatively, the observer effect in Bucke and Brown's (1997) study could have ameliorated the contributions of family members. The reactivity of the observer threatens the internal validity of the data (de Vaus, 2001). An observer will strive to achieve minimally obtrusive observation conditions, but, arguably, the knowledge of subjects that they are being observed overtly, means that subjects will not necessarily 'account to each other' in their usual way. For example, in the 'Hawthorne' study, the performance of factory workers was ameliorated by the fact that they were treated as an investigated group with consequential high status (Roethlisberger and Dickinson, 1939 as cited by Fulcher and Scott, 1999:88). Therefore, the family members in Bucke and Brown's (1997) study may have been more supportive owing to the fact that they were being observed. Conversely, the differences could have been caused by the different samples. Evans (1993) studied contributions of parents, whereas Bucke and Brown's (1997) observations were of the broader category of family members. More distant family members may not suffer so greatly from the emotional ties of parents which may hinder parents' ability to contribute as described below. More distant family members may, therefore, be able to be more supportive than parents.

That said, Evans (1993) did note some examples of parents being supportive of their children (49.6 per cent, n=66). For example, one mother tried to explain who had caused damage to a church when her son was asked who had caused it by explaining that it was "probably them that come on our estate and smash all our roofs" (Evans, 1993:39). In line with the interpretation noted in the previous chapter that the role involves advocating for the suspect (see Walinets, 1985; Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180; Brayne and Martin, 1999), one father tried to explain what his son was trying to say about being in enclosed premises just to have a look around as opposed to stealing a television:

> "Well, I get the impression that they were looking to see what was in there for a place to go, sort of secret and private. I mean, I can't condone what he has done, but I can sort of liken it

to a den in a wood or something like that. But here you are in a city. I'm only suggesting that. I don't know. But that is what I think he is trying to say" (as cited by Evans, 1993:39).

Reasons for Lack of and Unsupportive Contributions

Most of the evidence available suggests that parents' contributions are infrequent and unsupportive.

A number of explanations have been put forward in the literature for these responses starting with their emotional ties with the suspects.

Emotional ties

Parents may be too emotionally involved to be supportive. Bucke and Brown (1997:11) identified the demeanour of 23 per cent of family members as 'distressed'. Brown *et al.* (1992) found parents disorientated and too accommodating of police requests. Arguably, the distress of having a child in trouble may result in parents being too accepting of police malpractice or excessively obstructive towards the police.

Police attitudes, language and environment

The language the police use towards the appropriate adult may be oppressive, if they harbour feelings of solidarity with fellow officers and suspicion towards outsiders, which they do if the commonly cited characteristics of police culture are to be believed (Reiner, 2000). Dixon (1990) suggested that a common reason for the failure of appropriate adults to intervene was the oppressive attitude of the police towards them, as well as towards suspects, experienced in isolation in this police territory. Indeed, as Blackie (1996) pointed out, the police even control the appropriate adult in his or her personal matters, such as access to a toilet or drinking water. Given that the purpose of the appropriate adult is to establish an independent social force into interactions between police and suspects, the language and actions of the police may act to discourage the effectiveness of this force (see McConville *et al.*, 1991).

Similarly, being in an unfamiliar environment may result in parents being too accepting of police malpractice or excessively obstructive towards the police. Appropriate adults are required to perform their role in, possibly unknown, police territory. Indeed, Nemitz and Bean (1998:254) referred to the "intimidating atmosphere" of the police station. It is a place where the police are familiar with, for example, the physical layout, language and nature and sequence of events and

where they control these events. Blackie (1996) pointed out that the police have their own language. This specialist terminology may also make an appropriate adult feel isolated. Moreover, Littlechild (1995b:38) argued that appropriate adults experience "events moving along at a pace which leaves them feeling unable to take any control in the situation." Whilst the contributions of both parents and social workers could be effected by police attitudes, language and environment, the circumstances are likely to be more unfamiliar to parents than social workers and are, therefore, likely to affect parents more acutely.

Lack of instruction provided by the police

Related to the issue of police culture is the issue of how much information is provided to appropriate adults by the police. As explained in Chapter 2, the police have sometimes flouted the requirement to instruct the appropriate adult on the role (Dixon, 1990; Evans, 1993; Evans and Rawstorne, 1994). Indeed, Blackwell (1990) argued that the police preferred parents to social workers as appropriate adults, for the reason that they have little knowledge of the procedure. Moreover, social workers have traditionally been viewed as 'anti-police' (Blackie, 1996) and potential "challengers" (Holdaway, 1983:71). The passive parents, observed by Evans (1993), might, therefore, be easier to manipulate and enable the case to be processed more expeditiously. Pressures from the crime control model could result in, for example, oppressive interviewing and could be seen as justifiable in order to ensure an offender whom the police 'know' to be guilty is found guilty. The police might withhold the information to dampen the force impinging on their interactions with suspects (McConville *et al.*, 1991) in order to subvert the principles of justice in the pursuit of crime control (McBarnet, 1981) or social control (Choongh, 1997).

In contrast, Brown *et al.* (1993) observed that professionals were the preferred choice of police officers. Sandell (1992) also considered that the police might prefer social workers to parents, because social workers have an approximate idea of the correct process, compared to parents who may be unduly obtrusive. Similarly from a due process point of view, in White's (2002:63) article on training social workers, she argued that "the police would probably wish to err on the side of caution by involving those trained for the task – thereby greatly reducing the risk of an unsuccessful prosecution or the quashing of a conviction." Indeed, knowledge of the process could reflect the police's interest in processing the case expeditiously.

Besides, it is highly doubtful whether parents, no matter how alert or well educated, would be able to identify when an interview was being fairly or unfairly conducted (Irving and McKenzie, 1989). As Choongh (1997) pointed out, if those with legal training routinely fail to identify and challenge unfair questions and techniques, then it is difficult to see how this task can be performed by someone with no such training. Moreover, even if a parent did think that a line of questioning was unfair, they may not have the confidence to speak up (Bean, 1997).

Equally, the contributions of social workers could be affected by the lack of instruction provided by the police. In fact, social workers specifically have complained that they remain unadvised (Haley and Swift, 1988).[26] The police may incorrectly assume that social workers are aware of the requirements of the role and, therefore, fail to inform them, at least in a clear way, of the responsibilities involved. One might expect the lack of information to affect parents more acutely than trained social workers, but the adequacy of social work training for appropriate adult duties is questioned below.

3. The Practices of Social Workers as Appropriate Adults

Again research on social workers acting as appropriate adults has tended to focus on the time taken to obtain their presence and their contribution and demeanour at interview. There is also some data available on their practices at the other stages during the young person's detention. Social workers have also been found to make little contribution to the police interview and the inadequacy of their training and their lack of independence owing to, for example, their possible previous knowledge of the suspect have been highlighted by the literature as possible explanations.

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[26] For example, in R v O'Neill (Birmingham Crown Court, 16th October 1990) (as cited by Sheppard and Blackie (2000)), discussed in Chapter 2, the mentally vulnerable suspect's probation officer, who acted as the appropriate adult, was not told of her role and responsibilities and, consequently, the appropriate adult had not "the faintest notion of what was expected of her."

Time Taken to Obtain Social Workers as Appropriate Adults

It has been argued that social workers are easier than parents for the police to track down (Haley and Swift, 1988). However, after they have been contacted, Philip and Brown (1998) found that, on average, there was greater delay in waiting for the appropriate adult to arrive where a social worker was required. Brown *et al.* (1992) and Evans and Rawstorne (1994) also found that the wait for a social worker was even longer than for parents. The custody officers interviewed by Evans and Rawstorne (1994) reported that, when social workers were called as appropriate adults, they usually arrived within two hours during office hours and longer outside of office hours. As Littlechild explained, as a consequence of prioritising the use of social workers' time for attending emergency child protection situations and emergency assessments for possible compulsory mental health admissions, "one social worker may cover an area with a population of 250, 000 at nights and weekends." (1995a:543).

Contributions of Social Workers as Appropriate Adults at Interviews

Evans (1993:40) found that, in 18 of the 29 cases (62.1 per cent) in which social workers attended, the police used persuasive techniques and obtained a confession, without any interjection from the social workers. Evans and Rawstorne (1994) also found that, according to the interviewing officers who they interviewed, social workers took no or little active part in interviews.

When social workers do take an active role in the police interview, they may execute the appropriate adult role in accordance with either control or welfare ideologies. Dixon (1990) suggested that there is a tension between control and welfare ideologies in social work. If social workers operate according to the control ideology, they may attempt to inculcate moral responsibility in the suspect for what he or she is alleged to have done. For example, a social worker may be inclined to 'encourage' the suspect to confess, whereas it may be in the suspect's welfare or legal interests to advise him or her to exercise their right to silence (albeit curtailed) (Kay and Quao, 1987). Besides, juveniles are likely to consider social workers to be instruments of control (Brown, 1997). As Dixon (1990:123) pointed out, the social worker "may well be perceived by that juvenile as part of the system which is detaining and will probably punish him/her."

In contrast, Bucke and Brown (1997) found that social workers tended to provide a more calm and dispassionate approach than family members. They found that the majority of social workers (45 per cent, n=211) were 'co-operative/supportive' towards the suspect. They majority of social workers (60 per cent, n=211) were also 'co-operative/supportive' towards the police. These points are underlined by the examples cited by Bucke and Brown (1997). For instance, one observer reported of a social worker: "Very quiet but co–operative with officers. Offered to bring the boy back to answer his bail. Not angry or reproachful towards the boy – very at ease." (as cited by Bucke and Brown, 1997:15).

Evans and Rawstorne's (1994) findings indicate that social workers' interpretations of the role mainly centred around protecting due process. They noted that the functions of the appropriate adult according to the social workers interviewed were:

> "to make sure Codes of Practice are adhered to; to make sure interview is fair and non-oppressive; to make sure the juvenile understands the process; that the suspect is not put under undue pressure throughout the interview; that the juvenile understands the questions; that there is not stress caused by repetitive questioning; that there are not inappropriate questions for example questions not related to the offence...physical intimidation that was not obvious on tape for example walking round or leaning over the suspect." (Evans and Rawstorne, 1994: 47-48).

However, as noted above, social workers rarely put this into practice in interviews (Evans, 1993; Evans and Rawstorne, 1994).

Reasons for Lack of Contributions

Social workers' failure to participate noted above (Evans, 1993; Evans and Rawstorne, 1994) could be explained by a number of reasons. Research has found that social workers, as with parents, find the police dominating (Blackwell, 1990) and interview rooms intimidating (Harkin, 1997), and suffer from anxiety when performing the role (Bucke and Brown, 1997). As with parents, social workers may also be unaware of what the role of the appropriate adult entails. The information provided by the police is lacking (Haley and Swift, 1988; R v O'Neill (Birmingham Crown Court, 16th October 1990) as cited by Sheppard and Blackie, 2000; Evans, 1993; Evans and Rawstorne, 1994; Littlechild, 1995b). Hodgson (1997) cited a training course conducted for Wirral Social Services, where it was discovered that social workers, who attended vulnerable suspects in custody

on a number of occasions, were simply unclear about their role and that of the police. On the other hand, social workers may be aware of what the role entails, but may be reluctant to perform the appropriate adult role correctly. Evans (1993) pointed out that it is unclear whether the social workers above, who did not contribute, were unaware of what the role of the appropriate adult entailed or were simply unwilling to play it. Reasons for social workers' lack of awareness of the requirements of the role and their possible reluctance to adhere to these requirements will now be explored.

Lack of training and experience

White (2002) argued that the lack of training for the role might be adding to the poor level of protection for vulnerable suspects. Evans and Rawstorne (1997) reported that few of the social workers acting as appropriate adults for young suspects had received any training at all and most had little understanding of the police investigation process. Haley and Swift (1988) and Thomas (1995) also questioned whether social workers' training and experience is fitting for the role of the appropriate adult.

In terms of generic training, the Central Council's for Education and Training in Social Work rules and regulations for the Diploma in Social Work (henceforth DipSW) did not include any reference to the role (Central Council for Education and Training in Social Work, 1996). The author was informed that training could change under the new General Social Care Council (henceforth GSCC) (Pierpoint, 2000b). In 2003, a degree in social work approved by the GSCC replaced the DipSW in England (GSCC, 2003). However, the author searched the requirements for Social Work Training (Department of Health, 2003) and National Occupational Standards for Social Work (Training Organisation for the Personal Social Services, 2002) and could not find any reference to the appropriate adult. Therefore, it is doubtful whether a non-specialist social worker, with his or her welfare training, would have adequate legal knowledge to perform the role of the appropriate adult. Evans and Rawstorne (1994:21) questioned "the ability of generalist social workers, operating according to a 'welfare' ideology, to operate effectively within a criminal 'justice' system."

At the time that PACE was implemented, the person (whoever that might be), who was contacted in the Social Services Department (henceforth SSD), tended to subsequently act as the appropriate adult (Knight and Giller, 1986). A decade later, Evans and Rawstorne (1994) found that a wide variation of cover was provided even within individual SSDs. Sometimes there was a combination of specialist, emergency and fieldwork teams and residential and care workers within a department. As Blackwell (1990:15) pointed out: "There are substantial variations between juvenile justice specialist, residential staff, generic workers, emergency duty teams and foster parents". Evans and Rawstorne (1994) found that the specialist teams provided the best cover due to their organisation. Brown *et al.* (1992) and Evans and Rawstorne (1994) found that during office hours, the YJTs, which preceded YOTs and chose to provide cover given there was no statutory duty prior to the CDA, were knowledgeable about PACE and police procedure. On the other hand, the quality of the provision out of office hours varied from area to area depending on the level of specialism within the team. Some EDTs contained juvenile justice specialists while others included none. Evans and Rawstorne (1994) found that social workers who were not members of YJTs did not have a reasonable standard of knowledge about PACE and police procedure and some had not received any specialist training.

Brown *et al.* (1992) and Evans and Rawstorne (1994) found that, where training was provided, there was often minimal police input. Some evidence of attempts by SSDs to provide guidance was found, in the form of, for example, flow charts advising the correct responses to certain situations. Only a very limited number of chapters or textbooks on the appropriate adult have been published over the years (Littlechild, 1994; 1996; Thomas, 1994). However, overworked social workers may have had little time to absorb such information.

Since Brown *et al.*'s (1992) and Evans and Rawstorne's (1994) research was conducted, the CDA has been implemented, requiring the YOT (replacing the YJT) to co-ordinate the provision of appropriate adults (CDA s. 39(7)(a)). However, the YOT may not directly provide the staffing for appropriate adult duties and EDTs, for example, might still be used out of office hours. Hence, Brown *et al.*'s (1992) and Evans and Rawstorne's (1994) findings regarding levels of specialism and training might still be applicable. Regardless of whether or not social workers are adequately

trained, they may not be required to perform the role frequently enough to develop significant expertise (Sandell, 1992), especially if EDTs continue to provide appropriate adult services.

Conflicts of interest

The failure of some social workers to contribute has been explained thus far by their lack of awareness of the requirements of the role. However, social workers may be aware of what the role entails, but may be reluctant to contribute, or at least may be hindered by various conflicts of interest. As well as the conflict between disclosure and confidentiality discussed in the previous chapter, social workers face two other dilemmas.

'Interview room lore' versus interview intervention

Social workers may prefer to act as passive witnesses to interviews to minimise inter-professional conflict. Similar to the argument which Dixon (1997) made regarding police-legal adviser dealings, police-professional appropriate adult dealings may have to be understood as social relations. Dixon (1997:237) argued:

> "...criminal justice is subject to the same limitations of commitment and pressures for maintenance of social relations as most other work: developing a reasonably comfortable, unstressful relationship with officers may be, at the level of everyday social interaction, as important as the legal adviser's formal duties."

This tendency to remain passive to minimise inter-professional conflict and maintain good social relations could be termed 'interview room lore' (Pierpoint, 1999; 2000a; 2000b; 2001; Brookman and Pierpoint, 2002; 2003), akin to Carlen and Powell's (1979) idea of 'courtroom lore'. Carlen and Powell (1979) observed that inter-professional relationships in the courtroom are infused with unease. They argued that consequently the professionals concerned have adopted an informal rule usage, resulting in a 'courtroom lore', which enables the job at hand to be done with a minimum of inter-professional conflict. This idea can clearly be applied to the interview room scenario.

The desire to minimise inter-professional conflict may be particularly strong for two reasons. Firstly, social workers may wish to avoid being subject to displays of machismo, racial prejudice and pragmatism, associated with police culture (Reiner, 2000). Secondly, other aspects of social work require social workers to maintain good working relationships with the police. The role of the appropriate adult conflicts with many of the tasks that a social worker would normally undertake in

co-operating with the police (Sandell, 1992; Nemitz and Bean, 1994). Thomas (1995:155) explained that the requirement to work alongside the police in many areas of social work, particularly in child protection, and police occupational culture, "militates against confrontational intervention". Indeed, currently the YOT comprises representatives from the police, as well as from the Probation Service, social services, health, education, drugs and alcohol misuse and housing officers. Moreover, YOT members may work with young people alongside the police in, for example, crime prevention work, such as the pilot Youth Inclusion and Support Panels and in relation to reprimands and final warnings (Youth Justice Board, 2003).

Bucke and Brown (1997:11) identified the disposition of 60 per cent of social workers as 'co-operative/supportive' towards the police (n=211). As discussed in the previous chapter, being co-operative/supportive towards the police, and even assisting them in the pursuit of crime control, could easily be part of 'facilitating communication' with the police.

Prior knowledge versus impartiality

Kearns (1996) highlighted a further possible conflict of interest. She had observed a problem with a residential social worker acting as an appropriate adult for a suspect living at his or her residential unit. She recounted that the residential worker had been assaulted by the suspect in the past (but was not involved in the suspected current offence) and could, therefore, not act impartially.[27] She also considered that other workers would have loyalty to this particular worker preventing them also from acting in an impartial way. The custody officers interviewed by Evans and Rawstorne (1994) reported that social workers did not tend to have first hand knowledge of the children, but rather relied on information from case files. Similarly, a parent would also have prior knowledge of their child, which could taint his or her impartiality.

Contributions of Social Workers as Appropriate Adults at Other Stages

As well as collecting data on the contribution of social workers during interviews, Evans and Rawstorne (1994) also collected data on their contribution at other stages during the young person's detention. Mixed views were given about photographing and finger printing. As

[27] This is distinct from DPP v Morris (Queen's Bench Div. (Crown Office List), 8 October 1990, as cited by White (2002), discussed in Chapter 2. In this case the manager of a Children's Home acted as the appropriate adult and the Court of Appeal quashed the conviction partly because it had been the manager who had initially suspected young people in his care of theft and called the police.

explained in Chapter 2, normally identification procedures require 'appropriate consent'. In Evans and Rawstorne's (1994) interviews, some social workers said that it was local policy not to sign, but others signed if the young suspect had signed. Some believed that they were not consenting, but merely countersigning the young suspect's signature. Few had considered that normally the consent of a parent or guardian is required.

Evans and Rawstorne (1994) found, from their interviews with social workers, that nine out of thirty had made representations to the reviewing officer mainly concerning the amount of time that the young suspect had been detained or to request a doctor. Custody officers also reported that they had come into conflict with social workers most frequently over the timing of night time interviews in relation to periods of sleep and social workers' failure to arrange secure accommodation. This is consistent with social worker writers' interpretation of the role reported in the previous chapter (Haley and Swift, 1988; Sandell, 1992). In Evans and Rawstorne's (1994) study, the police assumed that a social worker, who had acted as appropriate adult, would take responsibility for a young suspect once he or she was released. In sum, in terms of social workers' practices when acting as appropriate adults, there appears to be a concern for the young person's welfare.

4. The Practices of Volunteer Appropriate Adults

Only two studies, to the author's knowledge, have considered the use of volunteers in the role; one evaluated the Southampton MIND Volunteer Appropriate Adult Scheme for vulnerable adults (Bean and Nemitz, 1997; Nemitz and Bean, 1998) and the other reviewed the Barnet Appropriate Adult Scheme for vulnerable suspects of all ages (Revolving Doors Agency, 1996). This section will mainly focus on the evaluation of the Barnet Appropriate Adult Scheme whose client group included young suspects, who are of interest here. The objectives of the evaluation were:

- To gather information available about the structure of the panel and analyse the way in which it works
- To assess the strengths and weaknesses of this model
- To examine how well the panel is doing

- To estimate the impact of the panel on police resources

In trying to begin to understand what volunteers do in practice, this section will focus on the data collected on the time taken to obtain volunteers and their interpretation of the role of the appropriate adult.

Time Taken to Obtain Volunteer Appropriate Adults

It has been suggested that using volunteers on call would have time, and thus cost, saving implications for the police (Home Office, 1995b; Signy, 1997; Smith, 1997). As recognised by Littlechild (1995a), delays, in obtaining an appropriate adult, cause the police frustration. Police officers' time is wasted by attempts to contact social workers and parents on the telephone and by sending police cars round to suspects' homes. The delay clogs up detention rooms and keeps the interviewing officers hanging around.

Indeed, the Barnet service (Revolving Doors Agency, 1996), was commended by Her Majesty's Inspectorate of Constabulary (Her Majesty's Inspectorate of Constabulary, 1997:29), reporting that: "It is estimated to have saved many hundreds of hours of officers' time by reducing delay in obtaining 'appropriate adults'." As well as according with a managerial vision of criminal justice, by having time and cost saving implications for the police, reducing delays accords with the welfare perspective (and possibly the due process model) by minimising time in custody for the suspect. One volunteer from the Barnet service, reported that the use of volunteers "ensures that a...juvenile...is held for the shortest possible time in police custody." (Signy, 1997:3).

Police station	Time spent getting there (minutes)		Time spent at station (minutes)	
	Recorded average	Recorded maximum	Recorded average	Recorded maximum
Barnet	39	90	60	240
Golders Green	32	180	58	300
West Hendon	58	200	23	60
Whetstone	51	Missing data	115	Missing data
All stations	52		60	

Figure 2: Time spent by volunteers getting to the police station (Replicated from Revolving Doors Agency, 1996:32)

Note:
N=220

The Revolving Doors Agency reported, from their analysis of custody records, the times shown in Figure 2 above, although they recognised that it was not always clear from the custody records at what time the appropriate adults arrived and left the police station. Indeed, custody records have been found to be inaccurate and incomplete (Brown *et al.*, 1992).

Nevertheless, the Revolving Doors Agency (1996) concluded that volunteers from the Barnet service often attended in less than 30 minutes. This is a shorter time than the time taken by parents and social workers reported by the custody officers interviewed by Evans and Rawstorne (1994). Similarly, at the Southampton service, the volunteers attended in a reasonable time, quicker than social workers. One custody officer observed: "The scheme makes life easier, they're quicker than social workers..." (Nemtiz and Bean, 1998:256). However, one must be cautious of comparisons between studies that employed different methods of data collection.

Moreover, it could be that volunteers are only on duty in the evenings and at weekends, like the majority of volunteers at the Southampton service who had work commitments (Nemitz and Bean, 1998). Indeed, Davis Smith (1998) noted that, generally, those in paid work are more likely to volunteer than those outside paid work. Early research showed that the majority of requests for social worker appropriate adults were made during normal office hours (Knight and Giller, 1986). Similarly, more recent research showed that most calls for appropriate adult assistance, for mentally vulnerable suspects, were made during working hours (Nemitz and Bean, 1998). Given the high correlation between youth offending and truancy (Hyder, 1989) and school exclusion

(Bratby, 1998), there is no reason to think the situation should now greatly differ for young suspects. Indeed, appropriate adults for mentally vulnerable and young suspects, from the Barnet service, tended to be called out during the daytime (Signy, 1997). If volunteers do tend to be on duty outside of office hours, but call outs tend to come in office hours, then reductions in delays cannot be expected during office hours.

Moreover, the police can add to the delays. One of the most common complaints of the volunteers of the Barnet service, noted on their monitoring forms, concerned being called out before the police were ready for their attendance (Revolving Doors Agency, 1996). Volunteers also reported that "they were having to spend a long time hanging around before interview, sometimes because they had to wait for a solicitor." (Revolving Doors Agency, 1996:31). Indeed, Philips and Brown (1998:110) found that suspects who obtained legal advice spent longer in custody than those not legally advised: just over nine hours compared with five and a half.

Contributions of Volunteer Appropriate Adults

Littlechild (1998:9) argued that "poorly prepared lay people with minimal (if any) understanding of the role of the appropriate adult may be prejudiced against certain groups, such as certain ethnic minorities." The disproportionate numbers of black and ethnic minority suspects seen in police custody (Home Office, 1998d) may reinforce discriminatory attitudes. Littlechild (1995a:543) also expressed concern that volunteers may have "little or no knowledge of the criminal justice system or of the difficulties of...vulnerable groups." Volunteers at the Barnet service did receive training. According to the Revolving Doors Agency (1996), the first training session was facilitated by an independent expert in the field and covered; the general duties of an appropriate adult, the role of the appropriate adult in and after interview (PACE, appropriate adult cases and complaints procedures) and implications for practice. The session was followed by a half a day practical session at the police station and further training day of which details were not disclosed. The volunteers were also shown the video "Meeting of Minds" and were given details about local crises service.

It is unclear what precisely the training on the role of the appropriate adult comprised given that this thesis has established that the requirements of the role are uncertain. Nevertheless, volunteers reported that they understood the role, commenting that the most important aspects of the role were aiding communication and ensuring the observation of suspects' rights (Revolving Doors Agency, 1996). Therefore, in line with a due process model, these volunteers interpreted the role to include guaranteeing the respect of suspect's rights. As with 'facilitating communication', the meaning of 'aiding communication' could have involved checking comprehension of questions and processes, advocating for the suspect and advocating for the police and, therefore, whether the volunteers' interpretation tended towards a due process or crime control model is unclear. However, on the monitoring forms, volunteers rarely noted concerns about police procedure, although in one case the volunteer asked for the interview to be terminated and in two further cases volunteers questioned whether correct procedures had been followed. Moreover, some volunteers described certain police officers as "hard" and one volunteer reported, in interview, that the police sometimes acted paternalistically and chauvinistically towards young women. Indeed, commonly cited collective characteristics of the police include displays of machismos (Reiner, 2000). The rare reports of concern could be interpreted either as the volunteers' failing to put their understanding of the role into practice or as the police most often following procedures correctly. In support of the former interpretation, a number of volunteers interviewed commented on the difficulty in intervening (Revolving Doors Agency, 1996).

The police officers interviewed emphasised the importance of the role "to guarantee fairness, provide support and ensure PACE was followed" (Revolving Doors Agency, 1996:35). The police thought that initially the volunteers were uncertain of the requirements of the role (Revolving Doors Agency, 1996), which is not surprising since the requirements of the role are unclear themselves. Volunteers believed that the police did not recognise the need for an appropriate adult, thinking that the role could more effectively be filled by a solicitor. This was confirmed by the interviews with the police, in which they reported that initially they thought the appropriate adult's role should be filled by a legal representative. The police officers' interpretation of the role, coupled with the fact that they thought the role could be better filled by a legal adviser, indicates that they considered the role to be concerned with due process. In contrast, volunteer appropriate

adults, from the Southampton service for mentally vulnerable, adult suspects, found that the police expected them to offer a "general welfare role" (Nemitz and Bean, 1998:254). Given the needs of young people and people with learning difficulties are different (Robertson *et al.*, 1996), it could be that the role of the appropriate adult is performed quite differently for these two groups. In sum, in the previous studies of volunteer appropriate adult services, the volunteers' and police's interpretations of the role the appropriate adult encompassed elements of due process, crime control and welfare philosophies.

5. Conclusion

Whilst acknowledging that different data collection methods used in the various studies reviewed and despite a few inconsistent findings, most observations of parents and social workers acting as appropriate adults show that the level of their contribution has been minimal in police interviews. In cases where they do contribute, parents' contributions have been consistent with the crime control model (see Thornton; 1988; Dixon *et al.*, 1990; Evans, 1993; Gudjonsson, 1993) Whilst some suggest that social workers act according to a control ideology (Kay and Quao, 1987), others have observed them being supportive towards the suspect (Bucke and Brown, 1997) and have recorded them pursuing goals which are consistent with a welfare role (see Evans and Rawstorne, 1994). Nevertheless, juveniles are likely to consider social worker appropriate adults to be instruments of control or punishment (Dixon, 1990; Brown, 1997). Volunteers have indicated that they consider one of the most important purposes of the role is to protect due process, but, at the same time, appear to have made little contribution in interviews (Revolving Doors Agency, 1996).

Some appropriate adults have experienced the police flouting the requirements to instruct them on the requirements of the role (Dixon, 1990; Evans, 1993; Evans and Rawstorne, 1994) perhaps to undermine due process with the aim of crime control (McBarnet, 1981) or punishment (Choongh, 1997). On the other hand, there is other evidence to suggest that the police consider the appropriate adult's role is to ensure that due process is respected (Sandell, 1992; Revolving Doors Agency, 1996; White, 2002) or to offer a welfare role (Nemitz and Bean, 1998).

Hence, this chapter has provided further evidence for the argument that the role of the appropriate adult in practice has been constructed by different perceptions of what the appropriate adult should

do, including due process, welfare, crime control and social discipline. Indeed, King (1981) recognised that capacity of different groups to thwart the law by interpreting it to allow their chosen behaviour in terms of, amongst others, the due process, crime control and medical (or welfare) models. However, this finding is mainly based on the comparatively larger body of empirical literature on parents and social workers as appropriate adults. In the relative absence of data on volunteers, the author's empirical study focused on the practices of volunteer appropriate adults. The next part of the thesis will describe the research design for the empirical study. The official and empirical literature reviewed thus far assisted in determining the main features of the volunteer appropriate adult's role on which to focus in the empirical study.

PART THREE: RESEARCH DESIGN

Chapter 4: Research Design

1. Introduction

The aims of this thesis are to investigate what appropriate adults are supposed to do and what they actually do in practice. The main aim of the empirical research conducted as part of thesis was to provide additional information on what appropriate adults do in practice. It was argued in the previous chapters that there was already some research on the practices of social workers and parents as appropriate adults. However, there is almost nothing on the way in which volunteers operated in this role and the context in which they operate. Hence, the thesis aims to bridge that gap by conducting some original research on the way in which volunteers operate as appropriate adults. Taken together, the previous empirical work on the practices of social workers and parents and the original research on the practices of volunteers will help provide a broad picture of what appropriates adults do.

The main aim of the empirical research was, therefore, to examine the various aspects of the work of volunteer appropriate adults. The key practices, on which the empirical research would focus, were identified as those discussed most frequently in the literature. It was intended to focus on how volunteers interpreted the appropriate adult's official responsibilities and rights discussed in Chapter 2, such as their role at interview, representations to the custody officer and their right to request legal advice. In addition, it was intended to gather data on any other activities that volunteers might engage in, whilst acting as appropriate adults, including those identified from the academic literature on parents and social workers discussed in Chapter 3, such as arrangements to return the young person to where he or she lives. It was hoped that this focus would enable the identification of any important disparities between the practices of different types of appropriate adults. Hence, the main goals of the empirical study were:

- To examine time taken to obtain volunteers
- To examine their contributions at police interviews
- To examine their practices during identification procedures
- To examine their practices during private consultations with the young suspects

- To examine their representations to custody officers
- To examine their position in relation to the right to legal advice
- To examine the arrangements for returning young people to where they live[28]

The main aim of the research design was to derive a strategy that would best investigate the aims of the empirical research using the resources available. One strategy that was feasible to pursue within the financial constraints of doctoral research was to investigate the practices of volunteer appropriate adults in just one area as a case study of a volunteer appropriate adult service. Amongst others, this has the advantage of focusing the research on a relatively small number of people and events. A national postal survey of YOT managers was also conducted to determine the context in which volunteer appropriate adults operate. This survey also allowed an examination of the extent to which the selected volunteer appropriate adult service was similar or different to other services and, hence, may be used to assess its representativeness.

The following sections will describe each of the two main strategies and justify their use in the current study. Firstly, however, it is necessary to explain the approach to the theory/empirical research relationship adopted in this study.

2. The Adaptive Approach

The adaptive approach to the theory/empirical research relationship was considered to be most appropriate for this study. Layder (1998:150-151) explained his 'adaptive theory' as follows:

> "So the adaptive part of the term is meant to convey that the theory simultaneously contains two fundamental properties. First, that there is an existing theoretical scaffold which has a relatively durable form since it adapts reflexively rather than automatically in relation to empirical data. Secondly, this scaffold should never be regarded as immutable since it is capable of accommodating new information and interpretations by reconfiguring itself. Thus, although the extant 'theoretical elements' are never simple empiricist 'reflections' of data, they are intrinsically capable of reformulating ('adapting' or adjusting') themselves in response to the discovery of new information and/or interpretations of data which seriously challenge their basic assumptions. Such reformulations may involve only minor

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[28] Nationwide, cautions were not abolished for young people and replaced by reprimands and final warnings until 1st June 2000. This was towards the end of the data collection period and, therefore, the research design was not adapted to take account of this development, other than to record the instances in which young suspects were issued with a reprimand or final warning in the call out survey.

> modifications....but they may also require fundamental reorganisation, such as either abandoning an existing category, model or explanation, or creating new ones, depending on the circumstances."

The adaptive approach is best explained in contrast to the hypothetico-deductive approach. With the latter, the researcher commences by considering an explicit theory, then selects a hypothesis for testing derived from this theory and either falsifies or upholds this conjecture through an empirical investigation (Gilbert, 1993; Frankfort-Nachmias and Nachmias, 1996; May, 1997). The fear with this approach is that it fails to reveal intricacies of the phenomenon that the chosen theory cannot describe and desensitises the researcher to the full range of theoretical possibilities (May, 1997).

Unlike with hypothesis testing or evaluation research, with adaptive theory there are no precise statements or criteria against which data is measured, but rather a flexible theoretical framework to guide the analysis. This means that the researcher is not restricted only to revealing data within the remit designated by the wording of the hypothesis or evaluation criteria. Rather, the aim is to obtain a comprehensive view of the phenomenon and the theoretical framework can be adjusted as new interpretations of the data present themselves, possibly leading to theory refinement. In fact, during the course of much research, induction and deduction often get intertwined (Gilbert, 1993), but Layder (1998) has provided a formal statement of this approach.

In the current empirical study, the aim was to gain a comprehensive view of appropriate adult practice and one which was not limited by the aforementioned restrictions. Moreover, given that little was known about the role of the appropriate adult and current appropriate adult practice (particularly certain categories of persons who can act as appropriate adults), there was no obvious, single theory against which practice could be tested, but a multitude of possible theoretical explanations in the wings: due process, welfare, crime control, crime prevention and/or social discipline. These theoretical models will continue to be used to assist in the analysis of the volunteer appropriate adults' practices where relevant, whilst, at the same time, recognising the possibility that other explanations may become useful as the analysis progresses.

3. The Case Study

This section will justify the selection of the case study strategy and describe and justify its operationalisation.

Selection of the Case Study Strategy

Strategy	Form of research question	Requires control over behavioural events?	Focuses on contemporary events?
Experiment	How, why	Yes	Yes
Survey	Who, what, where, how many, how much	No	Yes
Archival analysis	Who, why, where, how many, how much	No	Yes/no
History	How, why	No	No
Case study	How, why	No	Yes

Figure 3: Relevant situations for different research strategies (Replicated from Yin, 1994:6)

The main research strategies are listed in Yin's (1994:6) table, replicated in Figure 3 above. According to this table, the case study appeared to be the most appropriate strategy to adopt in the present empirical study. Firstly, the study aimed to examine the practices of volunteer appropriate adults or 'how' the volunteers performed the role, which is one of the forms of research question which the case study strategy can answer. Secondly, the study was concerned with the current activities of volunteer appropriate adults, which is a contemporary phenomenon. Thirdly, the author was unable to exert control over the volunteers' behaviour and was, therefore, obliged to focus on the phenomenon in its real life context, in the context of police custody. In other words, the case study design was particularly suitable for this study in the light of the aim of the empirical study and because of its unique ability to provide idiographic explanations and to allow contextual inclusiveness, whilst only requiring relatively limited resources.

Ability to provide idiographic explanations

During the course of reviewing the literature, a number of variables were identified, namely the management, call out and interview arrangements, recruitment and selection, training, monitoring and support, and organisational relationships (see, for example, Littlechild, 1995b; Revolving Doors Agency, 1996; Evans and Rawstorne, 1997; Hodgson, 1997), which may contain important explanatory information about the practice of volunteer appropriate adults. The strength of the case study is its focus on one instance of the entity under study, which enables it to study the instance in

question more intensively. In other words, case studies are suitable for studying "a small number of cases with a large number of variables" (de Vaus, 2001:232). It was hoped that the case study would be able to consider all the aforementioned variables to describe and explain appropriate adult practice idiographically.

Consideration of real-life context

This ability of the case study design to uncover deeper explanations is also related to its context-bound nature. In other words, a consideration of the context in which a phenomenon occurs or exists is important because it can assist in explaining the behaviour exhibited (Denscombe, 1998; Bergen and While, 2000; Dantzker and Hunter, 2000; de Vaus, 2001). As argued by de Vaus (2001:235; original italics):

> "The study of context is important because behaviour takes place within a context and its meaning stems largely from that context. The same behaviour can mean very different things depending on its context. Furthermore, actions have meanings to people performing those actions and this must form part of our understanding of the causes and meaning of any behaviour. To simply look at behaviour and *give* it a meaning rather than *take* the meaning to the actors is to miss out in an important source of understanding of human behaviour."

For example, on a micro-level, if a volunteer appropriate adult fails to intervene in an interview, one may 'give it a meaning' that the volunteer is not performing his or her role correctly. However, in a particular context, such as one in which the interview is being conducted properly and fairly, the same behaviour by the volunteer appropriate adult means something different, that the volunteer is performing his or her role correctly. Moreover, the context can form part of our understanding of appropriate adult behaviour. Failure to perform the role correctly could be the result of, for example, a lack of instructions by the police on the requirements of the role (Haley and Swift, 1988; Evans, 1993; Evans and Rawstorne, 1994) or prior instructions by the interviewing officer to remain silent. Dantzker and Hunter (2000:110) stated that the case study strategy "includes close scrutiny of the background or current status, and relationships or interactions of the topic". In this study, the interaction of volunteers with other individuals, such as the police, legal representatives, young people and their co-ordinator, may contain important explanatory information about the practice of volunteer appropriate adults. On a macro level, contextual variables, such as perceptions of the role held by the policy-makers and courts reviewed in the literature review, may assist in explaining the volunteer appropriate adults' behaviour.

Practical considerations

Finally, the author was obliged to consider what strategy and methods it was practically possible to adopt, taking account of resource, ethical and access concerns. Denscombe argued that "[t]he decision to use a case study is a strategic decision that relates to the scale and scope of an investigation" (1998:32). It is true that the case study design can utilise fewer resources than other designs, given the relatively restricted focal point. Moreover, being proximate to the location of the focal point of the study, or the case, which can reduce resource expenditure. Therefore, the case study strategy was attractive to the author as a doctoral research student. The one reservation that the author had about using the case study strategy was that is often considered to provide a poor basis for generalisation (Stake, 1995; de Vaus, 2001). The issue of external validity will be considered in section 5 below.

Selection of the Case

Once the case study strategy had been selected, it was necessary to select the case to be examined, followed by the data collection methods that would be used.

Identity of the case

The case of the volunteer appropriate adult service provided by YES in Plymouth was selected, where volunteers provided appropriate adult services, through a partnership arrangement between the YOT and a local voluntary organisation (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). It possessed characteristics of a volunteer appropriate adult service, which deemed to be of interest from a review of the literature, including a partnership arrangement between the YOT and a voluntary organisation (Home Office, 1998a) and a co-ordinator and specific recruitment, selection, training, monitoring and support systems (see, for example, Littlechild, 1995b; Revolving Doors Agency, 1996; Evans and Rawstorne, 1997; Hodgson, 1997; Youth Justice Board, 2000). YES volunteer appropriate adult service also represented the least travel, resources and difficulties in gaining access and could, therefore, be studied more intensely. A selection based on these criteria is an example of convenience sampling.

Boundaries to the case

Limits had to be set on to what was and was not to be included as part of the case study. The volunteers, from the appropriate adult service studied, mainly acted as appropriate adults for young people from the local authority area in which the voluntary organisation was based, although, occasionally, they acted for young people from neighbouring authorities who had been arrested locally. The young people, for whom the volunteers acted, were mainly from the Plymouth area, although the service also provided appropriate adults for young people from the South Devon and West Devon District areas (*Appropriate Adult meeting minutes, 3rd November 1998; Co-ordinator's letter, 25th November 1998*). The case study did monitor call outs to young suspects from outside the local authority if the call outs took place at the police stations below. It did not, however, include call outs attended in the area by volunteers from outside the service, which could have had an impact on police perceptions of volunteers. It is recognised that limiting data collection to certain situations can also exclude factors occurring outside boundaries and fail to allow for occasions when outside factors intrude on the zone of case (Denscombe, 1998).

The call outs examined were mostly to the central police station Charles Cross, which housed the largest custody suite, although, on rare occasions, volunteers were called to two other police stations, Crownhill and Devonport. Owing to the difficulties of distributing questionnaires to the latter police stations, the case study could not always monitor these call outs. These call outs could have been particularly problematic, owing to an unfamiliar environment and arrangements for the volunteer and other players being unfamiliar to the volunteer. It is recognised that limiting data collection to certain situations ignored "the things that happen to [volunteers] when they are away from a defined area" (Denscombe, 1998:39). However, it was not practically possible to extend the remit of the case study.

This case study was also bounded by a time frame. It took a prospective approach. YES volunteer appropriate adult service was studied for 27 months in total, from January 1998 to October 2000. However, for some of the methods, data were collected over a shorter time period as discussed in section 4 below.

Gaining access to the case

Access to YES volunteer appropriate adult service was gained through meeting with its co-ordinator and the local YJT manager. These meetings also allowed the author to initially explore the nature of local appropriate adult arrangements before embarking on the case study. The author wrote to the YJT manager and co-ordinator to request meetings with them on 19th December 1997 and 21st January 1998 respectively. She subsequently met them at the beginning of 1998 when access was secured.

4. The Case Study Data Collection Methods

For each data collection method, this section will, firstly, justify why it was selected. Primarily, this involves a consideration of the aims of the empirical research and the relevant advantages of the method. Secondly, the section will describe how the chosen method was operationalised in terms of minimising any problems with the method and instrument design, access and ethics, sampling and analysis.

In line with the adaptive approach, it was hoped to gain from the empirical research a complete or comprehensive account of volunteer appropriate adult practice. Using differing methods maximises the value of research by revealing aspects of a phenomenon which would be missed by using one method alone (Fielding and Fielding, 1986; Babbie, 1992). Therefore, three main methods were combined to offer 'completeness' or a fuller vision of volunteer appropriate adult practice in the case study (see Jick, 1993 as cited by Connelly *et al.*, 1997):

- Participant observation of volunteer call outs, training sessions and meetings
- Volunteer call out questionnaires
- Analysis of miscellaneous YES documents

Participant Observation as a Volunteer Appropriate Adult

Selection of Participant Observation

Participant observation was selected for five main reasons. Firstly, it enabled an examination of the practices of volunteer appropriate adults from first hand experience. The second reason was

that the participation in call outs, along with the survey of volunteer call outs below, enabled a comparison between the results of the current study with the results of most previous studies, as most research in this field has used the call out or case as the unit of analysis (Dixon *et al.*, 1990; Brown *et al.*, 1992; Evans, 1993; Bucke and Brown, 1997; Revolving Doors Agency, 1996; Philips and Brown, 1998). Thirdly, the co-ordinator at YES volunteer appropriate adult service had suggested that the author might like to train and act as a volunteer appropriate adult and, therefore, access was easily secured. The fourth reason was that the only the resources required were the time and concentration of the researcher. Finally, the participation observation assisted in developing the volunteer call out questionnaire (Greene *et al.*, 1989 cited by Tashakkori and Teddie, 1998; Bryman, 2001).

Internal validity and reliability

The author decided to be a 'complete participant observer' (Gold, 1958 as cited Bryman, 2001:298-299) entering the setting as one of its members, an appropriate adult. Entering the field as a player enabled the author to interact with other players. This allowed the author to witness the impact of contextual variables, such as interactions with the police, legal representatives, young people and the co-ordinator, particularly given the true identity of the author was not known by some players. Acting as a complete participant observer, the author's experiences of and reflections on being a volunteer appropriate adult would constitute the data. As Brewer (2000:59) explained:

> "..the dimension of personally experiencing and sharing the same everyday life as those under study. The researcher's own attitude changes, fears and anxieties, and social meanings when engaging in and living with the field form part of the data...their autobiographical experiences in the field are a central part of understanding it."

An observer, "hanging out" in the setting, is proximate to interactions as they occur (Grbich 1999:138). Therefore, it was hoped that the data would be more accurate than data collected second hand by, for example, questionnaire or interview. Moreover, field observation is praised for being less impeded by the researcher effect than other methods (Dingwall, 1997). Field observation also "allows members to account to each other in natural setting" (Dingwall, 1997:60). The idea of naturalism proposes that "as far as possible, the social world should be studied in its 'natural state' undisturbed by the researcher." (Hammersley and Atkinson, 1995:6).

However, the validity and reliability of the observation data is still threatened by the 'observer effect'. Even Dingwall (1997:61) recognised that "clearly observers also select from the universe of sensations to which they are exposed in any given setting". Moreover, the reactivity of an overt observer threatens the internal validity of the data (de Vaus, 2001; Roethlisberger and Dickinson, 1939 as cited by Fulcher and Scott, 1999:88), whilst the covert observer can also change events by his or her presence (see Festinger *et al.*, 1956 as cited by Shipman, 1988)

Threats to the validity of the data can be limited by reflexivity (see Schutz, 1994; Hammersley and Atkinson, 1995; Grbich 1999). In the current research, the author reflected that her previous studies in Law and her review of the literature for the current research could have increased her sensitivity beyond other volunteers'. This was a further reason for adopting a multi-method approach. Participant observation was combined with a self-administered questionnaire survey of volunteer appropriate adult call outs to improve validity (Denzin, 1970) and for completeness (Jick, 1993 as cited by Connelly *et al.*, 1997), plus it was triangulated with documentary analysis for cross-validation.

Preparing for and Conducting Participant Observation

Gaining access to volunteer appropriate adult service and ethical considerations

The author's research was required to conform with the University of Plymouth's *Principles for Research Involving Human Participants* (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995)[29]. As a member of the British Society of Criminology (henceforth BSC), the author also accepted the general principles of its *Code of Ethics for Researchers in the Field of Criminology* (henceforth *Code of Ethics*) (BSC, 1999).

<u>Access, informed consent and right to withdraw</u>

Unlike the difficulties that some researchers have faced in gaining access to criminal justice agencies (for example, Cohen and Taylor (1977), as cited by Homan (1991), in relation to prisons), the author's gatekeeper, the co-ordinator, agreed to her service's participation in the case study during the author's initial meeting with her as described above. This was subject to the co-ordinator's line manager's agreement, which was duly given. This could have raised quite different

[29] An application to the Faculty Human Ethics Sub-Committee was made in September 2000.

difficulties to those experienced by Cohen and Taylor (1977), as cited by Homan (1991). It is conceivable that the 'hospitality' of the co-ordinator could have prevented the author from being critical, but the extent to which the author was restricted in this way was limited. The author was subject to a couple of 'ground rules'[30], which will be discussed below, but she did not experience any other forms of censorship, sometimes imposed by gatekeepers or sponsors (for example Jupp, 1989) on, for example, the dissemination of findings.

Hence, the co-ordinator opened the 'gate' to the case and field. Fortunately, the author did not experience any difficulties in 'getting along' (Brookman, 1999) and did not have to renegotiate access at any stage. The co-ordinator maintained her enthusiasm for the research throughout.

As explained above, it was envisaged that the author's experiences of and reflections on being a volunteer appropriate adult would constitute the data. Therefore, the present case study did not directly involve observing police, legal representatives and young people in field. However, the author thought that it would be courteous for the police to be approached beforehand (Homan, 1991). If the research on police culture is to be believed, the police are notoriously insular, characterised by secrecy and can be reluctant to be studied (Brown, 2000). Consequently, Holdaway (1982), for example, did not seek official approval from the police for his study on policing, because he was that convinced it would not be given. Hence, in line with Brookman's (1999:50) 'who you know' approach, one of the author's supervisors spoke to a police divisional commander, who he knew personally, about the research. Access was subsequently granted without any difficulties. As a matter of courtesy, the author also discussed her research with the YJT manager in the meeting described above.

Indeed, by gaining consent through the gatekeepers the divisional commander and the YJT manager, the police officers and YOT workers in the field were less likely to be influenced by the 'Hawthorne effect' (Roethlisberger and Dickinson, 1939 as cited by Fulcher and Scott, 1999:88), described in Chapter 3. As Homan (1991:82) explained: "The researcher fulfils the obligation to

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[30] Further to the co-ordinator's suggestion that the author might like to train and act as a volunteer appropriate adult, she was required to undergo the recruitment process, namely to submit an application form and attend an interview. She was interviewed by the co-ordinator and one of her colleagues. At this time, the 'ground rules' for suspect confidentiality and questionnaire design were presented.

obtain consent but it is not the consent of the research subjects, so that the investigation is conducted with the advantage more often associated with covert methods." However, informed consent through a gatekeeper may be criticised in that it withholds from the subject the right to refuse (Homan, 1991).

Debriefing

The University of Plymouth's Principles for Research Involving Human Participants provide that:

> "The main objective here is to send participants away in a relaxed frame of mind and with a general understanding of the research. It is normal to indicate the general purpose and nature of the research but not necessary (nor often practical) to communicate the findings of the research or the individual's own performance. Researchers should be willing to answer any general questions about the work." (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995:3).

The BSC's *Code of Ethics* extends the University of Plymouth's policy and states that: "Researchers should consider the possibility of discussing research findings with participants and those who are the subject of the research." (BSC, 1999:4iii). This is reminiscent of feminist research practices. The relationship between the researcher and researched is particularly important in feminist research, in order to challenge the power relationship that traditionally existed between the powerful male academic researcher and the subordinate researched 'subject'. Feminist researchers, therefore, suggest that researchers should give to the participants as much as they provide (Oakley, 1981).

General questions about the work were encouraged by the author at meetings (for example, *Appropriate Adult meeting minutes, 8th June 1998; 20th July 1999*), in correspondence (for example, *Author's letters, 1st July 1999; 17th February 2000*) and on the self-administered questionnaires discussed below. The author's contact details were provided in her correspondence and the self-administered questionnaire. Copies of academic journal articles were given to the gatekeeper, the co-ordinator. A copy of the finalised thesis was requested by and promised to the co-ordinator.

Anonymity and confidentiality

The University of Plymouth's *Principles for Research Involving Human Participants* provide that research should accord with the principle of confidentiality, unless express written consent is obtained from the participant (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995).

The BSC's *Code of Ethics* states that: "Research participation should be informed about how far they will be afforded anonymity and confidentiality." (BSC, 1999:4iii). In the current study, subjects either participated anonymously or were informed that their confidentiality would be respected, as will now be discussed.

Commitment to the police

The names (and ranks) of police officers in the field were not requested or recorded. Therefore, disclosure of names or ranks was not an issue. However, in reporting the observation data, it was important that subjects were not recognisable by other characteristics. In Humphreys' words (1975:172), as cited by Homan (1991:144), "Could the respondent still recognise himself without having any other recognise him?" Therefore, police officers were referred to according to their role in the custody context, such as custody officer, interviewing officer and detention officer. As Cavendish (1982), cited by Homan (1991), argued that if subjects are rendered completely unidentifiable, the research becomes less accountable, research findings are less easily checked and may be disputed.

Commitment to young persons

Young persons were informed that their confidentiality would be respected. In fact, volunteers were expected to protect all confidential information gained about young people during call outs and only disclose such information with consent where required by a court order or where disclosure could be justified in terms of the wider public interest following consultation with the co-ordinator (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). Information regarding young people should only be shared with other volunteer appropriate adults (*Appropriate Adults Confidentiality handout*). The confidentiality statement, compiled during the training session, *All About YES (16th February 1998)*, read to young suspects included the circumstances in which confidentiality may be broken (for example, act of terrorism, threat of harm).

Commitment from case

Returning to the other ethical issues raised by participant observation, the BSC's *Code of Ethics* states that "researchers should be sympathetic to the constraints on organisations participating in research and not inhibit their functioning by imposing any unnecessary burdens on them" (BSC,

1999:4ii). Field observation does not require subjects to give their time (Foster, 1996). Observation was selected because it is unobtrusive, in that it did not impose any burdens, such as in interviews, and did not inhibit the functioning of the service (in fact it assisted it).

Recording observations

With observation, the instrument of data collection is the researcher (Burgess, 1982). As many fieldnotes as possible were made in the field. In line with the goals of the empirical research, for the call out observations, the author focused on her contributions at police interviews, identification procedures, private consultations with young suspects, representations to custody officers and in arrangements to take young people to where they live. There were opportunities in the field to make notes, given the delays experienced in waiting for rights, interview and charge. Moreover, making notes was less intrusive than other more technical means suggested in the literature, such as audio and video recording and photographs (Maxfield and Babbie, 2000). Other people in the field would expect to see volunteer appropriate adults making notes, in completing their *PACE monitoring form for appropriate adults and police interviews (SS654)* (henceforth *PACE monitoring forms*). However, sometimes the author needed to supplement the notes after leaving the field. The delay in writing up observations may affect accuracy. The researcher's memory may be selective or distort the sequence or nature of what really happened.

Having written up a number of call outs, it was possible to develop a standardised recording form, replicated on page 214 of the APPENDICES, which made note-taking easier (Maxfield and Babbie, 2000). Issues most likely to be useful for analysis can become apparent as the observations progress (Maxfield and Babbie, 2000). Some items were verified periodically against completed *PACE monitoring forms*. However, it was hoped that the use of a standardised form would not limit the recording of unanticipated events. As recognised by Maxfield and Babbie (2000:293), "...the speedy handling of anticipated observations gives the researcher more freedom to observe the unanticipated." During training and at meetings, the author took notes, which she supplemented with the volunteer training materials and meeting minutes.

Sampling of time and events

The gatekeeper, in a sense, determined the sampling of time and events. The author was recruited and started training as an appropriate adult in February 1998. She attended all of the eight training

sessions as shown in Figure 4 on page 141. She then acted as a volunteer appropriate adult for two years, from April 1998 to May 2000. As a volunteer appropriate adult, the author was required to be on duty one day per week and, later in the study, one day per fortnight. During this time, she acted for 21 young people. She was also required to attend supervision sessions after each call out (*Appropriate Adult meeting minutes, 9th March 1998*) and volunteer meetings. She attended five of nineteen meetings. Attendance at call outs, on one day per week, and at the training and supervision sessions and volunteer meetings, was required of the majority of volunteers. Therefore, the author could be considered to have a 'typical' or representative experience of acting as a volunteer appropriate adult for the service studied. Moreover, at YES, the majority of volunteer appropriate adults were young women studying at the local University at which the author was a doctoral research student. Therefore, she did share a number of characteristics which other volunteers.

Data analysis

The call out observation data, recorded initially by writing up call-outs and subsequently on the standardised form, was organised under the appropriate adult's official responsibilities and rights and then scrutinised for the presence of principles of due process, welfare, crime control, crime prevention, social discipline, as described in Chapter 1, and/or any other principles which could be useful in explaining volunteers' practices. The same was done with the notes taken during training and at meetings. There is no set, accepted procedure on how to report findings from observational research. The results reported in this thesis are drawn from these written up notes.

Self-Administered Questionnaire Survey of Volunteer Appropriate Adult Call Outs

The observations above were made by a single researcher, who collected data on the experiences of one volunteer appropriate adult. Whilst this provided detailed information, this was not considered to be sufficient on its own as it would not be possible to deduce that this was how all volunteers in the appropriate adult service operated. Whilst all the volunteers in the volunteer appropriate adult service studied had been subject to the same recruitment, selection, training and monitoring processes as the author and shared some characteristics with the author, they may have brought

different, or differing levels of, knowledge[31] and skills and may have sought or been given different levels of support. Therefore, it was necessary to combine the participant observation with a strategy which collated information on the experiences of other volunteer appropriate adults at the service, to attempt to examine their practices more fully. A survey was selected for this purpose.

Selection of the Survey Strategy

As suggested by Yin's (1994:6) table replicated in Figure 3 on page 102, 'who', 'what', 'how many' or 'how much' questions deal with frequencies and incidences and are, therefore, can be answered by survey approaches. The survey approach was suitable here given the need to enumerate the extent of the volunteers' compliance with the clear requirements of the appropriate adult's role, such as the obligation for the appropriate adult not to attend the solicitor's initial interview, and differences in their practices in relation to the remaining unclear aspects of the role.

Selection of the Self-Administered Questionnaire for the Survey

In terms of the data collection method for the survey, it was desirable to collect data from the appropriate adult's perspective, given the police and legal representatives, for example, could only report on what they observed. The self-administered questionnaire was chosen as being able to provide insight into the volunteers' interpretation of the appropriate adult's role.

Whilst interviews would also have provided an insight into the volunteers' interpretation of the role, it is doubtful that such a broad picture of volunteer practices, over such a long time period, would have been gained. Volunteers would have found it difficult to reflect on all their experiences in a single or even over a series of interviews. In contrast, the self-administered questionnaire could be completed directly following the call out when the volunteers' ability to recall would be greatest.

Furthermore, the self-administered questionnaire can be used to collect a large amount of data, relatively cheaply (Dantzker and Hunter, 2000) and pre-coding and computer software can be used to accelerate analysis (Newell, 1993).

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[31] As explained above, the author recognised that, owing to her previous studies in Law and her review of the literature for the current research, she may be more likely to recognise police tactics as oppressive than other volunteers.

Internal validity

The main limitation of the questionnaire is that the validity, and reliability (see Shipman, 1988), of the data collected may be threatened by the partiality or erroneousness of accounts. For example, as May (1997:130) noted: "while accounts may be a genuine reflection of [a respondent's] experiences, there may be circumstances or events which surrounded these of which [the respondent] was not aware." In the call out survey, volunteers were requested to report on their contributions at interviews and the circumstances surrounding them. However, where respondents did not realise that they should have contributed as per Code C, they would not have contributed and this would not have been reported and/or, if they did realise that they should have contributed, but they did not, they might have been reluctant to report this. Moreover, they may have only reported the positive feedback from the young people. However, with self-administered questionnaires, respondents can remain anonymous (Dantzker and Hunter, 2000), which, hopefully, minimises this potential threat (see Singer, 1978 as cited by Homan, 1991).

As with all overt methods, it is possible that some reported practices would not be replicated once the research was completed owing to the 'Hawthorne effect' (Roethlisberger and Dickinson, 1939 as cited by Fulcher and Scott, 1999:88), described in Chapter 3. In the call out survey, the performance of volunteers may have been ameliorated by the fact that they were treated as an investigated group with consequential high status. However, it is thought that the effect was reduced in this survey by the fact that volunteers were required to complete the questionnaires at the end of each call out. Moreover, given the fact that over time each volunteer would have been required to complete a number of questionnaires, the effect would have decreased over time. Furthermore, in the case study, volunteers were required to complete PACE monitoring forms for the YJT/YOT after each call out and to attend frequent supervision sessions with the co-ordinator, which included completing written records. Therefore, the addition of one more questionnaire was, arguably, unlikely to have made much difference to the volunteers' practices.

Depth of information

Hakim (1987) identified the principal weakness of the questionnaire as the inferior quality and depth of the information compared with that obtained in an in depth interview for example. If the respondent raises an interesting point that has not been foreseen by the instrument designers, then

the researcher is unable to pursue that point. For example, in the current study, some volunteers expressed concern on the questionnaires at the derogatory comments of some police officers towards the suspect, but, with using a self-administered questionnaire, it was not possible to probe whether the volunteers acted upon these derogatory remarks.

The extent of the loss of quality and depth, to a certain extent, depends on foresight of the questionnaire designers. Hence, the call out survey was preceded by 18 months of participant observation, by the author as a volunteer appropriate adult at YES, which informed the questionnaire design (Greene *et al.*, 1989 cited by Tashakkori and Teddie, 1998; Bryman, 2001). Where contentious issues are envisaged, qualitative data can be sought to expand on the quantitative data (Gill and Mawby, 1990a). Where respondents are drawn from specialist, literate groups and have an interest in the subject of the research, they may be willing to detail their opinions at length (see, for example, Gill and Mawby 1990b). The questionnaire design is considered below.

Response rate

Response rates are often lower for self-administered questionnaire surveys than for face-to-face and telephone surveys. For example, 60 per cent may be acceptable for a self-completion questionnaire survey (Arber, 1993:71). A high response rate was pursued by discussing the pilot (*Appropriate Adult meeting minutes, 8th June 1999*) and finalised questionnaires with volunteers (*Appropriate Adult meeting minutes, 20th July 1999*) at meetings and by sending a letter to the volunteers (*Author's letter, 1st July 1999*), and, most importantly, by gaining the support for the research from the co-ordinator. The co-ordinator, subsequently, referred to the research and expressed her support for it at meetings (*Appropriate Adult meeting minutes, 8th June 1999; 20th July 1999*) and in letters (*Co-ordinator's letters, 28th July 1999; 27th August 1999*).

Whilst possibly increasing the frequency of responses, this involvement of the co-ordinator could have threatened the validity of the responses. Volunteers would be more likely to distort the facts, through embarrassment or fear of repercussions, if they thought the co-ordinator could gain sight of their responses. However, the letter from the researcher and the actual questionnaire provided a promise of anonymity, as well as contact details. Additionally, the importance of the research was

emphasised. Nevertheless, to assess the representativeness of the achieved sample and identify the nature and extent of any bias (Moser and Kalton, 1971), the co-ordinator was requested to record instances where a questionnaire was not completed on a 'non-response record sheet'.

Where self-completion questionnaires are completed, Newell (1993) warned that answers may be incomplete, illegible or incomprehensible. To attempt to counteract this problem, volunteers were encouraged to answer all questions as fully as possible at meetings (*Appropriate Adult meeting minutes, 6th June 1999; 20th July 1999*) and in letters (*Author's letter, 17th February 2000*).

Preparation for and Conducting the Self-Administered Questionnaire Survey

Questionnaire distribution and return

A form of 'direct distribution' was used to administer the questionnaires to the volunteer appropriate adults (Dantzker and Hunter, 1998:153). Questionnaires were stored in the volunteers' safe with their equipment and other paperwork. The volunteer was requested to complete and return a questionnaire, with the other paperwork, to the co-ordinator at the end of every call out. The author collected the questionnaires from the co-ordinator for analysis.

Ethical considerations

Informed consent

Researchers should, so far as possible, obtain the informed consent of those studied (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995; BSC, 1999). However, once consent has been obtained from the gatekeeper, direct consent from the subjects is not always sought (Homan, 1991). However, the principle may not prevail; spatial access may not imply the consent of the subjects to be surveyed (Homan, 1991). Informed consent through a gatekeeper may be criticised in that it withholds from the subject the right to refuse (Homan, 1991). This survey was not a 'cold' survey (Denscombe, 1998:7), in that the respondents saw the questionnaire prior to its administration in the ways described above. Implicitly, volunteers had a choice as to whether or not to participate and thus had the right to withdraw.

Anonymity and confidentiality

The University of Plymouth's Principles *for Research Involving Human Participants* provides that research should normally accord with the principle of confidentiality and the BSC's *Code of Ethics*

provides that participants should be informed of the extent to which anonymity and confidentiality will be afforded (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995; BSC, 1999). As Homan (1991:143) explained: "Trust in the assurance of confidentiality is most effectively secured where the names and identities of subjects are not sought in the first place." Names were not requested and the respondents could, therefore, be informed on the questionnaire that their "responses would be treated anonymously" (see page 216 of the APPENDICES). The pragmatic functions of confidentiality are that responses are more likely to be forthcoming and candid (Singer, 1978 as cited by Homan, 1991).

Questionnaire design

In line with the goals of the empirical research, questions concerned the police interview, the time taken for the volunteer to arrive at the police station, representations made by the volunteer to the custody officer and arrangements made to return the young person to where he or she lived (see page 216 of the APPENDICES). Certain questionnaire items, however, had to be excluded given that it was a condition of access that the questionnaire should not promote bad practice. For example, volunteers were required to attend, with the legal representative, the representations to the custody officer (*YES Procedure for acting as appropriate adult with young suspect*). Therefore, a question exploring the extent to which and the reasons why volunteers did not attend representations could not be included. In this way, the 'hospitality', and subsequent 'ground rules', of the co-ordinator prevented the researcher from being critical.

The questionnaire comprised a mixture of filter (for example, question 1) and contingency questions, plus closed and open-ended questions. In some cases, open-ended questions were chosen to avoid 'leading' the respondent or promoting bad practice as explained above. For example, the service studied prohibited volunteers from taking young persons home in their cars (*Co-ordinator's letter, May 2000*) and discouraged allowing young people to return home independently or with the police and, therefore, requested that these arrangements be excluded from pre-determined response categories. In this instance, it was not considered that using open-ended, as opposed to closed, questions would threaten the validity of responses. Including the standard classification of offences (Home Office, 1998d) on the questionnaire was also rejected to keep the questionnaire short, as advised by Fink and Kosecoff (1998), and, thereby, to encourage a high response rate. Finally,

open-ended questions were used to seek qualitative data on the police interview, the time taken for the volunteer to arrive at the police station, representations made by the volunteer to the custody officer, support and feedback (see Gill and Mawby, 1990a).

In order to ensure that the study was reliable (see Shipman, 1988), it was necessary that the instructions for completion and questions were unambiguous (Newell, 1993). The draft questionnaire was discussed with volunteers (*Appropriate Adult meeting minutes, 8th June 1999*). Moreover, the clarity and ordering of questions was tested in the pilot survey of 15 call outs. This represented 10 per cent of the proposed sample size, a percentage that has been suggested as being helpful (Newell, 1993:113).

Sampling and time frame

The call out survey was longitudinal, but was not, primarily, interested in change over time. It was anticipated that the cohort of volunteers would change slightly in its composition during the study, given the high turnover found at the Southampton service (Nemitz and Bean, 1998) and the transitory nature of the general volunteer population, where the number of volunteers who leave and who are recruited each year is quite substantial (Jackson, 1985). In fact, during the case study period, there was a minimum of 12 and a maximum of 16 volunteers registered with the volunteer appropriate adult service. Hence, each volunteer would have completed a number of questionnaires during the study period. However, it is likely that some of the same appropriate adults attended the police station in previous studies (for example Dixon *et al.*, 1990; Brown *et al.* 1992; Evans, 1993; Revolving Doors Agency, 1996; Bucke and Brown, 1997). Additionally, a small core of persistent offenders is responsible for a disproportionate amount of crime. For example, according to the most recent *Youth Lifestyles Survey 1998/9*, about 3 per cent of young offenders committed 22 per cent of youth crime in the 14 to 25 years of age category (Flood-Page *et al.*, 2000). Therefore, one would expect some parents to attend as appropriate adults on more than one occasion. Moreover, it is likely that often the same social workers, from the YJT/YOT, act as appropriate adults in a given local authority area, although EDTs may not provide the same social workers. Therefore, it was unlikely that this phenomenon would be unique to the present study.

Volunteers completed 155 questionnaires in almost one year, between 15th October 1999 and 4th October 2000. There was a total of 182 call outs during that period. An examination of the 'non-response record sheet' revealed that questionnaires were not completed for 20 call outs. For a further seven call outs, a stand-in co-ordinator incorrectly distributed the pilot questionnaires, instead of the finalised questionnaires, to the safe, for the period 7th October 1999 to 29th November 1999. Based on this information, the response rate for the call out survey was 85.2 per cent, which was considered to be very pleasing (Arber, 1993; Babbie, 1998 as cited by Dantzker and Hunter, 2000).

Reasons for the non-completion were only recorded on the 'non-response record sheet' for seven call outs. The volunteers in question reported to the co-ordinator that they had not completed a questionnaire because:

- For one call out, no questionnaires were available at the police station.
- For two call outs on the same day, the volunteer in question did not realise he or she should complete a questionnaire, because he or she was newly trained.
- For four call outs on the same day, the time spent at the police station by the volunteer was so long, up to eight hours, that the volunteer was too tired to complete the questionnaire.

Based on this information, the sample was not biased towards a certain type of call out. For example, the sample did contain other long call outs, given that 4.5 per cent of call outs were over six hours in length (n=155, data were missing in 111 cases).

As anticipated, the response rate for certain questionnaire items was lower than the overall response rate. In some instances, the volunteer noted on the questionnaire that a parent, a member of the OHT or another person took over as appropriate adult from the volunteer and, therefore, could not respond to all the questionnaire items. In other instances, the volunteer simply did not respond to all questionnaire items. Hence, a large number of sub-groups had fewer cases than is recommended for a sub-group. The smallest sub-groups should have at least 50 to 100 cases (Honville *et al.*, 1991 as cited by de Vaus, 2001). However, given the exploratory nature of the

research, it would have been impossible to predict the small size of many of the sub-groups and a larger sample size would have required more resources.

Data analysis

Prior to analysis, the data had to be coded, entered into a data management and analysis package, *Statistical Package for the Social Sciences* (henceforth SPSS 10.0), and 'cleaned'. Whilst, in the main, pre-coding, informed by the literature and the pilot survey, was used to accelerate analysis (Newell, 1993), the answers to open-ended questions, the qualitative data, had to be categorised post survey administration. This coding was achieved inductively, whereby the categories were identified from data. This was time consuming, but, in some cases, essential to avoid bias. The author attempted to ensure that the predetermined categories were exhaustive, but her categories may still not have encompassed all the answers that respondents would have liked to provide. Therefore, an 'other, please specify' category was added to relevant questions and the responses were coded inductively. The coded data were then entered into a SPSS 10.0 data file. The data was checked and cleaned manually; the author checked for 'wild' codes and consistency between answers, by comparing variables in frequency tables.

Univariate descriptive statistics were calculated for all variables measured by the questionnaire (see Babbie *et al.*, 2000; Bryman and Cramer, 2000). Where appropriate, the nature of relationships between the variables was explored. The respondents' quotes were also collated so they could, if necessary, illustrate or emphasise particular points, as in Gill and Mawby's (1990a; 1990b) studies. However, to respect the confidentiality of those in the custody suite, where names were provided, they were replaced by a description of their role, such as 'custody officer' or 'young person'.

These statistics and qualitative data were then organised under the appropriate adult's official responsibilities and rights and then inspected for the presence of the features of due process, welfare, crime control, crime prevention, social discipline, described in Chapter 1, and/or any other models which could assist in the understanding of volunteers' practices.

Documentary Analysis

Selection of Documentary Analysis

Yin's (1994:6) table, replicated in Figure 3 on page 93, suggested that archival or documentary analysis is appropriate for dealing with 'who', 'what', 'how many' and 'how much' questions. Moreover, the analysis of documents is unobtrusive (Dantzker and Hunter, 2000). Therefore, the analysis of documents was relatively extensive in the present study. The official and academic literature and case law on appropriate adults, identified using the library catalogues at the author's University and the British Library's catalogues, electronic journal abstracting/indexing services, electronic legislation and case citators and the websites of the Home Office Research and Development Directorate and the Youth Justice Board (henceforth YJB), had already been reviewed to determine what the appropriate adult is supposed to do and what parents and social workers do in practice. However, the analysis of documents was also selected as a specific data collection method in the case study of volunteers, and different documents were used for the purposes described below.

Obtaining and Analysing Relevant Documents

The main purpose of the documentary analysis in the case study was to identify the local context in which volunteers acted as appropriate adults and the policies on volunteer appropriate adult practices. Seven types of document pertaining to YES volunteer appropriate adult service were provided by the co-ordinator throughout the author's time as a volunteer appropriate adult. These were: the agreement between YJT and YES, local appropriate adult protocols, recruitment and training materials, co-ordinator correspondence, minutes of volunteer meetings and completed *PACE monitoring forms*. These documents were inspected for local policies on the role of the volunteer appropriate adult and their consistency with welfare, due process, welfare, crime control, crime prevention, social discipline and/or any other perspectives which could be useful in explaining volunteers' practices. The participant observation data was also triangulated with documents analysis of completed *PACE monitoring forms*, which were provided by the co-ordinator upon request and were inspected for certain 'points', such as dates and times, to confirm observations.

5. The Survey and Data Collection

This section will justify and describe the second phase of the research, the national postal survey of YOT managers.

Selection of the Survey Strategy

In the absence of existing information on the nature and extent of volunteer appropriate adult arrangements, a survey was conducted to explore the arrangements for the provision of volunteer appropriate adults nationally and establish the context in which the practice of volunteers takes place. Having reviewed the literature, these features of relevance to the co-ordination and operation of volunteer appropriate adult services were considered to be management, recruitment and selection, training, and monitoring and support (Littlechild, 1995b; Revolving Doors Agency, 1996; Evans and Rawstorne, 1997; Hodgson, 1997). Hence, the main goals of the survey were to:

- To examine the management of volunteers
- To examine the numbers of volunteers in appropriate adult services
- To examine call out and interview arrangements
- To examine the duty times of volunteers
- To examine their position regarding legal advice
- To examine their arrangements for returning the young suspect to where he or she lives
- To examine recruitment and checks
- To examine training delivery and content
- To examine monitoring and support

As suggested by Yin's (1994:6) table replicated in Figure 3 on page 102, questions which deal with frequencies are most adequately answered by surveys. Given that the purpose of this part of the empirical study was to enumerate the aforementioned characteristics of appropriate adult services in England and Wales, the survey approach was considered to be most suitable.

As stated above, the one reservation that the author had about using the case study strategy was that it is often considered to be flawed in terms of its external validity (Stake, 1995; de Vaus, 2001). One solution is to combine the case study with a quantitative measure of the population to assess its representativeness (Hammersley, 1992; Denscombe, 1998). de Vaus (1991) was correct when he argued that, whilst purposive samples may attempt to be representative of a specific category of people or events, for example volunteer appropriate adults or their call outs, it is not possible to make 'precise' inferences about the characteristics of the population from which the sample was drawn as in the case of a probability sample. However, it is possible to estimate the extent to which the case is representative and, therefore its findings generalisable (Hammersley, 1992; Denscombe, 1998), albeit not precisely. Therefore, the national survey was also conducted to ascertain whether the case, YES volunteer appropriate adult service, shared features, which were significant to the operation of the service, with other cases, that is other volunteer appropriate adult service. The survey approach did, however, have funding implications, although not as demanding as those for the multiple case study design.

Survey Design

Once the survey strategy had been selected, further decisions were required regarding sampling, data collection, and instrument design and data analysis.

Choice of potential respondent

The survey needed to include the persons who co-ordinate the provision of appropriate adults. At the time of the pilot survey, there was no statutory duty on local authorities to ensure the provision of persons to act as appropriate adults. In the absence of a particular person or department being responsible for appropriate adult provision, the questionnaire was addressed to the Chief Executive of the local authority and asked him or her to pass it on to the "Manager of YOT/Officer responsible for appropriate adult services, Social Services Department". She could have addressed the questionnaire to the Social Services Director, but the pilot questionnaire was sent with another pilot questionnaire, which was part of a separate study on community safety activities under CDA ss. 6 and 7 by local authorities in England and Wales, to reduce costs. Therefore, the

questionnaires needed to be sent to a common person and the Chief Executive filled this requirement.

The government required YOTs to be established by April 2000 (Home Office, 1998a), and YOTs were required to co-ordinate the provision of appropriate adults (CDA s. 39(7)(a)). Hence, for the final survey, it was possible to survey YOTs. To increase the response rate, the questionnaire should be personalised (Dillman *et al.*, 1999 as cited by Dillman, 2000; Dantzker and Hunter, 2000) or, in this context, addressed to a named member of the YOT. It was possible to identify the manager, unlike the person who had responsibility for the appropriate adult service whose position would differ from team to team. Given that the manager had overall responsibility, it was decided to survey him or her. Whilst not stated explicitly in the questionnaire, it was expected, in some cases, that the manager would pass the questionnaire on to an assistant manager or volunteer co-ordinator for completion. In fact, when the national survey was conducted, this was confirmed by qualitative comments added to the completed questionnaires.

The level of response in a survey depends on the topic of the questionnaire (Denscombe, 1998). It is recognised that volunteer co-ordinators may have been more inclined to participate and provide more accurate information, than YOT managers (see Gill and Mawby, 1990b). Moreover, volunteer co-ordinators may have had more time to complete the questionnaire. However, it was not possible to identify the names of volunteer co-ordinators (or indeed whether they existed for all services), unlike YOT managers. Therefore, YOT managers were selected as the target respondents.

Sampling and time frame

Once the potential respondents had been identified, a sampling frame was required, including the names and addresses of YOT managers. The sampling frame needed to be complete, precise and up-to-date (Denscombe, 1998). The YJB (which oversees the operation of the YOTs and the youth justice system as a whole) website provided contact details for the YOT managers (YJB, 2002). She e-mailed the YJB to request the list in a format suitable to 'merge' with the covering letter. The YJB kindly sent a list in the form of a Microsoft Excel file. This contained the full contact

details for all 154 YOT managers in England and Wales (*Personal correspondence with Micah Mcguire, YJB, 22nd June 2000*).

Normally, a researcher cannot attempt to survey everyone who is in the category being researched (Denscombe, 1998), that is, the 'population', and, therefore, has to survey a 'sample'. However, the resources in terms of funding and time were available to conduct a 'census' of YOT managers, and did not need to select a sample.[32] All 154 YOT managers were surveyed in August 2000, with a second mailing in October 2000. In the second mailing, potential respondents were requested to return completed questionnaires by 23rd November 2000 and a few were returned thereafter. Therefore, the time frames for the case study and national survey were not co-terminous, but still close enough to be useful. Of the 154 YOT managers surveyed, 120 responded (77.9 per cent). This response rate was considered to be excellent given, for postal surveys, the overall response rate is normally poor. The researcher can normally only expect a 20 per cent response rate (Denscombe, 1998:8).

Selection of the Postal Questionnaire for the Survey

Once it had been decided to survey YOT managers, the postal questionnaire was selected as the method from which to collect data from them. A large-scale mailing can cover a wide geographical area (Denscombe, 1998). The survey could include all YOT managers, given all had postal addresses, whereas only some managers had e-mail addresses and web access. Moreover, the quality of the Royal Mail withstanding, potential respondents were guaranteed to receive the questionnaire.

Dantzker and Hunter (2000:153) maintained that with postal surveys, for example, "fewer constraints are placed on the respondents so that more consideration can be given to answers." Given the lack of immediate assistance (Fink and Kosecoff, 1998) and the poor response rates generally attracted by postal surveys (Denscombe, 1998), it was very important that the questionnaire was well designed and piloted, to which the discussion will now turn.

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[32] However, it was recognised that the more subjects one studies, the more scope there is for error, such as in coding the responses.

Preparation for and Conducting the Postal Survey

The matters of relevance to the preparation for and conducting the postal survey were the instrument's design, ethical considerations and data analysis.

Instrument design

In addition to efforts to maximise the response rate, careful attention was paid to the lessons from the pilot survey in the design of the questionnaire, cover letter and mail out and return arrangements. The *Statistical Package for the Social Sciences Data Entry Builder 2.0* (henceforth *SPSS Data Entry Builder*) was used to create a questionnaire consistent with the goals of the survey identified above. The questionnaire is shown on page 216 of the APPENDICES. When completed, it comprised a mixture of filter, closed and open-ended questions, and ranking scales on the topics identified above. Open-ended questions were used where it was not possible to envisage answers and, in some cases, to avoid 'leading' the respondent.

Using *SPSS Data Entry Builder* facilitated a clear format (SPSS, 2002). An attractive format can encourage response; if the respondent thinks that the researcher has put a lot of effort into preparing the questionnaire, he or she is more likely to respond (Dantzker and Hunter, 2000). In the pilot survey, the questionnaire was printed in coloured ink and on coloured paper. This design was time-consuming and expensive to achieve, and the response rate for the pilot survey remained low (26.7 per cent). Therefore, it was decided not to repeat this cost for the final survey.

The level of response also depends on the length of the questionnaire (Dantzker and Hunter, 2000; Denscombe, 1998). The poor response rate achieved for the pilot survey could probably be attributed to the length of its questionnaire, as one respondent insinuated. Therefore, the questionnaire was kept as short as possible, as advised by Fink and Kosecoff (1998). In fact, if the YOT never used volunteers as appropriate adults, the manager was only required to answer question 1. Moreover, to make completion easier and quicker, the number of open-ended questions which had been used in the pilot questionnaire was reduced for the finalised questionnaire.

In an attempt to encourage a good response rate, the cover letter was personalised by starting the address with the potential respondent's first name and surname, including the specific date of the

mailing and using personalised, University headed paper (see Dantzker and Hunter, 2000; Dillman, 2000). For the same reason and for ethical reasons, the cover letter also included the author's contact details, aims of her research and her intentions regarding confidentiality (see Singer, 1987 as cited by Homan, 1991; Denscombe, 1998; Dillman, 2000). Whilst on environmental grounds respondents were asked to reuse the envelope, a freepost label was included (see Armstrong and Luske, 1987 as cited by Dillman, 2000). An incentive was not offered, contrary to advice offered by Dantzker and Hunter (2000). The author did, however, write to thank respondents as described below.

Experimental research has shown unanimously that multiple contacts are more effective than any other technique for increasing response rates to postal surveys (for example, Dillman, 1991). Whilst this did add costs (Dantzker and Hunter, 2000), potential respondents, who had not responded to the first mailing, were identified as described below and sent a further questionnaire. Neither mail-out date was around a public holiday (see Dantzker and Hunter, 2000; Dillman, 2000).

Ethical considerations

Indeed, taking account of the BSC's *Code of Ethics* (BSC, 1999), the author appreciated that YOT managers were very busy and considered very carefully which data collection method and instrument design would place the least encumbrance on them.

Informed consent and right to withdraw

In line with the principle that researchers should, so far as possible, obtain the informed consent of those studied (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995; BSC, 1999), in the cover letter, the author explained the aim of her research and her intentions regarding publication and confidentiality, to allow the potential respondents to make an informed decision regarding participation. Implicitly, they had a choice as to whether or not to participate and thus had the right to withdraw.

Confidentiality and anonymity

As explained above, the University of Plymouth's *Principles for Research Involving Human Participants* provides that research should normally accord with the principle of confidentiality and

the BSC's *Code of Ethics* provides that participants should be informed of the extent to which anonymity and confidentiality will be afforded (BSC, 1999:4iii). In the national survey, the cover letter emphasised that answers would be treated "anonymously and confidentially". With hindsight, it was not appropriate to promise anonymity given that the author could identify each person's response. Each questionnaire had the respondent's name and address noted on it. However, the author only intended to use this information for the purpose of identifying non-respondents and targeting the second mailing. As Homan (1991:143) explains: "it is helpful to identify responses…to chase non-respondents to postal surveys. This does not mean that the name of a respondent must be attached to the response form beyond the minimum period for the purpose."

On the other hand, the assurance of confidentiality conveys the commitment not to present the results in such a way that individual respondents' responses can be identified as belonging to them. The author intended to present the results in such a way that individual respondents' answers could not be identified as theirs, that is using univariate descriptive statistics.

Debriefing

In line with the principle that researchers should be willing to answer any general questions about the work (Faculty of Human Sciences' Human Ethics Sub-Committee, 1995), general questions about the work were encouraged and contact details were provided in the cover letters. Regarding the extended principle that researchers should discuss research findings with participants (BSC, 1999; Oakley, 1981), the author sent a thank you letter in April 2001 and wrote to respondents regarding the publication date of Pierpoint (2004).[33]

Data analysis

Preparing data for analysis

Prior to analysis, the data had to be coded, entered into a data management and analysis package and 'cleaned'. As described above, *SPSS Data Entry Builder* was used to create the questionnaire.

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[33] This may also assist with securing participation in postdoctoral research.

This package creates the SPSS data file simultaneously, which reduces time and increases accuracy, in terms of coverage of variables and response categories. Data entry is also meant to be less time-consuming and more accurate (SPSS, 2002). However, the use of *SPSS Data Entry Builder* had to be abandoned, because the package became unstable. Moreover, the software was not supported by the author's University. Therefore, a SPSS 10.0 data file had to be created afresh.

Analysing data

Univariate descriptive statistics were calculated for all variables measured by the questionnaire (see Babbie *et al.*, 2000; Bryman and Cramer, 2000). The respondents' quotes were also collated so they could, if necessary, illustrate or emphasise particular points, as in Gill and Mawby's (1990a; 1990b) studies. In this way, it was intended that the data would be employed to describe the context in which volunteer appropriate adults operate and that these arrangements could be compared with the arrangements at YES volunteer appropriate adult service to explore its typicality.

6. Conclusion

The overall research design for the empirical study comprised:

- Participant observation of volunteer call outs (n=21)
- Participant observation of volunteer training sessions (n=8)
- Participant observation of volunteer meetings (n=5)
- Volunteer call out questionnaires (n=155)
- Analysis of miscellaneous YES documents
- YOT manager postal questionnaires (n=120)

The first three methods were selected in order to examine the practices of volunteer appropriate adults, during police interviews, identification procedures, private consultations with young suspects and representations to custody officer, in the case study. The postal survey of YOT managers to discover the nature of national arrangements for the provision of volunteer appropriate adults to set the scene for the conditions in which they operate. It was also selected to explore how typical the local arrangements examined were.

PART FOUR: RESULTS

Chapter 5: National Volunteer Appropriate Adult Provision

1. Introduction

In the absence of existing information on arrangements for volunteer appropriate adult provision and of detailed guidance on how YOTs should operationalise their statutory obligation to co-ordinate the provision of appropriate adults for young people (CDA s. 39(7)(a), a national postal survey of YOT managers was conducted to examine the structures in place in which volunteers operate. This chapter will examine the management of volunteer appropriate adult services, the numbers of volunteers involved, call out and interview arrangements, volunteers' duty times, the position regarding legal advice, any arrangements for returning the young suspects to where they live, recruitment and checks, training and monitoring and support.

Also, to determine the representativeness of the case studied, the following sections will also discuss the extent to which the characteristics of YES volunteer appropriate adult service reflected the characteristics of the 'typical' volunteer appropriate adult service (as identified by the national postal survey of YOT managers) (see Hammersley, 1992; Denscombe, 1998). Before moving on to these two tasks, it is useful to briefly summarise the eventual samples involved.

2. Eventual Samples

Data collection method	f	%
Participant observation of volunteer call outs	21/21	100.0
Participant observation of volunteer training sessions	8/8	100.0
Participant observation of volunteer meetings	5/19	26.3
Volunteer call out questionnaires	155/182	85.2
Analysis of miscellaneous YES documents	-	-
YOT manager postal questionnaires	120/154	77.9

Table 2: Numbers involved and response rates for the main data collection methods

Note:
Counting the documents would have been meaningless as many were large documents which comprised small documents of, for example, one page in length stapled together.

The eventual samples for all the data collection methods are shown in Table 2 above given that, whilst this chapter will mainly focus on the results of the national survey of YOT managers, it will also necessarily refer to some results of the case study to establish the characteristics of YES volunteer appropriate adult service and enable an assessment of its representativeness.

As shown Table 2 above, all 154 YOT managers in England and Wales were surveyed of whom 120 responded (77.9 per cent). The univariate descriptive statistics discussed below, depicting the characteristics of a 'typical' or 'average' case (Argyrous, 2000) or volunteer appropriate adult service, are based on the responses of the 45 YOT managers who reported that they used volunteers as appropriate adults. In other words, 50 per cent of YOTs had managers who reported that they used volunteers in this role (n=120, data missing in 30 cases).[34]

The characteristics of YES volunteer appropriate adult service were identified in the initial meetings with the YJT manager and the co-ordinator, but mainly by participant observation of volunteer training sessions (n=8) and meetings (n=5) and the analysis of the agreement between YJT and YES, local appropriate adult protocols, recruitment and training materials, co-ordinator correspondence and minutes of volunteer meetings.

3. Management

Returning national survey results, it was anticipated that in the light of the Home Office guidance (Home Office, 1998a) and in this managerial climate (see, for example, Rickford, 1998; Wardell *et al.*, 2000), a number of local authorities would contract voluntary organisations to manage the appropriate adult service on a day-to-day basis, as they did in the case study.

Organisation	No. of responses	% of YOT managers
YOT	32	76.2
Voluntary organisation	12	28.6
Social services	2	4.8
EDT	2	4.8
Other	3	7.1

Table 3: Organisations responsible for the management of volunteers (Multiple response)

Note:
N=45. Data were missing in 3 cases.

[34] All percentages reported henceforth will be valid percentages. A valid percentage is one which has been calculated on the basis of valid cases or the number of YOT managers who answered the question. Here potentially 120 YOT managers could have answered the question as to whether they used volunteers, but 30 YOT managers did not answer the question, resulting in there being 90 valid cases. The number of valid cases will differ from question to question depending on how many YOT managers answered the question.

Table 3 above is an example of a frequency table calculated from answers to a multiple response question, that is one where the respondent can select more than one answer, such as more than one organisation which he or she thinks is responsible for managing volunteers. Table 3 shows the number of times that YOT managers reported that the YOT was responsible for managing volunteer appropriate adults, the number of times that YOT managers reported that a voluntary organisation was responsible for management, the number of times that YOT managers reported that Social Services was responsible and so on. For example, the YOT was cited as being responsible by 32 of the 42 YOT managers who responded to this question (76.2 per cent). Of course, they may have cited more than one organisation which they thought was responsible for the management of volunteers. There were 42 valid cases or YOT managers who answered this particular question: of 45 YOT managers, who had reported that they used volunteers as appropriate adults and, therefore, could have answered this question, three YOT managers did not answer the question.

Table 3 above shows that, in the national survey, most frequently, the YOT (although possibly in conjunction with other agencies) was responsible for the management of the volunteers (76.2 per cent), but voluntary organisations had some responsibility in over a quarter of cases (28.6 per cent). These voluntary organisations included NACRO: The Crime Reduction Charity and Rainer, specific branches of national bodies, such as Diocesan Council for Social Responsibility, and independent local voluntary agencies, like YES.

The management approaches of YOTs, national voluntary organisations and local voluntary organisations are likely to have different strengths and weaknesses. Aside from the managerial advantages to YOTs, one relative strength of a voluntary organisation for young people, such as YES, is that it is less likely to be perceived as an instrument of control or punishment by young people than a YOT, which is important if an empathetic relationship is to be established between the appropriate adult and young person (see DPP v Blake [1989] 1 WLR 432; Williams, 2000a). Furthermore, YES, for example, specialises in welfare services for young people, such as legal advice and advice on housing and accommodation, welfare benefits, sexual health, confidential counselling, an advocacy service and personal development training (henceforth PDT) (YES,

2002). These services may be brought to the attention of the young suspect during his or her detention (Yeo, 1998).

Approaches to managing volunteers may be influenced by the extent and nature of the training a manager has received. The extent to which YOT members receive training on the use and supervision of volunteers is unclear. Gitt and Andrew (1987) reported on an enquiry into social work training for the Certificate of Qualification in Social Work, which was replaced by the DipSW that is currently being superseded by the GSCC (GSCC, 2003). They reported that the use and supervision of volunteers was a low priority in teaching. This was over a decade ago and, hopefully, the training of social workers, and other YOT members, has improved in this respect, but differing levels of management could be reflected in volunteers' practices.

4. Volunteer Numbers

Beyond management, many characteristics were shared by the typical volunteer appropriate adult service and YES volunteer appropriate adult service. The typical volunteer appropriate adult service and YES volunteer appropriate adult service comprised similar numbers of volunteers. The mean number of volunteers registered with an individual appropriate adult service at the time of the national survey was 14 (n=45, data missing in 3 cases) and the number of volunteers registered with YES volunteer appropriate adult service was 12.

During the case study period, the co-ordinator reported that a minimum of 12 and a maximum of 16 volunteers were registered with her service. Some turnover was to be expected given the high turnover found at a Southampton service (Nemitz and Bean, 1998) and the transitory nature of the general volunteer population (Jackson, 1985). Whilst not explored in the present research, given that volunteers are not remunerated, they may feel that they lack status and may not feel the same commitment as salaried members (see Revolving Doors Agency, 1996). Other studies of, for example, special constables, have shown that volunteers predominantly leave for reasons outside the control of the organisation, such as work or study commitments and domestic reasons (Gaston and Alexander, 2001). Where individuals wish to leave for reasons outside the control of the organisation then the organisation, having attempted to accommodate a revised work, study or domestic schedule, should ensure that the leaver feels welcome to return at any point given they

will not have to be trained, which would have time and cost benefits (Gaston and Alexander, 2001), although a refresher session would be useful. Finally, as pointed out by volunteers of the Barnet service, more stringent recruitment procedures would ensure more commitment from new volunteers and reduce the drop out rate (Revolving Doors Agency, 1996).

5. Call Out and Interview Arrangements

Length of Time on Duty

No guidance has been issued concerning recommended duty times for volunteer appropriate adults and, consequently, a full range was found in the national survey. Time is a continuous, ratio variable and, therefore, the mean is the most appropriate measure of central tendency to calculate. Volunteers were on call for nearly 14 hours per day on average, although the time for which volunteers were on call ranged between one and 24 hours per day (n=45, data were missing for 5 cases). Returning to the similarities and differences between the co-ordination of YES volunteer appropriate adult service and typical co-ordination, the author observed that volunteers in the case study were on call on average for the slightly shorter length of time of eight hours. They were on call from 10:00 to 18:00 (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*),

However, it may be unwise to have long duty times. As explained in Chapter 4, in the case study, for four call outs on the same day, the time spent at the police station by the volunteer was so long, up to eight hours, that the volunteer was too tired to complete a questionnaire. In these circumstances, it is conceivable that a volunteer could also be too tired to complete other paperwork, or perform other aspects of the role of the appropriate adult. In other words, variations in duty times may impact on volunteers' practices and, consequently, young people's experiences of interviewing and detention. Co-ordinators are advised to bear the same considerations in mind when deciding whether to provide an appropriate adult service during office hours or around the clock.

Legal Representation

Unlike in Robertson *et al.*'s (1996) study, where the researchers did not witness any instances of the appropriate adult exercising the right to legal advice on behalf of the suspect (Code C para

3.13), in the national survey, 73.4 per cent of YOT managers reported they insisted that their volunteers had legal advisers present for interviews (n=45, data missing in 3 cases). Similarly, in the case study, there was an insistence on the presence of a legal adviser for the interview (*Procedure for Call Out*). This requirement is consistent with a due process model.

Returning Suspect to Where He or She Lives

In the past, some writers have contended that the (non-relative) appropriate adult's responsibilities end when he or she leaves the police station (for example, Drakeford, 1994), although others have advised some kind liaison with parents upon returning the suspect home (for example, Walinets, 1985). Indeed, in Evans and Rawstorne's (1994) study, the police assumed that a social worker, who had acted as appropriate adult, would take responsibility for a young suspect once he or she was released. In contrast, according to the national survey as shown in Table 4 below, most often, volunteers were prohibited from escorting young people home (67.4 per cent, n=45, data missing 3 cases). Similarly, during the case study, volunteers were also prohibited from taking young persons home in their cars (*Co-ordinator's letter, May 2000*).

	f	%	Cumulative %
Volunteers are prohibited from escorting young people home	29	67.4	67.4
It is up to volunteers whether they escort young people home	6	14.0	81.4
Volunteers are required to escort young people home	3	7.0	88.4
Depends on case	2	4.7	93.1
Other	3	7.0	100.1
Total	43	100.1	

Table 4: Role of volunteer appropriate adults in escorting young people back to where they live

Notes:
N=45. Data were missing in 3 cases
Percentages do not always sum to 100 due to rounding

In the case study, some volunteers considered that returning the young person themselves was beyond the appropriate adult's role and unmanageable (*Appropriate Adult meeting minutes, 5th October 1999*). The author, for example, would not have been willing to do this following her experience in custody of the young suspect's father who was drunk and angry that his perceived right had been usurped (Call out observation 6), for fear of this experience being repeated without the protections of custody. However, during the study period, the service discussed changing its

protocol on accompanying young people home, and was awaiting future discussions with the YOT to operationalise a change to the protocol (*Co-ordinator's letter, May 2000*). Some volunteers felt that young people could be more susceptible to ideas about circumventing offending immediately following their period of detention, highlighting a concern for crime prevention.

After data collection commenced for the study, the *YJB National Standards for Youth Justice* (henceforth the *National Standards*) were issued.[35] Most of the standards should have been implemented in all work commencing after 1st April 2000 (YJB, 2002). Operationalising volunteers accompanying suspects home is now more likely given that the *National Standards* require that the parents are promptly informed of any subsequent court appearance. They state that:

> "When a young person has been charged, if his or her parents, primary carer or other adult relative were not present at the interview with the police, the appropriate adult must try to contact them within 24 hours or prior to court, whichever is sooner, to inform them and offer information about the court appearance. They must remind them that the young person's failure to attend court would be an offence." (YJB, 2000, para 2.4)

6. Recruitment and Checks

No guidance has been issued concerning recruiting and selecting volunteer appropriate adults. In the national survey, most often, the YOT was responsible, at least in part, for recruitment and selection (62.8 per cent of cases, n=45, data were missing in 2 cases), whereas in the case study, the voluntary organisation YES was responsible (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*).

According to the national survey, generally, volunteers were subject to checks, including police checks, before they were formally selected (92.5 per cent of cases, n=45, data missing in 3 cases), as they were in the case study (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). However, it was uncertain whether applicants with (a) declared convictions and/or (b) declared, spent convictions for offences not involving children could be selected. Nevertheless, the uncertainty lends weight to

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[35] This thesis refers to the first Youth Justice Board National Standards for Youth Justice published in 2000 (Youth Justice Board, 2000), although these were recently revised in February 2004 (Youth Justice Board, 2004). Generally speaking, developments up to December 2003 are covered by the thesis.

the argument that immediate guidance is required from the government on whether an applicant with a criminal record can be used as a volunteer appropriate adult (Nemitz and Bean, 1998). Given that the young suspect can consult privately with the appropriate adult (Code C para 3.18) and given that, as described above, an increasing number of YOTs may require their volunteers to escort young people home, it is essential that volunteer appropriate adults are subject to criminal record checks.

7. Training

The *National Standards* require that: "YOT managers... ensure that staff or YOT accredited volunteers who act as appropriate adults are trained and supported in this role, and that they are provided with a copy of the PACE Codes of Practice" (YJB, 2000, para 2.1). However, they do not provide any guidance on the design and delivery of the training.

Organisation	No. of responses	% of YOT managers
YOT	31	72.1
Voluntary organisation	13	30.2
Police	5	11.6
Social services	2	4.7
Probation	1	2.3
Independent trainer	1	2.3
Other	4	9.3

Table 5: Organisations responsible for design of training for volunteers (Multiple response)

Note:
N=45. Data were missing in 2 cases.

Organisation	No. of responses	% of YOT managers
YOT	32	74.4
Voluntary organisation	14	32.6
Police	5	11.6
Social services	3	7.0
Contracted solicitor	1	2.3
Probation	1	2.3
Other	5	11.6

Table 6: Organisations responsible for delivery of training for volunteers (Multiple response)

Note:
N=45. Data were missing in 2 cases.

Table 5 above shows the organisations which were reported to be responsible for the design of the training of volunteer appropriate adults in the national survey, and Table 6 above shows the organisations which were responsible for the delivery. In the national survey, in around three quarters of cases, volunteers were subject to training designed (72.1 per cent, n= 45, data missing in 2 cases) and delivered (74.4 per cent) by the YOT. However, YOT managers indicated that up

to three organisations were responsible for training delivery. In terms of frequency of use, the YOT was followed by the voluntary organisation (32.6 per cent) and the police (11.6 per cent). Similarly, volunteers were, during the case study, subject to training designed and delivered by the YOT, voluntary organisation and police (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). Figure 4 below replicates the *Volunteer Appropriate Adult Scheme Training Programme-Spring 1998.* Indeed, the literature has encouraged training to be delivered from wide perspectives, including that of the police but not exclusively so (Revolving Doors Agency, 1996; Nemitz and Bean, 1998).

The identity of the organisation(s) responsible for designing and delivering the training may have an impact on the 'emphasis' of the appropriate adult's role as it is presented to volunteers and, hence, their practices. For example, some writers have argued that social work agencies are primarily concerned with protecting young people's welfare (Evans and Rawstorne, 1994; Muncie, 1999a) and their appropriate adult training might be geared towards ensuring volunteers also do this. However, others have argued that social workers may work according to a control ideology (Dixon, 1990) and this could be what steers training by social workers. The police might also guide volunteers towards offering a "general welfare role" (Nemitz and Bean, 1998:254) or, in contrast, might prefer volunteers to co-opt with them against the young person (Thornton, 1988).

Date	*Session*	*Time*	*Trainer*	*Venue*
Monday 02.02.98	*Initial Meeting*	*18:00-19:00*	YES Chief Executive, Co-ordinator	YES
Monday 02.02.98	Interviews	19:00-20:00	YES Chief Executive, Co-ordinator	YES
Tuesday 03.02.98	Interviews	18:00-21:00	Co-ordinator, YES senior worker	YES
Tuesday 03.02.98	Youth Justice Team "Our Experience of Appropriate Adults"	13:00-15:00	Social worker	YES
Thursday 12.02.98	Tour of the Custody Area and Meet the Staff	14:00-16:00	YES trainer	Charles Cross Police Stations
Friday 13.02.98	The Out of Hours Team (Social Services)	17:30-19:30	Out of Hours Team manager	YES
Monday 16.02.98	All about YES (Policies, Confidentiality, Equal opportunities, Introduction to YES services) Co-ordinator, YES trainer	10:00-16:00 YES		
Wednesday 18.02.98	PACE and Codes	19:00-21:00	Police officer	Crownhill Police Station
Friday 20.02.98	Putting it all together	10:00-16:00	Co-ordinator, YES trainer	YES

Figure 4: Volunteer appropriate adult training programme (Replicated from *Volunteer Appropriate Adult Scheme: Proposed Training Programme-Spring 1998)*

In line with the literature, which advocates the use of refresher or ongoing training sessions (Revolving Doors Agency, 1996), all volunteers in the national survey, and in the case study (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*), were required to complete ongoing training (n=45, data missing in 3 cases).

Training Delivery

Training delivery method	No. of responses	% of YOT managers
Presentations	39	95.1
Reading material	33	80.5
Shadowing	32	78.0
Role play	20	48.8
Videos	2	4.9
Case study	2	4.9
Visit to custody centre	2	4.9
Other means	5	12.2

Table 7: Training delivery methods

Note:
N=45. Data were missing in 4 cases.

As shown in Table 7 above, presentations and readings were popular training methods nationally, as they were in the case study. Observation of custody areas (Nemitz and Bean, 1998) or shadowing a trained volunteer (Revolving Doors Agency, 1996) is encouraged in the literature, so that volunteers find the police and custody suite less intimidating. In the case study, volunteers visited the custody centre in the *Tour of the Custody Area and Meet the Staff (12th February 1998)* session shown in Figure 4 on page 141 and, nationally, the third most popular method was shadowing.

Training Content

Substantive issue	No. of responses	% of YOT managers
PACE Codes	41	100.0
Custody centre	32	78.0
Child protection	31	75.6
Links to support for volunteer	31	75.6
Criminal law	29	70.7
Accommodation options	22	53.7
Case-law concerning appropriate adult	21	51.2
Professional boundaries	4	9.8
Mental health	2	4.9
YOT's role	2	4.9
Human/children's rights	2	4.9
Equal opportunities	2	4.9
Confidentiality	2	4.9
Drug use awareness	2	4.9
Other substantive issues	6	14.6

Table 8: Substantive issues covered in training (Multiple response)

Notes:
N=45. Data were missing in 4 cases.

As shown in Table 8 above, typically, training covered PACE (100.00 per cent) and the custody centre (78.0 per cent). In the case study, training also covered PACE and the custody centre. PACE was covered in the *Youth Justice Team "Our Experience of Appropriate Adults" (3rd February 1998), PACE and Codes (18th February 1998)* and *Putting it all together (20th February 1998))* sessions shown in Figure 4 on page 141. The custody centre was visited in the *Tour of the Custody Area and Meet the Staff (12th February 1998)* session.

Additionally, in the case study, training covered links to the EDT in *The Out of Hours Team (Social Services) (13th February 1998)* session and equal opportunities and confidentiality in *All about YES (16th February 1998)* session. There are currently no formal confidentiality rules in relation to the appropriate adult (Palmer, 1996; Bean, 1997). However, confidentiality was an issue of central importance to the voluntary organisation. As explained in Chapter 4, volunteers were expected to protect all confidential information gained about young people during call outs and only disclose such information with consent where required by a court order or where disclosure could be justified in terms of the wider public interest following consultation with the co-ordinator (*Agreement between the Plymouth Youth Justice Team, Social Services Department,*

Plymouth City Council and the Youth Enquiry Centre). In fact, YES offered this level of confidentiality to all its customers (*What YES offers you: YES Statement on Confidentiality*).

As shown in Table 8 above shows that other volunteer appropriate adult services also felt that volunteers should be familiar with issues which went beyond the official role of the appropriate adult. YOT managers' responses in the national survey indicated that training covered child protection (75.6 per cent), accommodation options (53.7 per cent), drug use awareness (4.9 per cent), mental health (4.9 per cent) and confidentiality (4.9 per cent).

Skill	No. of responses	% of YOT managers
Communication skills	39	95.1
Record keeping	38	92.7
Assertiveness	33	80.5
Showing initiative	28	68.3
Teamwork	21	51.2

Table 9: Skills covered in training (Multiple response)

Note:
N=45. Data were missing in 4 cases.

As shown in Table 9 above, YOT managers also frequently reported that training covered communication skills, and these were the only skills that appeared to be covered in the case study, through role-play and discussion. Lynch (1993) suggested that volunteers should think about how best to perform their job rather than being told what to do. For example, in one training session in the case study, the approach of the trainers was to ask small groups to discuss confidentiality before collectively agreeing an introductory statement for young people regarding confidentiality (*All about YES, 16th February 1998*).

Unlike in the typical service, training in the case study did not include record keeping despite it being widely advised (Walinets, 1985; Littlechild, 1995b; 1996; Brayne and Martin, 1999; Pierpoint, 2000b; Spencer, 2001), even though volunteers in the case study were instructed to take notes during the interview concentrating on its content and any concerns. Appropriate adults should take contemporaneous notes in case a complaint was launched (Littlechild, 1996) the

propriety of interview procedures was ever questioned in court (Walinets, 1985; Littlechild, 1995a; Brayne and Martin, 1999).

There were a few other differences between typical training arrangements and the arrangements in the case study, which included the fact volunteers at YES volunteer appropriate adult service were required to complete more hours of training. According to the national survey, the mean length of training was 11 hours and 12 minutes (n=45, data missing in 12 cases), whereas, as shown in Figure 4 on page 141, volunteers in the case study had to attend eight sessions over 2 weeks, for a total of 20 hours. Moreover, in the case study, there was a qualification attached to the training arrangements. The *Make a Difference Report* (as cited by Wardell *et al.*, 2000) recommended accreditation to promote the status of volunteers. The differential training and status could mean that the volunteers from YES volunteer appropriate adult service performed the role better than in the typical appropriate adult service as they had received more training. Therefore, some practices might not always be replicated elsewhere.

8. Monitoring and Support

Persons from whom a volunteer can seek support	No. of responses	% of YOT managers
OHT	35	81.4
YOT	33	76.7
Voluntary Organisation	11	25.6
Appropriate adult/Volunteer co-ordinator	6	14.0
Family/Child Protection Team	5	11.6
Appropriate adult panel	1	2.3

Table 10: Persons from whom volunteers can seek support (Multiple response)

Notes:
N=45. Data were missing in 2 cases.

As Barnet Social Services pointed out, regularised monitoring and support ensures accountability (Revolving Doors Agency, 1996), but there is no official requirement to monitor appropriate adults or any guidance on how to go about it. Table 10 above shows the persons who the YOT managers surveyed identified as being persons from whom volunteer appropriate adults could seek support. According to the national survey, normally, support was provided by various combinations of the

Out of Hours Team (henceforth OHT) or EDT[36], YOT and voluntary organisation. These three organisations also offered support in the case study (*Relevant Phone & Fax Numbers*).

Organisation	No. of responses	% of YOT managers
YOT	29	85.3
Voluntary organisation	8	23.5
Social services	1	2.9
"Remand Management Project"	1	2.9
External evaluator[37]	1	2.9
Total responses	40	117.6

Table 11: Organisations responsible for monitoring volunteers' practices (Multiple response)

Note:
N=34.

Monitoring method	No. of responses	% of YOT managers
Feedback from the police	26	76.5
Written feedback from volunteers	25	73.5
Oral feedback from volunteers	25	73.5
Observation of volunteers	14	41.2
Feedback from young people	13	38.2
Feedback from legal representatives	3	8.8
Group meetings of volunteers	2	5.9
Other	3	8.8

Table 12: Monitoring methods (Multiple response)

Notes:
N=45. Data were missing in 11 cases

According to the national survey, although volunteers were, on average, monitored every call out (47.1 per cent, n=34), as they were in the case study, the main organisation responsible for the monitoring and the method of monitoring differed. Generally, the YOT was responsible for monitoring, as shown in Table 11 above, and mainly used police feedback, as shown in Table 12 above. However, in the case study, YES volunteer appropriate adult service used written and oral feedback from volunteers. Monitoring by the police may be undesirable, given that the appropriate adult, as a matter of law, should be autonomous of the police (Code C para 1.7(a)(iii); CDA s. 65(7)(c)). It is also worth noting that the police might prefer volunteers to be passive (Evans and Rawstorne, 1994) or to co-opt with them against the young person (Thornton, 1988), or to offer a

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[36] As far as the author could establish, the OHT was the same body as the EDT referred to in previous studies (for example, Evans and Rawstorne, 1994).

[37] In the present research, the term 'monitoring' was used to mean 'keeping under systematic review'. However, the fact that a YOT manager referred to an external evaluator monitoring the volunteers suggests that he or she interpreted 'monitoring' to be the same as 'evaluating' or 'assessing the value of the service'. Indeed, within the case, the oral monitoring of volunteers was referred to as 'supervision' (*Appropriate Adult meeting minutes, 9th March 1998*).

"general welfare role" (Nemitz and Bean, 1998:254), and the police might, therefore, skew their monitoring, or indeed training, accordingly. On the other hand, monitoring exclusively by volunteer feedback may risk the volunteers distorting the facts through shame or concern about the ramifications.

Alternative sources of feedback include young people and police interview transcripts. Regarding seeking feedback from young people, arguably, volunteer appropriate adult services would have to seek informed consent from guardians (Homan, 1991) and, particularly following the *Gillick case* (Murphy, 1992), from children (Greig and Taylor, 1999). Moreover, they would have to seek to minimise any disturbance to the young person brought on by the research experience (BSC, 1999). For example, for the young person to relive his or her detention, through in depth interviewing, could threaten his or her psychological well-being, but a brief structured interview followed by debriefing could be less disturbing. Regarding the monitoring of police interview transcripts or the video or audio tape transcripts, the data would be more accurate than data collected second hand by, for example, questionnaire or interview. On the other hand, the police summaries of interviews, used by the courts, may favour police aims (Choongh, 1997). Moreover, it is envisaged that it would have been difficult to gain access to transcripts and summaries. This might be why volunteer appropriate adult services tend to currently rely on the police and volunteers.

9. Conclusion

The aim of this chapter was to consider how YOTs have operationalised their statutory obligation to co-ordinate the provision of appropriate adults for young people (CDA s. 39(7)(a) in the absence of existing information on arrangements for volunteer appropriate adult provision and of detailed guidance. The YOTs' arrangements for the provision of volunteer appropriate adults provide the context in which volunteers have to operate as appropriate adults. Table 13 below summarises the typical volunteer appropriate adult service characteristics, according to the national survey of YOT managers, and YES volunteer appropriate adult service's characteristics according to the case study.

Characteristic	Typical volunteer appropriate adult service	YES volunteer appropriate adult service
Nature of service		
Frequency of volunteer called out in YOT	YOT members called out most frequently	Volunteers called out most frequently
Number of volunteers	Median = 12	Median=14
Length of time on duty	Mean=13:53	8
Time of day on duty	Modal category=Office hours	10:00-18:00 for 7 days per week
Recruitment and selection		
Organisation responsible for recruitment and selection	Modal category=YOT (Voluntary organisation second most likely organisation to be responsible)	Voluntary organisation
Checks	Yes (All YOTs)	Yes
Nature of checks undertaken	Modal category=Police checks (Employer's/personal reference is the second most likely category of check to be undertaken)	Police check, employer's and personal references
Training		
Training	Yes (All YOTs require training to be undertaken)	Yes
Organisation responsible for the design of training	Modal category=YOT (Voluntary organisation second most likely organisation to be responsible. Police third most likely organisation to be responsible)	YOT, voluntary organisation and police
Organisation responsible for the delivery of training	Modal category=YOT (Voluntary organisation second most likely organisation to be responsible. Police third most likely organisation to be responsible)	YOT, voluntary organisation and police
Training method	Modal category=Presentations (Readings were the second most likely method to be used)	Presentations, readings, role-plays and visit to custody centre
Substantive issue covered in training	Modal category=PACE (Custody centre was the second most likely issue to be covered and child protection was the third most likely)	PACE, Custody centre, Links to OHT, Confidentiality, Equal opportunities
Skill covered in training	Modal category=Communication	Communication
Hours of training required	Mean=11 hours and 12 minutes	20 hours
Ongoing training	Majority=Yes	Yes
Training leading to qualification	Majority=No	Yes
Management		
Organisation responsible for management	Modal category=YOT (Voluntary organisation second most likely organisation to be responsible)	Voluntary organisation

Characteristic	Typical volunteer appropriate adult service	YES volunteer appropriate adult service
Monitoring and support		
Monitoring	Majority=Yes	Yes
Organisation responsible for monitoring	Modal category=YOT (Voluntary organisation second most likely organisation to be responsible)	Voluntary organisation
Frequency of monitoring	Modal category=Per call out	Per call out
Monitoring method	Modal category=Feedback from police	Written and oral feedback from volunteers
Organisation from which volunteer can seek support	Modal category=OHT (YOT second most likely organisation. Voluntary organisation third most likely)	Voluntary organisation, YOT and OHT
Call out arrangements		
Insistence on presence of a legal adviser	Majority=Yes	Yes
Returning young person to where he or she lives	Modal category=Volunteers prohibited from escorting young people home	Volunteers prohibited from escorting young people home

Table 13: Comparison of characteristics of typical volunteer appropriate adult service and YES volunteer appropriate adult service

Generally, the recommendations in the small amount of literature on co-ordinating volunteers have been met in the case study and nationally, the exception being the monitoring of volunteers by the police in quite a lot of YOT areas. This discussion has highlighted a number of issues, of which policy-makers, and practitioners involved in establishing and maintaining appropriate adult services, should be aware, including:

- There are managerial benefits to the YOT and welfare benefits to the young people in using a voluntary organisation to manage the appropriate adult service.
- There may be benefits in including discussion, shadowing and skill development in volunteer training.
- Long and night duty times may have a negative impact on volunteers and the young people for whom they act.

- An extension of the role, to include returning the young person to where he or she lives, may be problematic.

- Exclusive monitoring by the police of volunteer performance is undesirable.

- The YJB is urged to revise the guidance, which is, generally, inadequate in scope and detail. In particular, volunteers should be subject to criminal record checks.

In fact, in November 2002, the Home Office/Cabinet Office recommended the establishment of a national policy for appropriate adults and the development and implementation of full national guidance (Home Office/Cabinet Office, 2002). They provided that a consistent approach, based upon local good practice, for appropriate adults should be extended nationally by 2004. The Home Office is currently collaborating with the National Appropriate Adult Network (NAAN) to develop a consensus about competencies and best practice advice (Personal correspondence with Mary Bridgman, Secretary of NAAN, 13th February 2004).

However, before best practice can be identified and selection, training and monitoring criteria can be confirmed, surely the precise role of the appropriate adult needs to be determined. In fact, this chapter has demonstrated that, in the face of an ambiguous definition of the role of the appropriate adult and of a lack of official guidance on arrangements for the provision of appropriate adults, volunteer appropriate adult services are imposing their own interpretations on the purpose of an appropriate adult. They are developing the role to include new elements, and, as one would expect in what is almost a vacuum, these developments are informed by different theoretical models. For example, most volunteer appropriate adult services are insisting on the presence of a legal adviser alluding to a due process model. Some volunteer appropriate adult services are returning the suspect home, perhaps with young person's welfare in mind and some volunteers felt they could assist in preventing future offending in this period immediately following detention. At least one is recommending other youth services in line with a welfare perspective. Police training and monitoring of volunteers could compound this welfare role, or could skew the role towards crime control. In fact, the content of training programmes is very broad. Some programmes have

included the welfare-orientated issues of child protection, accommodation options, drug use awareness and mental health. In sum, as appropriate adult arrangements differ, the 'emphasis' of the appropriate adult's role varies. This idea will be further explored in the next chapter which will examine the practices volunteers at the police station.

The secondary aim of this chapter was to compare the characteristics of the case studied, YES volunteer appropriate adult service, with the characteristics of a 'typical' or 'average' case or volunteer appropriate adult service, as identified by the national postal survey of YOT managers, to establish the representativeness of YES volunteer appropriate adult service and the generalisability of the case study results (Hammersley, 1992). As shown in Table 13 above, overall, YES volunteer appropriate adult service was fairly representative of the typical service and, therefore, the case study results were fairly generalisable, at least according to Hammersley's (1992) argument. However, one should err on the side of caution where differences could have implications, such as differences in training and monitoring on practice. Future research could study of more cases or volunteer appropriate adult services sequentially. According to the theory of replication, a multiple case design provides a more thorough test of a theory than a single case design and brings to light the conditions in which a theory may or may not hold (Yin, 1994; de Vaus, 2001). Indeed, at least 63 per cent of YOT managers were interested in participating in a future in-depth study of volunteer appropriate adult services (n=43).[38]

[38] Moreover, as described in Chapter 4, the author sent a thank you letter in April 2001 and wrote to respondents regarding the publication date of Pierpoint (2004). This may assist with securing their participation in postdoctoral research. Furthermore, whilst e-mail and web questionnaires were rejected for the current study, with improvements in access (Dillman, 2000) and computer literacy (Klein and Smith, 2002) predicted, they are increasingly viable options for future data collection (Pierpoint, 2005), particularly given the low costs involved (Schmidt, 1997; Denscombe, 1998).

Chapter 6: Analysing the Practices of Volunteer Appropriate Adults

1. Introduction

Despite the fact that the appropriate adult can have an impact on the young suspect's experience of detention and questioning, the practices of appropriate adults have not been fully explored. Ironically, the category of appropriate adult which has received the least empirical attention is the same category of appropriate adult which has received the most attention from the government of late. The case study of a local volunteer appropriate adult service for young suspects was conducted to fill this obvious gap in the literature

This chapter will report on the case study results. It is possible to compare the volunteer appropriate adult's practices against the clear provisions concerning what the appropriate adult is supposed to do, such as the requirement for the appropriate adult not to attend the solicitor's initial interview. However, where the majority of responsibilities are unclear, the question becomes how do volunteers interpret them? Hence, this chapter will also start to discuss the extent to which volunteers' practices accord with welfare, due process, crime control, crime prevention and/or social discipline models.

This chapter will examine the time taken to obtain volunteers, their contributions at interviews, their work in relation to identification procedures, their private consultations with young suspects, their representations to custody officers and their role in returning young people to their homes. Before proceeding to this examination, it is useful to briefly offer some background details about the samples involved.

2. Eventual Samples

The eventual samples for all the data collection methods used in the empirical study are summarised in Table 2 on page 132. This chapter will focus on the results of the call out survey (n=155), participant observation of call outs (n=21), training sessions (n=8) and meetings (n=5)

and analysis of various YES documents. Given that the cohort of volunteers changed during the case study, the questionnaires administered in the call out survey period would have been completed by the minimum of 12 and maximum of 16 volunteers who were registered with the appropriate adult service at that time. These volunteers mainly acted for young suspects (94.7 per cent), although very occasionally they acted for young voluntary attenders for example (2.0 per cent, n=155, data were missing in 5 cases). The majority of young people, for whom volunteers acted as appropriate adults, were living with their parents (42.7 per cent). Fewer young people lived in local authority care (29.3 per cent, n=155, data were missing in 80 cases). The young people were suspected of committing between one and four offences. The modal offence was theft and handling stolen goods (37.8 per cent of cases, n=155, data were missing in 48 cases). Criminal damage, burglary and violence against the person also accounted for considerable percentages of cases. These features of the call outs were echoed in the call outs observed by the author. In the majority of the call outs, in which the author acted as a volunteer appropriate adult, she acted for young suspects, who lived with their parents and who had been accused of some kind of theft or assault.

3. Time Taken to Obtain Volunteer Appropriate Adults

The time taken to obtain appropriate adults is dependent on the time taken by the custody officer to ask the appropriate adult to come to the police station to see the young person (Code C para 3.9) and then the time taken by the appropriate adult to arrive at the police station.

The author observed that, in the case study, the majority of volunteers were young women in higher education probably partly as a result of the co-ordinator's advertising at the local University and probably attracted, in part, by an accredited qualification attached to the training arrangements. The National Volunteering Centre (2003) referred to recent research which found that young people volunteer for the opportunity to gain relevant experience and new skills. Students tend to have a more flexible itinerary than the employed, which is desirable given that most research has shown that requests for appropriate adults come during working hours (Knight and Giller, 1986; Signy, 1997; Nemitz and Bean, 1998) and appropriate adults may have to attend trials (Nemitz and Bean,

1998). One would, therefore, imagine that the time taken to obtain volunteers in the case study would be minimal.

Time Taken to Contact Volunteer Appropriate Adults

As explained in the introduction, upon the young person's arrival at the police station, the custody officer should, as soon as it is practicable, ask the appropriate adult to come to the police station to see the young person (Code C para 3.9) and there is no power to delay this action (Code C Annex B Note for Guidance B1). The *National Standards*, introduced during the study period, provide that, when it is not possible to contact the young person's parents or primary carer, social worker, or other adult family member, the police must contact the local appropriate adult service immediately (YJB, 2000, para 2.6).

According to the call out survey, most volunteers were contacted within two hours of the young person being arrested or asked to attend (56.4 per cent, n=155, data were missing in 13 cases). However, still 43.7 per cent of volunteers were contacted in excess of two hours of the young suspect being arrested. Unfortunately, previous studies have not collected data on how long it took for the appropriate adult to be called so it is not possible to reflect on whether or not this represents a reduction in the time taken previously. However, Blackwell (1990:14) did contend that: "many young people are detained in custody for hours before the "appropriate adult" is called".

Reason	No. of responses	% of call outs
Police waiting on evidence	11	21.6
Young person arrested at night	11	21.6
Young person unfit for interview	8	15.7
Unavailability of relevant police officers	7	12.7
Appropriate adult duty start time	4	7.8
Previously arranged appropriate adult inappropriate/failed to attend	3	5.9
YJT/YOT trying to contact parent	2	3.9
Police trying to contact parent	2	3.9
Police mix up over appropriate adult	2	3.9
OHT had not been able to attend	2	3.9
Legal representative unavailable/late	2	3.9
Other reason	4	7.8

Table 14: Reasons given for it taking over two hours to contact volunteer (Multiple response)

Notes:
N=55 (only cases in which it took over two hours to contact volunteer). Data were missing in 13 cases.

Despite the small sub-group size, Table 14 above flags up some possible reasons given for it taking over two hours to contact the volunteer. It shows that the most common reasons, in the call out survey, were that the police were awaiting evidence (21.6 per cent) or that the young person was arrested at night (21.6 per cent). The fact that the police were waiting on evidence should not have delayed the custody officer contacting the appropriate adult. The fact that some custody officers did purportedly wait until the evidence required was available before contacting the appropriate adult could imply that they considered the appropriate adult's role to be limited to being present at, for example, the interview and identification procedures. This interpretation neglects the fact that, for example, the young person can choose to consult privately with the appropriate adult at any time during their detention (Code C para 3.12).

As shown in Table 14 above, the other most frequently given reason, for it taking over two hours to contact the volunteer, was that the young person was arrested at night. Admittedly, young people should not normally be interviewed during the night; in any period of 24 hours, a detained juvenile must be allowed a continuous period of a least eight hours for rest, free from questioning, travel and interruption, normally at night (Code C para 12.2). However, again, this should not have delayed the custody officer contacting the appropriate adult and, in these instances, volunteers in the case study should have at least been paged at the start of duty, that is 10:00 (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). However, in one call out observation, the young person had been in custody since midnight, but the author was only contacted the following afternoon (Call out observation 10). It is unclear why the police really delayed contacting the appropriate adult in these instances. One explanation is that detention could have been being used for crime control or social disciplinary ends, but, of course, there may have been other reasons.

Setting aside the issue of whether or not the police contact the appropriate adult promptly the next day following a night-time arrest, an earlier start of duty time could have reduced the time for which young suspects were detained. Whilst the earlier start-time of 9:00 was rejected by

volunteers because, for example, of difficulties of taking their children to school (*Appropriate Adult meeting minutes, 3rd November 1998*), volunteers affected by this could be on call for, for example, the afternoon instead of during the morning. Alternatively, the delays in contacting and waiting for the volunteer could be completely removed by using a resident volunteer appropriate adult, that is someone based in the custody suite. However, a resident appropriate adult may lack independence, which would be undesirable particularly given young peoples' concerns regarding appropriate adult independence discussed below.

In the case study, the referral process itself was not cited as a reason for the time taken to contact the volunteer. This was encouraging given that, as explained in Chapter 3, the Revolving Doors Agency (1996) had recommended that time and effort could be saved if some aspects of the Barnet process were bypassed or the process was otherwise speeded up.

Time Taken for Volunteer Appropriate Adults to Arrive

In the call out survey, once contacted, volunteers took between no time and four and a half hours to attend (n=155, data were missing in 33 cases). In the former call outs, no time was taken because the volunteers were already in attendance at the police station having, for example, attended as appropriate adults for other young persons. The custody officers interviewed by Evans and Rawstorne (1994) reported that, when parents were called as appropriate adults, they usually arrived within half an hour to an hour and that, when social workers were called as appropriate adults, they usually arrived within two hours during office hours and longer outside of office hours. Setting aside the differences in data collection methods, overall using volunteers does not seem to reduce the time in contacting appropriate adults or in their arrival. Ironically, however, the police and legal representatives expressed their appreciation of the volunteers' prompt response in the case study. For example, according to the call out survey, one custody officer reportedly commented: "Said the appropriate adults from YES always turn up quickly." (Questionnaire 119).

In fact, upon deeper inspection, in the current study, in one quarter of call outs volunteers were asked to attend at a certain time (25.7 per cent, n=155, data missing for 3 cases). Indeed, the

National Standards provide that: "Police and YOT managers must ensure that there is consultation to ensure that when an appropriate adult is requested, they attend the police station at an agreed time. The police must request that all who are to be present in the interview are ready at the same time" (YJB, 2000, para 2.3). However, an agreed time is not necessarily a time in the near future. If asked to attend at a certain time by the police, volunteers arrived between no time and four and a half hours, and, on average, they arrived in one hour and 52 minutes (n=41, data were missing in 14 cases). Whereas if asked to attend as soon as possible, volunteers arrived in between no time and three hours and 15 minutes, and, in line with the Revolving Doors Agency's (1996) finding, on average, they arrived in 37 minutes (n=92, data were missing in 10 cases).

Therefore, the *National Standards* are not necessarily in the interests of suspects neither from a welfare (see Littlechild, 1995a) nor a due process (see Dixon, 1990) point of view, nor are they consistent with a managerial standpoint. Therefore, they should be amended to encourage a prompt attendance. Moreover, future research should consider why volunteers are requested by the police to attend at a particular time and whether that delay could be reduced.

Delays in Young Suspects' Detention and Questioning

Length of time (hours)	f	%	Cumulative %
Up to 1	9	17.3	17.3
1-2	19	36.5	53.8
2-3	13	25.0	78.8
4-5	6	11.5	90.4
5-6	2	3.8	94.2
6-7	2	3.8	98.1
7-8	1	1.9	100.0
Total	52	100.0	

Table 15: Time between volunteers' arrival and interview (in hours)

Notes:
N=155. Data were missing in 103 cases.

Unfortunately, in many call outs volunteers failed to enter the interview start time on the questionnaire, so the length of time between the volunteer appropriate adult's arrival and the first interview could only be calculated in around one third of call outs. Future research could extract the interview start time from the custody records, although, as pointed out above, custody records have been found to be inaccurate and incomplete (Brown *et al.*, 1992; Revolving Doors Agency,

1996). Nevertheless, according to the available data, as shown in Table 15 above, most frequently interviews took place within one to two hours of the volunteer appropriate adult's arrival (36.5 per cent). Some interviews, however, took place between five and eight hours after the volunteer's arrival (9.8 per cent).

Such delays, and delays in the police investigation process generally, were attributed by volunteers to the police and legal representatives. For example, in the call out survey, one volunteer reported: "Police custody is very slow and inefficient ([...] good question to ask might be time taken waiting for custody sergeant and look at time wasted)." (Questionnaire 71). Another volunteer reported: "Solicitor was not present at due pre-booked time." (Questionnaire 54). These results are consistent with the finding at the Barnet service that volunteers were concerned about being called out before the police and legal advisers were ready for their attendance (Revolving Doors Agency, 1996). Indeed, Philips and Brown (1998) found that suspects who obtained legal advice spent longer in custody than those not legally advised.

Number of young people	f	%	Cumulative %
1	40	64.5	64.5
2	19	30.6	95.2
3	2	3.2	98.4
5	1	1.6	100.0
Total	62	100.0	

Table 16: Number of young people for whom volunteers acted as appropriate adults in a single visit to the police station

Note:
N=155. Data were missing in 93 cases.

However, it is likely that some delays were caused by the volunteer having to act as an appropriate adult for a small group of young people. Whilst the size of the sub-group was small, Table 16 above gives an indication of the number of young people for whom volunteers acted in one visit to the police station. In the case study, the volunteer acted for more than one young person in a visit to the police station in 35.5 per cent of days on which they were on call. This is not surprising given predictors of the onset of offending behaviour among young people include association with an offending peer group (Graham and Bowling, 1995; Farrington, 1997). Therefore, having only one appropriate adult on duty may not be enough. However, the same interviewing officer would usually be dealing with the case so there would be a wait anyway. Moreover, even if the use of

volunteers did reduce the time taken waiting for an appropriate adult, there would be other delays, such as those of police and legal representatives, which would need to be minimised.

In sum, on the basis of the case study results, using volunteers per se has not reduced the time taken to obtain appropriate adults, although the wait for the appropriate adult is not the only cause of delay. Attention needs to be paid to determining and reducing the wait for the police to contact the appropriate adult and the wait for the legal representative. Indeed, in the case study, if there had been a delay in the young person's detention before the volunteer's arrival, the volunteer was encouraged to ascertain why there had been a delay (*Appropriate Adult meeting minutes, 8th June 1999*). This monitoring of delays by volunteers could ultimately lead to the reduction of delays. One recommendation, which came out of the case study data above, was to make the start-time for volunteer duty earlier.

4. The Practices of Volunteer Appropriate Adults at the Interview

Having dealt with the issue of the time taken for volunteers to arrive, the next issue to consider concerns their practices once they arrived. Firstly, did the volunteers studied contribute in the interview or did they passively observe? Secondly, if they did contribute, what was the nature of their contribution?

Extent of Volunteer Appropriate Adults' Contributions

According to the call out survey, in 35.0 per cent of interviews, volunteers contributed (n=125, data missing for 2 cases). Volunteers contributed in a greater proportion of interviews than "parents and other appropriate adults"[25] see page 79 did in Evans' (1993) study (25.2 per cent, n=98). However, in the remaining 65.0 per cent of interviews the volunteer appropriate adults reported not to have said anything (n=125, data missing for 2 cases). It is possible that contribution was not necessary; that the interviews were properly conducted and communication flowed well without the volunteers' assistance. It is also possible that the volunteers failed to report their contribution or advised the young person outside the interview. On the other hand, it is possible that the interview was not conducted fairly or properly and the volunteers failed to contribute.

		Poor performance	Average performance	Good performance
Contribution	Count	7	10	20
	Column %	43.8	28.6	32.8
No contribution	Count	9	25	41
	Column %	56.3	71.4	67.2
Total	Count	16	35	61
	Column %	100.0	100.0	100.0

Table 17: Police's performance by volunteers' contribution

Note:
N=155. Data were missing in 43 cases.

It was possible to consider contribution in relation to police performance, although this relates not just to the performance of the interviewing officer, but to the performance of the police generally during the call-out. Nevertheless, as shown in Table 17 above, of those volunteers who rated the police as 'poor', 56.3 per cent did not contribute. Of the volunteers who rated the police as 'poor', 67.2 per cent did not contribute. Hence, there is no clear relationship between volunteer contribution and their perceived performance of the police. However, one might expect that if the volunteer did not rate the police highly, he or she would have contributed in the interview. This was not found to be the case from the call out survey results. Assuming that the reports of non-contribution and poor police performance were accurate, it seems that there may have been instances where the volunteers should have intervened in the police interview, but failed to do so.

		Contribution	No contribution
Poor performance	Count	1	4
	Column %	2.6	5.6
Average performance	Count	14	37
	Column %	35.9	51.4
Good performance	Count	24	31
	Column %	61.5	43.1
Total	Count	39	72
Column %		100.0	100.0

Table 18: Volunteers' contribution by volunteers' performance

Note:
N=155. Data were missing in 44 cases.

It is also interesting to compare the volunteers' self-ratings of their performance with the level of their contribution. As shown in Table 18 above, the volunteers who contributed were more likely to rate themselves as 'good' (61.5 per cent) than 'average' (35.9 per cent, n=39). On the other hand, of the volunteer appropriate adults who did not contribute, marginally more rated themselves as 'average' (51.4 per cent) rather than 'good' (43.1 per cent, n=72). Moreover, a very slightly

greater proportion of volunteers, who did not contribute, rated themselves as 'poor' (5.6 per cent, n=72) compared with the proportion of volunteers who did contribute and rated themselves as 'poor' (2.6 per cent, n=39). Possibly, volunteers who did not contribute in the police interview felt they should have and rated themselves lower.[39]

To summarise, the volunteers, who participated in the call out survey, reported a higher level of contribution than Evans (1993) observed for "parents and other appropriate adults"[25] see page 79 (but not social workers alone). However, some volunteers, including some who gave the police's performance poor ratings and some who rated their own performances poorly, failed to contribute. Therefore, it seems that there may have been instances where the volunteers should have intervened in the police interview, but failed to do so. As explained in Chapter 3, mooted reasons for the lack of contributions of parent and social worker appropriate adults included the ambiguity of the role and lack knowledge (Haley and Swift, 1988; Sandell, 1992; Thomas, 1995; Evans and Rawstorne, 1997; White, 2002) and of instruction provided by the police (Dixon, 1990; Evans, 1993; Evans and Rawstorne, 1994). These reasons may also explain lack of contributions of volunteers. The training of volunteers as appropriate adults was considered in Chapter 5. Therefore, the practical relevance of the instruction provided by the police in the case study will now be explored.

Instruction of the Requirements of Role of the Appropriate Adult

As explained in the literature review, information about the role should be provided by the police (Code C para 11.16). In call out observation 3, the author was merely asked by the custody sergeant at the time that the suspect was being read her rights, whether she was aware of the role of the appropriate adult, to which she responded yes. In call out observation 21, the police gave no explanation of the role in interview. The police might flout the requirement to instruct the volunteers of the role, as they have in the past in relation to parents and social workers (Dixon, 1990; Evans, 1993; Evans and Rawstorne, 1994), to discourage any inference with interactions

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[39] However, volunteers may have refrained from rating themselves as either 'very good' or 'very poor' to avoid having to explain why, as these were the only response categories which required justification. Volunteers may also have refrained from rating themselves as 'very poor' through fear of repercussions, despite the assurances of confidentiality offered.

between police and suspects (McConville *et al.*, 1991) in order to subvert the principles of justice and maintain crime control (McBarnet, 1981) or for social disciplinary purposes (Choongh, 1997). That said, the police could just be ignorant of the requirement.

The police also seemed unfamiliar with the notion of 'appropriate consent'. One volunteer reported: "Had to clarify that I cannot give consent to ID parade. Had to clarify that I cannot give photo consent. I was nervous, but sought support." (Questionnaire 61). Another volunteer commented: "Police - no explanation of [appropriate adult] role. [Custody sergeant] - didn't know consent issue for fingerprints." (Questionnaire 118). Whilst volunteers were trained as appropriate adults, this failure by the police to provide information might reduce the volunteer's confidence to contribute and result in 'interview room lore' (Pierpoint, 1999; 2000a; 2000b; 2001; Brookman and Pierpoint, 2002; 2003).

Nature of Volunteer Appropriate Adults' Contributions

Having considered the extent to which volunteers contributed, the next task is to consider how they contributed. Specifically, did they and, if so, how did they advise the person being questioned, observe whether or not the interview was being conducted properly and fairly and facilitate communication with the person being interviewed?

Nature of contribution	No. of responses	% of interviews
Pointed out police questioning unfair	8	18.6
Checked young person understood question(s)	7	16.3
Stopped interview	6	14.0
Checked young person understood caution	5	11.6
Comforted young person	5	11.6
Asked police for clarification of special warning	4	9.3
Advised young person to take legal advice	3	7.0
Asked for question(s) to be clarified	3	7.0
Reminded young person that s/he had elected 'no comment' interview	3	7.0
Asked police for clarification (other)	2	4.7
Checked young person understood special warning	2	4.7
Explained appropriate adult role	2	4.7
Explained young person could stop the interview if s/he wished	5	11.6
Other		

Table 19: Nature of volunteers' contributions (Multiple response)

Note:
N=43 (only cases in which volunteers contributed)

A useful starting point is to consider the contributions from the upper quartile shown in Table 19 above. The most frequently made contributions were: pointing out police questioning was unfair (18.6 per cent), checking the young person's comprehension of questions (16.3 per cent), stopping the interview (14.0 per cent), checking the young person understood the caution (11.6 per cent) and comforting the young person (11.6 per cent, n=43).

Dealing with unfair police questioning

For volunteers, unfair questioning seemed to be irrelevant, threatening or confusing questioning. For example, in questionnaire 28, the volunteer stated: "I questioned whether it was an appropriate line of questioning to gain evidence by asking young person why they were grinning."

Volunteers sometimes stopped interviews owing to young suspects being subject to threatening questioning or not understanding a line of questioning. For example, in questionnaire 46 when the volunteer appropriate adult reported:

> "Interviewing officer read out a final set of questions that seemed quite threatening. Following a special warning - that is not legally binding young person looked confused. I asked for the questions to be interpreted into plain English and followed up by asking the young person if they understood. They did not and asked for further legal advice. The interview was stopped and we all discussed what the questions context is in an interview."

Such contributions serve a due process and welfare function, although clearly the task of the appropriate adult would be an easier one if fair and unfair interviewing questioning were clearly defined (Palmer, 1996; Pierpoint, 1999; 2000a; 2000; 2001) and communicated to appropriate adults (and the police) in training (Pierpoint, 2000b), as well as how they should intervene.

Stopping the police interview

Once an appropriate adult has identified that an interview is being conducted improperly or unfairly, which is in itself problematic, the Codes do not specify how he or she should intervene (White, 2002). In fact, as shown in Table 17 on page 160, volunteers stopped the interview in 14.0 per cent of interviews, sometimes in the face of threatening or confusing questioning (as in questionnaire 46 above) or, at other times, to seek clarification of processes as will now be explored.

Checking comprehension of questions and processes and advocating for the young suspect

In questionnaire 15, the volunteer recounted: "Asked to stop interview in order for young person to get clarification about special warning." Indeed, as shown in Table 17 on page 160, volunteers checked the young person understood the special warning (9.3 per cent), as well as seeking clarification of it (4.7 per cent) on special warnings. As stated above, a relatively frequent contribution was checking the young person understood the caution (11.6 per cent). In questionnaire 11, the volunteer reported: "Made sure young person understood caution - he did. police officer explained it differently but it sounded just as complicated so I checked again and it was explained simply the third time." As well as checking the comprehension of processes, the volunteers checked the young person's comprehension of questions (16.3 per cent) or asked questions to be clarified (7.0 per cent).

Checking the comprehension of the young person in relation to questions (Littlechild, 1995b) and processes and advocating for the suspect (Brayne and Martin, 1999) are possible interpretations of 'facilitating communication' (Code C para 11.6). Comforting the young person is another interpretation of the requirement, which has been largely unenvisaged by academic and practitioner writers, with the exception of Kearns (1996), and which will now be considered.

Comforting the young suspect

Volunteers sometimes stopped interviews owing to the young person being distressed, such as questionnaires 13 and 25. In questionnaire 13, the volunteer reported: "I had to speak to [the young person] to calm him down on three occasions. And agreed with [the young person] to have interview stopped." In questionnaire 25, the volunteer recounted:

> "1. I asked for the interview to be stopped because the young person was upset and distressed. 2. I pointed out that a particular question was unfair. The interviewing officer through information and adding on a question biased a statement said by alleged victim that could be interpreted in many ways."

In fact, as shown in Table 17 on page 160, some volunteers comforted young people during the interview (11.6 per cent of interviews), and the author comforted suspects in participant observation. For example, in call out observation 13, the suspect became very upset and angry in

the interview because of persistent questioning by the police in response to his 'no comment' answers. The suspect attempted to leave the interview room and was, subsequently, restrained by the police officers. The author then comforted the suspect. Following the interview, the author had to persuade the detention officer to allow her to walk with the suspect in the courtyard, because the suspect was so fearful of going back into his detention room. A young person cannot communicate if distressed, so, in that sense, by comforting the young person the volunteer was 'facilitating communication'.

Advising the young suspect

The requirement of Code C para 1.6 which is yet to be considered, in relation to the case study data, is 'to advise the suspect'. It is not clear about what appropriate adults are supposed to advise suspects (Palmer, 1996), but the predominant interpretation is on legal rights (Townsend, 1987; Thomas, 1995; Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180) including taking legal advice (Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180). The volunteers advised young suspects of their rights very infrequently. As shown in Table 17 on page 160, they advised the young people to seek legal advice only in 7.0 per cent of interviews (n=43). Volunteers reminded young people that they had elected a 'no comment' interview in the same number of interviews (7.0 per cent). Of course, it may not have been necessary to advise the suspect in other instances.

In sum, in at least 35.6 per cent of police interviews, volunteers surveyed contributed and were active participants as required by Code C para 11.6. The volunteers, who participated in the call out survey, reported a higher level of contribution than researchers have observed for "parents and other appropriate adults"[25] see page 79 (but not social workers alone) (Evans, 1993). However, it seems that there may have been instances where the volunteers should have contributed in the police interview in relation to police practice, but failed to do so. To increase the level of contribution, volunteer appropriate adult services may need to employ improved training and monitoring practices. Trainees should be instructed on how to overcome 'interview room lore' (Pierpoint, 1999; 2000a; 2000b; 2001; Brookman and Pierpoint, 2002; 2003), through the adoption of non-confrontational intervention techniques (for example, by using polite but firm language)

(Pierpoint, 2000b). This type of training could at least minimise some of the impact of police attitudes, language and environment on contribution. Just as McConville *et al.* (1994), as cited by Dixon (1997), described certain legal advisers, who lacked status and confidence, as not adapting to police territory and taking a subservient and marginalised role, volunteers without confidence and effective intervention techniques will be ignored by the police. Such training and monitoring practices should be subject to clear, central regulation, as opposed to undetailed *National Standards* (YJB, 2000), to ensure good practice universally.

Moreover, the police environment may have to be reconsidered to make it more hospitable to volunteers. For example, in the case study, at the end of call outs, volunteers were required to sign, date and fax the completed *PACE monitoring form*, and bail report if applicable, to YJT/YOT/OHT *(YES Procedure for Call Out; Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). However, the environment at the subsidiary police station, at Devonport, did not assist in maintaining the confidentiality of the paperwork. In call out observation 1, during which the author acted as an appropriate adult for a young voluntary attender to Devonport, there was no privacy from the young person and others when the author had to fax the confidential, completed *PACE monitoring form* to the YJT in the waiting room.

Given the vagueness of requirements of the role, to what did the volunteers' main contributions amount? In other words, how did the volunteers interpret the role? Volunteers did not seem to be exclusively concerned with due process or welfare, but a combination of the two. It was also apparent that they were not interpreting, or did not report to interpret, 'facilitating communication' (Code C para 11.6) as advocating for the police, as had been deemed acceptable by the case law (R. v. Jefferson 1994] 1 ALL ER 270; R v Aspinall [1999] 2 Cr App Rep 115 (Court of Appeal (Criminal Division). Hence, volunteers did not, or did not appear to engage in crime control or social discipline in the interview, unlike what has been observed of parents (see Thornton; 1988; Dixon *et al.*, 1990; Evans, 1993; Gudjonsson, 1993) and sometimes suspected of social workers (see Kay and Quao, 1987).

5. The Practices of Volunteer Appropriate Adults at Other Stages

Having dealt with the issue of how volunteers performed the role at interview, the next issue to consider is their practices at the other key stages of the young suspect's detention.

Identification of Young Suspects and 'Appropriate Consent'

In the case study, volunteers were permitted to allow identification procedures to take place without 'appropriate consent' and before charge, where it was the police's intention to subsequently charge the young person, to reduce the time of the young person at the police station, and the author did consent to identification procedures in these circumstances. Specifically, in call out observation 14, the author allowed the police to take fingerprints from the young person and complete other identification procedures before charging the young person, where it was, apparently, the police's intention to subsequently charge the young person. The diversion from the correct procedure was considered by the volunteer appropriate adult service to be in the welfare interests of the young person, to secure an earlier release from custody. However, it is conceivable that the police could inform the volunteer that they intended to charge the young person in order to take the fingerprints, regardless of whether they actually did intend to charge the young person or not.

A person can be arrested if the police have "reasonable suspicion" that a person is about to commit, is committing or has committed an arrestable offence (PACE s.24). Hence, theoretically, the police should intend to charge the suspect at the point of arrest, which should be a mechanism to bring suspects before the courts (Sanders and Young, 2000). However, it may be the case that, during the young person's detention, the police's suspicions diminish. In such cases, suspects should not be charged and there is no need for identification procedures. However, the police might conceivably use the fingerprinting to extend detention to inflict punishment (Choongh, 1997), although the author did not experience the police informing her of an intention to charge without actually charging and there was no feedback in the call out survey to suggest this happened. However, it is still conceivable that this supposedly welfare consideration subverted due process to

maintain crime control, in line with McBarnet's (1981) argument, and to facilitate social discipline, neither of which is in the suspect's welfare or due process interests.

As described above, sometimes the police seemed unaware of the requirements of 'appropriate consent' and volunteers had to clarify its implications for the police in, for example, questionnaire 61 and 118. In this way, volunteers monitored police practices and ensured due process. However, one volunteer was also unaware of requirements surrounding consent, reporting that the disposal was an instant caution (Questionnaire 56) despite the fact that, in the case of a caution for a juvenile, his or her parents or guardian had to have given informed consent to the juvenile being cautioned (Home Office Circular 18/1994). This may have led to the reiteration by the co-ordinator of the inability of volunteers to consent to caution and its alternatives at an appropriate adult meeting (*Appropriate Adult meeting minutes, 3rd November 1998*). From a due process standpoint, training should cover police procedures in order that the appropriate adult can carry out his or her other duties, for example, during identification procedures (Pierpoint, 2000b; White, 2002). The appropriate adult must be certain about the circumstances in which he or she can and cannot give consent (Pierpoint, 2000b).

Intimate Searches and Body Samples

As explained above, the author observed that, in the case study, the majority of volunteers registered with YES volunteer appropriate adult service were women. Indeed, at the Southampton service, usually a slightly greater proportion of women was recruited than men (Nemitz and Bean, 1998). The lack of male volunteers could be problematic where clothing needs to be removed where, generally speaking the appropriate adult should be of the same sex as the suspect (Code C Annex A paras 5 and 11; Code D para 5.12). Consequently, recruitment should, in the future, focus on attracting a greater diversity of volunteers. The co-ordinator could extend her advertising in the local press and at the local University to libraries, town halls and other public buildings, GP and dental surgeries, sports and leisure centres, religious centres, shop windows, bars, Job Centres, local radio and companies and registration with the Volunteer Bureau (National Centre for Volunteering, 2003). It would be worth the co-ordinator maintaining data regarding the

motivations of male volunteers to inform future recruitment initiatives, in addition to the existing basic equal opportunities monitoring (*Volunteer appropriate adult application form*). As Gaston and Alexander (2001:71-72) reported:

> "It is clear that managers need to have accurate and up to date information about the individuals that volunteer, their motivations, experiences, relationships with full time organisational members and their reasons for leaving. This requires systematic and detailed acquisition of relevant data. Understanding the motives and domestic and personal circumstances of the volunteer applicants should help managers to identify those whose profiles suggest that they are likely to remain actively involved with the organisations for substantial periods of time."

Private Consultations between Volunteer Appropriate Adults and Young Suspects

Counselling the young suspect

Following the service's protocol, the author used the private consultation as an opportunity to advise suspects about YES' other services (YES, 2002). For example, in call out observation 1, the author and the young suspect talked about the young suspect's exclusion from school, the topic having been raised by the young suspect. She was having minimal home tuition, one hour per week. She said she missed school and her friends and said she would like to return. The author explained that YES' advocacy service might be able to present her case to the school. The suspect also asked the author about welfare benefits, as she was interested in leaving home, particularly as there was a lot of 'bad feeling' in her area following the alleged offence. The author explained that YES offered advice on welfare benefits. The author gave the suspect a leaflet on YES and advised her to visit them. With participant observation, the author's feelings constituted part of the data (Rew *et al.*, 1993; Brewer, 2000). The author was disappointed that she could not give the suspect more details at that time about the likelihood of her receiving benefits, how she would go about applying and how much she would be likely to receive and when. The suspect said she would visit the organisation, but she may have just been trying to please the author. Assuming that welfare is part of the role, then training should include an examination of the emotional and practical needs of young people.

Another volunteer reported that a young person had commented: "I don't talk to anyone about it (abuse) but I'm talking to you now." (Questionnaire 26). When a young person is detained and feeling vulnerable, he or she may be more likely to open up, not least to ideas about circumventing offending. Indeed, Haley and Swift (1988:356) identified 'personal counselling' as being part of the role of an appropriate adult. These welfare and crime prevention developments in the role will be discussed further in the next, concluding chapter.

Controlling the young suspect

It became apparent through the consultations that some police employees and parents perceived it to be one of the author's duties to control the young person's behaviour. They also assumed that she was capable of influencing this behaviour. In call out observation 19, the young person (of 11 years of age) was very destructive. He was attempting to destroy his radio and the detention room. The young person then insisted on putting the broken pieces of the radio in his mouth. He also attempted to run away. The reception, staff detention officers and police asked the author to control the young person. The author repeatedly asked him to stop and tried to reason with him, asking him, for example, why was he destroying his own property. The young person, however, did not desist. Therefore, the author decided to ignore him and act normally, in case he was trying to seek attention. This did not deter him either. Moreover, one parent assumed that the volunteer was a social worker and wanted the appropriate adult to control her son. The volunteer reported: "Mum thought I was a social worker and asked why we keep letting [the young person] get away with his behaviour" (Questionnaire 75).

Monitoring the police

The consultation also gave the author the opportunity to find out, according to some young suspects, that their requests to the police had been ignored, and, consequently to, reiterate their requests to police with more success. For example, in call out 14, the young suspect was cold from being chased by police through a river. He had been given a dry 'custody suit' (albeit a suit designed for adults, which was, therefore, far too large). However, he reported that his request for a blanket had been ignored. The author, subsequently, requested a blanket for the suspect, which was promptly brought to the detention room. In call out observation 13, the suspect had also been dressed in an adult 'custody suit'. Therefore, following these call outs, the author reported to the

police and service that smaller, spare clothes should be kept in the custody suite for such incidents. Similarly, in call out observation 21, the suspect reported that he had not been allowed to telephone parents on the previous night when he had been detained. The author assured the suspect that he would be able to now, and passed this on to the detention staff. Choongh (1997) proposed that the police use the refusal, and the granting, of rights and entitlements to demonstrate their control over the suspect. He argued in relation to, for example, the use of the telephone:

> "If the suspect asks to use the telephone, the police can ignore the request or not act upon it for a considerable time. The grant of such rights, therefore, does not act to empower suspects. The police know they can block requests with impunity, and thus they do not view the rights in question as posing any threat to their control over the suspect. A request will not normally be refused therefore, unless it is made by an 'obnoxious' individual who, as part of his general refusal to be submissive, demand that he be accorded his rights." (Choongh, 1997: 178).

In the aforementioned cases, through concern for the young person's welfare and to ensure due process, the author intervened to attempt to curtail demonstrations of control by the police. The author was not aware of whether or not these attempts were successful. Future research should seek to determine whether or not such attempts by the appropriate adult are successful. The best method would be observation given it would be more accurate than data collected by, for example, questionnaire or interview surveying of the police, who may distort the fact that they did not provide, for example, smaller clothes or a telephone call, through embarrassment or concerns about the consequences of their practices being revealed.

Legal Advice for Young Suspects

Securing legal advice

In the case study, the volunteer appropriate adult service's protocol insisted upon the presence of a legal adviser if one of its volunteers is to act as an appropriate adult, for the protection of the young person and volunteer (*Procedure for Call Out*). In the call out survey, 92.9 per cent of call outs, the young person had a legal representative (n=155, data were missing in 5 cases). However, three of these respondents qualified this with a note that this was for 'most of the time'. In 2.6 per cent of call-outs, the young person did not have a legal representative (n=155, data missing in 5 cases). In 50 per cent of these cases, volunteers reported the young person refused a legal representative. In 25 per cent of these cases, the volunteer reported that the young person did not request a legal

representative until his or her rights were read (although it is not clear why a legal representative was not then obtained). In the remaining 25 per cent of these cases, the volunteer reported that the young person was answering bail (although it is not clear why a legal representative was not obtained).

The author also observed that legal representation was refused on a few occasions, once by the police for a voluntary attender (Call out observation 1) and twice by the young person (Call out observations 6 and 21), although she managed to persuade them otherwise. In call out observation 1, when the author initially telephoned the YJT, after having been paged, she followed service protocol and asked if legal representation had been arranged (*Procedure for Call Out*). The duty social worker informed her that no solicitor had been arranged and that, if the author wanted to insist on having a solicitor present, the author would have to telephone the police officer involved, which the author did. The police officer was reluctant to arrange the attendance of a solicitor. He referred to his force's policy on the matter and argued that the police did not normally arrange legal representation in the cases of voluntary attenders. However, the author explained politely but firmly that the author would not be able to attend as an appropriate adult unless the young person had legal representation, as that would be contrary to the policy of the service, which would slow down the process considerably. He accepted this and promised to arrange legal representation.

Voluntary attenders are entitled to leave under PACE s. 29(a), and, therefore, entitled to leave to seek legal advice. Should the voluntary attender be prevented from leaving by the police, then he or she should be informed at once that he or she is under arrest and given his or her rights by the custody officer (Spencer, 2001). Once under arrest, the person has the right to legal advice under PACE s. 58. In fact, on this occasion, the police officer did inform the young person that, if she did attempt to leave, he would arrest her. This, however, was when she asked if she could leave to buy some sweets and not regarding legal advice.

Moreover, if the police officer had arrested the young person, she could not have been detained at Devonport Police Station, as there are no detention rooms. Consequently this particular police

officer would not have been able to question her immediately. The impression given by the police officer was that he wanted to maintain ownership of the case and, for that reason, had chosen to ask the people involved to attend as voluntary attenders and had not arrested them. Had he arrested them, the case would have been passed over to Charles Cross Police Station.

In call out observations 6 and 21, the young suspects did not want solicitors. The author, however, advised them to be represented by a legal adviser, in line with the service's protocol. She did this by explaining the benefits of having a legal representative and that a refusal could result in a further delay if another appropriate adult had to be found.

Returning to possible reasons why a few volunteers surveyed did not secure legal advice, the volunteer may not have recalled the right from training. Alternatively, the police may not have advised the volunteer of the right (see Brown *et al.*, 1992), may have only informed the volunteer of the right in very vague terms (see Evans and Rawstorne, 1994) or may have advised the volunteer of the right in such as way that the volunteer felt obliged to decline to exercise the right (see Sanders *et al.*, 1989; Kearns, 1996), in order to undermine due process and preserve crime control (McBarnet, 1981) or for social disciplinary purposes (Choongh, 1997). On the other hand, the young person may have persuaded the volunteer not to execute the right (see Kearns, 1996).

Therefore, there is a case for further reiteration, of the right to legal advice, in training and increased monitoring and regulation of volunteers and possibly the introduction of mandatory legal advice, which will be considered in the next, concluding chapter.

Legal privilege

When appropriate adults did secure legal advice for young suspects, there was the question of whether they were absent from the consultation of the legal representative with the young person. As explained in Chapter 2, the solicitor's initial interview should take place in the absence of the appropriate adult (Code C Note for Guidance 1EE), given that information imparted to appropriate adults is not legally privileged (Evans and Rawstorne, 1994). In the call out survey, in 96.6 per cent of the cases, in which the young person was legally represented, the volunteer appropriate

adult was not present for the consultation of the legal representative with the young person (n=146). In the remaining 3.4 per cent of cases, the volunteers reported that they were present for the consultation of the legal representative with the young person (n=146). However, for 0.7 per cent of these call outs, the volunteer noted on the questionnaire that this was because 'the young person was distressed and the volunteers had been assured that there would be no disclosures during the consultation'. This may have happened in other call outs, even though volunteers did not report it.

One legal representative invited the author to sit in on the consultation. In call out observation 13, the solicitor wanted the author to accompany the young person during the interview between the legal adviser and his young client. The author refused, despite feeling very concerned for the young person. With hindsight, from a welfare point of view, the young person was seriously distressed and could have benefited from the author's presence. Indeed, it was during this call out that the suspect was very upset and angry in the interview and attempted to leave the interview room. This lends weight to the argument made by the *Review Group* (Home Office, 1995b) and White (2002) that the relationship between the appropriate adult and the suspect should be covered by legal privilege. Until such a time, however, the fact that the interview should take place in the absence of the appropriate adult (Code C Note for Guidance 1EE) should be emphasised in volunteer and legal representative training, and monitored by the co-ordinator.

Representations by Volunteer Appropriate Adults at Detention Reviews

In the case study, volunteers were required to attend, with the legal representative, the representations to the custody officer to persuade the custody officer to release the young person (*YES Procedure for acting as appropriate adult with young suspect*). However, in 67.8 per cent of call outs, volunteers did not make representations to the custody officer and had possibly been excluded. However, for 0.7 per cent of these call outs, the volunteer noted on the questionnaire that the custody officer and legal representative had completed the representations without his or her presence (n=155, data were missing in 21 cases). This may have happened in other call outs, even though volunteers did not report it.

Regarding reasons why volunteers did not attend the representations to the custody officer, one volunteer reported: "Reluctant to allow pres[ence] during [representations] as [appropriate adult] had made unfavourable inappropriate disclosure recently." (Questionnaire 124). In one call out, the author was excluded from representations (Call out observation 20). This may have been an attempt to demonstrate control over the suspect and appropriate adult. Previously, Blackie (1996) had pointed out that the police control the appropriate adult in his or her personal matters, such as access to a toilet or drinking water. In line with McConville *et al.*'s (1991) argument, given that the purpose of the appropriate adult is to establish an independent social force into interactions between police and suspects, the police may attempt to discourage the effectiveness of this force by exerting this type of control. Moreover, it seems as if a number of volunteers deferred to the police's control. As suggested above in relation to 'interview room lore' (Pierpoint, 1999; 2000a; 2000b; 2001; Brookman and Pierpoint, 2002; 2003), training on assertiveness and intervention could at least minimise some of the impact of police attitudes, language and environment on volunteers' representations.

Length of and overnight detention

Type of representation	No. of responses	% of call outs
Highlighted points in favour of young person's case	14	40.0
Attempted to reduce severity of outcome/suggested outcome	7	20.0
Explained parental consent required for caution[8] see page 24	5	14.3
Concerns about detaining young person overnight/weekend	3	8.6
Discussed transport to return young person to where s/he lives	3	8.6
Arranged/encouraged police to use local authority secure accommodation	2	5.7
Attempted to reduce length of detention	2	5.7
Concerns over young person's health/disability	2	5.7
Sought clarification about outcome	2	5.7
Supported solicitor	2	5.7
Accommodation concerns	2	5.7
Other	4	11.6

Table 20: Nature of representations by volunteers to custody officers (Multiple response)

Note:
N=43 (only cases in which volunteer made representations to custody officer). Data were missing in 8 cases.

Table 20 above shows the types of representations made by volunteers, where they did attend representations. Their comments sometimes concerned reducing the length of detention (5.7 per cent), especially overnight or over the weekend (8.6 per cent) in accordance with Code C para 15.1. For example, when young people were to be detained, some volunteers queried the availability of

local authority secure accommodation, albeit that the option was sometimes refused by police. Specifically, one volunteer explained: "That he was on remand therefore could not go to Friday court and not be in all weekend. Mentioned [young person's] disability - ADHD that I would get involved in trying to get secure accommodation through YJT." (Questionnaire 5). Another volunteer explained: "Suggested to custody officer that the interviewing officer exaggerated the offence and asked if there was any secure accommodation available." (Questionnaire 75). Finally, one volunteer reported: "[Young person] was remanded I wanted to check that we couldn't transfer him to Oakleigh [local Children's Home]. The police wouldn't allow it." (Questionnaire 154).

Indeed, as shown in Table 23 on page 181, the availability of local authority secure accommodation was the subject of support sought by volunteers in 6.4 per cent of call outs (n=53, data missing in 6 cases). However, one volunteer noted: "Try to gain secure accommodation. None available." (Questionnaire 15). Another volunteer similarly reported: "YJT to try secure accommodation, unable to find any." (Questionnaire 16). This could indicate a shortage of secure accommodation and that more is required. In fact, as shown in Table 21 on page 177, 5.3 per cent of young people were remanded in police custody overnight for court the next day and 0.8 were remanded in local authority secure accommodation (n=155, data missing in 24 cases). The *National Standards* now provide that local authorities must monitor the extent to which children and young people are held in custody overnight, and that, where concerns are justified, they must be raised with the agency responsible under the provisions of PACE (YJB, 2000, para 2.9), which may improve the above situation.

Eventual disposals

As shown in Table 20 on page 175, more often than length of and overnight detention, however, representations concerned highlighting points in favour of the young person's case (40.0 per cent) and attempting to reduce severity of the suggested outcome (20.0 per cent). Indeed, in practice, the author's representations were often attempts to vary bail conditions. In line with Haley and Swift's (1988:367) advice that the appropriate adult should use the representations as an "opportunity to

put forward the client's argument for release", the preferred outcome was report for process[40] and, if the police wanted to keep the young person detained, the volunteer was instructed to try, with the solicitor, to convince the police otherwise (*YES Procedure for acting as appropriate adult with young suspect*). This welfare development of the role will be discussed further in the next, concluding chapter. Setting this aside, eventual disposals could be considered as an indicator of the effectiveness of representations. However, as shown in Table 21 below, only in 2.3 per cent of call outs were young people reported for process, and in 5.3 per cent of call outs young people were remanded overnight.

Outcome	f	%	Cumulative %
Charged and bailed to court	46	35.1	35.1
Police bail (for further inquiries)	42	32.0	67.1
NFA	16	12.2	79.4
Charged overnight for court - remanded in police custody	7	5.3	84.7
Charged and transferred to court that day	5	3.8	88.5
Instant caution[8] see page 24	4	3.1	91.6
Reprimand/Final warning	4	3.1	94.7
RFP	3	2.3	97.0
Held for further interview	2	1.5	98.5
Charged overnight for court - secure local authority accommodation	1	0.8	99.3
Transferred	1	0.8	100.1
Total	131	100.0	

Table 21: Outcome of custody for young person

Notes:
N=155. Data were missing in 24 cases.
Police bail (for further enquires) excludes young people who were bailed pending a decision by juvenile panel or pending a reprimand/final warning.
Percentages do not always sum to 100 due to rounding

Table 21 above shows that the modal disposal was charged and bailed to court (35.1 per cent). The second most frequent disposal was police bail (32.0 per cent). Philips and Brown (1998:82) found that young people were bailed in 21 per cent of cases, but that the proportion of suspects bailed for enquiries varied quite considerably between stations, which could account for the higher figure in the case study.[41]

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[40] Report for process is an example of an arrangement, which police forces often have, whereby young people could be referred to an inter-agency juvenile panel to consider the case and recommend a disposal (Bucke and Brown, 1997).
[41] This figure excluded young people who were bailed pending a decision by juvenile panel.

It was not known what decision was made once the police had bailed the suspect or reported the suspect for process, or interviewed the suspect further or transferred the suspect to another police station (36.6 per cent). In Philips and Brown's survey (1998:83), adult suspects, who had been bailed, were more likely to be NFAed (44 per cent) than adult suspects, who had not been bailed (16 per cent). It is, therefore, important to recognise that the call out survey probably understated the proportion of suspects who are ultimately NFAed. In fact, Philips and Brown (1998:83) referred to these suspects as the "dark figure" in the arrest population.

Whilst at first sight, the disposal figures indicate that the volunteers were ineffective in their representations to the custody officer to report the young suspect for process and not to remand him or her, there are many factors, other than ineffectual representations, which could have caused this, such as severity of the offence, effectiveness of the legal representative and so on. Moreover, different forces pursue different policies regarding disposals generally and of young people (Bucke and Brown, 1997), so volunteers are up against different practices. It may be much harder to influence custody officers in certain areas. Consequently, 'effective' volunteers may exacerbate the 'geographical lottery' when it comes to police disposals and this begs the question of whether appropriate adults should be involved in such decision making processes. It may be preferable to reduce police discretion in this area to minimise geographical inequalities.

The third most frequently occurring outcome was that the young suspect was NFAed (12.2 per cent). Choongh (1997:106) argued that: "in some cases, the police have no intention of charging whatsoever, and in these cases detention at the station is the end of the sanctioning process." Hillyard and Gordon (1999) argued, on the basis on national arrest statistics for the period 1981 to 1997, that there is trend towards arresting people and then releasing them without charge which lends support to Choongh's (1997) social disciplinary model. Indeed, one volunteer reported concerns regarding the inappropriate use of arrest and detention. One reported: "Police had very little evidence to arrest- [young person] spent 9/10 hours in custody for something they obviously didn't do." (Questionnaire 51). However, there was no further evidence of this.

Transportation of the young person to where he or she lives

As shown in Table 20 on page 175, as often as volunteers raised concerns about detaining the young person overnight or at the weekend in their representations to custody officers, they also discussed transport to return the young person to where she or he lived (8.6 per cent of call outs, n=43, data missing in 8 cases).

Transport	f	%	Cumulative %
Independently	24	23.5	23.5
Bus (fare from YES)	20	19.6	43.1
Parent	15	14.7	57.8
Taxi (fare from YES)	12	11.8	69.6
Children's Home	12	11.8	81.4
YJT/YOT/OHT	4	3.9	85.3
Police	4	3.9	89.2
Care UK	1	1.0	90.2
Lift from volunteer	1	1.0	91.2
Lift from legal representative	1	1.0	93.2
Other	8	7.8	100.0
Total	102	100.0	

Table 22: Nature of transport home

Note:
N=135 (data not collected for 20 young people remanded or held for further interview in custody). Data were missing in 33 cases.

Table 22 above shows the ways in which young people travelled home. If released, most young people travelled home independently (23.5 per cent), by, for example bus (3.9 per cent), train (2.0 per cent) or foot (16.7 per cent) (n=135, data missing in 33 cases).

Volunteers were discouraged from allowing young people to return home with the police, in case onlookers concluded they had been in trouble with or were otherwise involved with the police. In fact, 3.9 per cent of young people returned home with the police. Volunteers were also prohibited from taking young persons home in their cars (*Co-ordinator's letter, May 2000*). In 1.0 per cent of cases, the volunteer provided a lift. From the data collected, it is not possible to ascertain whether this breach of procedure was intentional or not and the circumstances in which it happened. If it was an intentional breach, this has implications for the supervision of volunteers. Alternatively, if it was unintentional, this has implications for the training of volunteers to ensure they understand and abide by the procedure. The relative merits of allowing volunteers to escort young people home were discussed in the previous chapter.

In sum, most volunteers performed the role at key stages of the young person's detention as envisaged by the Codes where the Codes were clear. With very few exceptions, they exercised the right to legal advice on behalf of the juvenile, they did not attend the solicitor's initial interview with the young person and they made representations to the custody officer concerning a reduction in the length of detention. However, consideration of how the volunteers performed the role, at stages of the young suspect's detention not covered by the Codes, demonstrated that their practices were often welfare-orientated. Specifically, diverting from the correct consent procedure to secure an earlier release from custody, offering advice on advocacy and benefits, protecting the child's physical and emotional welfare, trying to find local authority secure overnight accommodation instead of police custody, trying to divert the young person from the criminal justice system by securing the report for process disposal and, if successful, arranging transport home for the young person, are all in the interests of the child's welfare.

Indeed, support was sought by volunteers in 53 call outs or 39 per cent call outs (n=155, data were missing in 19 cases) and, as shown in Table 23 below, the modal category of requests for support concerned arranging transport to take the young person home (36.2 per cent), whereas requests concerning police procedure were less frequent (8.5 per cent). Therefore, requests for support were more likely to concern welfare, rather than due process, issues.

Type of support	No. of responses	% of call outs
Transport to take young person home	17	36.2
Young person's living situation	12	25.5
Appropriate adult protocol	5	10.6
Police procedure/questioning	4	8.5
Technical advice (e.g. phone, fax)	4	8.5
Telephone numbers	3	6.4
Request for someone to take over as appropriate adult	3	6.4
Parental consent requirement for caution[8] see page 24	3	6.4
Availability of local authority secure accommodation	3	6.4
Young person's health	2	4.3
Young person's criminal record	2	4.3
How to communicate something to young person	2	4.3
Disposal	2	4.3
Request for social worker for young person's court appearance	1	2.1
Refusal by young person to take legal advice	1	2.1
Another young person	1	2.1

Table 23: Type of support sought by volunteers (Multiple response)

Note:
N=53 (only cases in which volunteer sought support). Data were missing in 6 cases.

This discussion has also highlighted training needs. Although only a few volunteers diverted from correct procedure or protocol, by, for example, consenting to instant cautions[8] see page 24, attending consultations between suspect and legal adviser, not arranging legal advice or attending representations and driving the suspect home, these volunteers require further training. Therefore, from a due process standpoint, training should cover police procedures in order that the appropriate adult can carry out his or her other duties, for example, during identification procedures (Pierpoint, 2000b; White, 2002).

Organisation	No. of responses	% of call outs
YES/Volunteer co-ordinator	26	50.0
YJT/YOT	21	40.4
OHT	9	17.3
Legal representation	5	9.6
District social services	4	7.7
'Families care'	2	3.8
Parent(s)	2	3.8
Police	1	1.9
SSD outside case study area	1	1.9
Care bank	1	1.9
Children's Home	1	1.9

Table 24: Organisations from which volunteers sought support (Multiple response)

Notes:
N=53 (only cases in which volunteer sought support). Data were missing in 1 case.
YJT/YOT includes 'Social Services' if during office hours.

On paper, support was on offer from the co-ordinator, YJT/YOT (duty social worker) or OHT (Relevant Phone & Fax Numbers). Indeed, as shown in Table 24 above, support was most often sought from the co-ordinator (50.0 per cent), followed by the YJT/YOT (40.4 per cent) and the OHT (17.3 per cent). Other organisations were contacted for support less frequently. Whilst some organisations suggested contacting another organisation (10.0 per cent of call outs), were unobtainable (10.0 per cent of call outs), did not come back with the advice promised (10.0 per cent of call outs) or declined to assist (3.3 per cent of call outs), some form of support was provided in all call outs in which it was requested (n=53, data were missing in 23 cases).

6. Volunteer Appropriate Adults' Relationships

As well as collecting data on the volunteers' practices at key stages during the young suspect's detention, the call out survey collected data alluding to the volunteers' relationships with the police and young suspects during the process generally.

Volunteer Appropriate Adults' Relationships with the Police

However, one volunteer reported that he or she considered that his or her performance had been 'very good' because he or she had a rapport with the police, as well as the young person. The volunteer reported: "Very good- good rapport with [young person] and police. [Young person] continued to engage and came to YES with me." (Questionnaire 46). The difficulties with volunteers developing rapport with the police are that (1) it could result in 'interview room lore' (Pierpoint, 1999; 2000a; 2000b; 2001; White, 2002; Brookman and Pierpoint, 2002; 2003) and (2) it may cause the young person to doubt the volunteer's independence as explored below.

Moreover, one volumteer reported that an interviewing officer thanked him or her for his or her support (Questionnaire 18). Using a self-administered questionnaire, it was not possible to pursue this point. However, it is conceivable that supporting an interviewing officer could involve deferring to or strengthening the police agenda, which may involve, for example, crime control (McBarnet, 1981) or social discipline (Choongh, 1997). Indeed, research on parents as appropriate adults has found that many put pressure on their children to confess (Dixon *et al.*, 1990 Evans, 1993; Gudjonsson, 1993; Bean, 1997) possibly as a result of some officers co-opting appropriate adults to their side against the juvenile (Thornton, 1988).

Whilst the majority of social workers acting as appropriate adults observed by Bucke and Brown (1997) were 'co-operative/supportive' towards the police, in some ways the references to establishing rapport with and supporting police officers was an unexpected finding in the case study given that the majority of volunteers were young people, who tend to rate the police less highly than older people, as they are more likely to encounter police 'force' than 'service' (Mirrlees-Black and Budd, 1997). However, many of these young volunteers were also in higher education and were, therefore, probably middle class. Despite the government's desire to widen participation, the most recent figures show that 48 per cent of young people from the top three social classes go to university, compared with 18 per cent of those from the bottom three. Working class students make up a quarter of new entrants to higher education (Woodward, 2003). This class gap is likely to broaden with the introduction of top-up fees. Moreover, volunteers were subject to police checks before they were formally recruited (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*).[42] Assuming applicants with convictions were deselected, this was likely to reduce the number of working class volunteers given that probably more working class people are convicted than middle class people. It is generally assumed that offenders are from lower classes, although the class of convicted offenders is not routinely recorded (Croall, 1998). However, studies of samples of convicted offenders tend to confirm the assumption that convicted offenders come from lower-class backgrounds (Coleman and Moynihan, 1996).[43] People from higher income households are more likely to encounter police 'service' than 'force' (Mirrlees-Black and Budd, 1997) and, therefore, may be more likely to develop and rate the establishment of a rapport.

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[42] As stated in Chapter 5, from the case documents analysed, it was unclear what a 'satisfactory' police check was.

[43] However, it should be recognised that, whilst functionalists, for example, accepted crime as a working class problem and saw its cause in a lack of opportunity for young men in poor communities (Giddens, 2001), crime figures include systematic bias as a result of social inequalities. For example, in line with labelling theory, young working class men are likely to be over-represented in the figures. This is particularly true for young black men; the rates of stop and search are much higher for black persons compared with white or Asian (Macpherson, 1999). Moreover, lower-class offenders are more likely to be charged than middle-class offenders who are more likely to be cautioned (Landau and Nathan, 1983 as cited by Croall, 1998).

Rapport

The feedback from the young people reported by the volunteers was largely positive (77.7 per cent, n=18), unlike the feedback from young people in Groves and Brown's study (1999:29) who "displayed rather negative attitudes towards the appropriate adults [who in over half of cases were social workers, in 25 per cent of cases were parents and in the remainder were older siblings or volunteers], and were less than impressed by the help offered, especially in putting forward their side of the story." As highlighted above, in the call out survey, a couple of volunteers attributed their 'very good' performance to their rapport with the young person (Questionnaires 46 and 102). For example, one volunteer reported "I already knew accused and was able to support him well." (Questionnaire 102). In addition, one volunteer, who had failed to rate him or herself, added: "Gave a lot of time to [young person] - talked about a lot of important stuff. All police procedures adhered to." (Questionnaire 136). Moreover, the volunteer who considered that his or her performance had been 'very poor' explained: "Because I felt rushed I didn't read custody record or speak sufficiently with [young person]" (Questionnaire 77).

Lack of independence from the police and social workers

Although the reported feedback from the young people was mainly positive, some volunteers did report that some young people were concerned about a lack of independence of the volunteer from the police. The appropriate adult, as a matter of law, should be autonomous of the police (Code C para 1.7(a)(iii); CDA s. 65(7)(c)). The role requires independent judgement in the performance of the duties and to assist the suspect being interviewed (Pierpoint, 2000a); a lack of independence could hinder their attempts to challenge the police where appropriate (Revolving Doors Agency, 1996). According to the call out survey not all young people were convinced about the independence of volunteers from the police. One young person apparently commented: "If you're going to be f**king one of those pigs you can f**k off' (Questionnaire 94).

Regarding the suspects' concerns about collusion, the problem would not have been helped by the rapport between volunteers and the police expressed above (Questionnaire 46) and if volunteers

became involved with the police's 'banter'. Some volunteers expressed concern at the derogatory comments of the police towards the suspect. For example, one volunteer commented: "Interviewing officer making remarks about feet odour of [young person]." (Questionnaire 15). Another volunteer reported that: "Warned me that [young person] was contagious. Also let detention officer know." (Questionnaire 7). The police officers' comments could be understood as attempts to humiliate the suspect and destroy his or her self-esteem, which may be particularly effective given that in custody "[i]ndividuals from vulnerable groups are often in a de-stabilised state" (Littlechild, 1998:8). This would be consistent with Choongh's (1997) social disciplinary model.

Alternatively, these attempts by the police to get the volunteers to share in their disgust for suspects may have also represented attempts to 'get the volunteers on side'. In other words, they may have represented offers by the police to include the volunteer in their culture, which may have been tempting for the volunteer if the alternative was displays of machismo, racial prejudice and pragmatism (Reiner, 2000). This is a similar argument to that made by Dixon (1997) regarding police-legal adviser dealings. Police-professional appropriate adult dealings have to be understood as social relations. Laughing along with jokes, and even sharing derogatory remarks, may result in social inclusion into the police culture. Those who do not adapt to police culture in this way may, consequently, be marginalised and risk being subject to bigotry for example.

Young people were also concerned that volunteers are independent from social workers. As one volunteer reported of a young person: "Pleased I came. Not sure why this was explained and she said she was happy nothing to do with social workers" (Questionnaire 119). The young person might have preferred volunteers to social workers because she did not consider social workers to be independent from the police. Another volunteer reported: "A new [social worker] at YJT has arranged to shadow YES [appropriate adult]. [Young person] refused his presence as an observer." (Questionnaire 25). In the Southampton study, volunteers considered that it was particularly important that suspects perceived them as volunteers, as opposed to paid professionals (Nemitz and Bean, 1998). Given some young people's experience of social worker appropriate adults (Evans,

1993) and their perception of social workers as being instruments of punishment and control (Dixon, 1990; Brown, 1997), the importance that some young people attribute to independence is understandable.

Like the young people, legal representatives recognised the importance of the independence of volunteers. For example, of one legal representative, it was reported: "Spoke very highly of service. Acknowledged that we behave as [appropriate adults] and have no other agendas that blur our role - unlike OHT was what was said. Also he thought we were a very good team at the moment." (Questionnaire 28).

These findings highlight the importance of explaining, and reiterating, the fact of volunteers' independence, from police and social workers, to young people and the police. Once locked in the detention room with the young person, the volunteer in the case study was required to introduce him or herself, explain his or her role as an appropriate adult and that the role was independent from the police, social services and the legal profession and to make the introductory confidentiality statement compiled during the training session *All About YES (16th February 1998)*. Evidently, in some instances, this was either not taking place or was inadequate to convince the young person. Other measures might include a lengthier explanation, a written explanation or a more prominent identity badge. Indeed, White (2002), in writing about social worker appropriate adults, argued that training should emphasise independence.

In sum, the volunteers' concern in developing a rapport with young people alludes to a welfare perspective, although the comments of some of the volunteers above, who were concerned with this rapport, were also consistent with a due process model, in referring to adherence with police procedures (for example, Questionnaire 136) and reading custody record (for example, Questionnaire 77).

7. Conclusion

There are four main conclusions that can be drawn from this chapter. Firstly, with very few exceptions, where the Codes are clear, volunteers performed the role of the appropriate adult as envisaged by the Codes. For example, they followed the Codes by exercising their right to legal advice, attending legal consultation and making representations to the custody officer concerning reducing the length of detention.

The second finding is that, where the requirements of the Codes are unclear and ambiguous, volunteers were forced to impose their own interpretations of the role. The Codes require appropriate adults to advise suspects, observe whether or not interviews are conducted properly and fairly and facilitate communication with suspects (Code C para 11.6). These requirements of the role are vague. In interviews, volunteers interpreted their role to include preventing unfair questioning, checking comprehension of processes and comforting the suspect. These contributions adhere to both due process and welfare perspectives. However, they do not allude to crime control, to which at least parents' contributions have (Thornton; 1988; Dixon *et al.*, 1990; Evans, 1993; Gudjonsson, 1993).

The third finding is that volunteers completed tasks beyond the requirements of the role, such as offering advice on advocacy and benefits and arranging transport home for the young person, and these seemed to be welfare based tasks. Many of these tasks were completed upon the instructions of the voluntary organisation. A service level agreement between the YJT and YES specified the YJT's, YES' and the police's duties in ensuring that the service would: "enable the availability of a flexible and responsive service that will meet both the legislative requirements of the statutory agencies and the needs of young people." (*Agreement between the Plymouth Youth Justice Team, Social Services Department, Plymouth City Council and the Youth Enquiry Centre*). Service level agreements are recommended to ensure quality (Evans and Rawstorne, 1997) However, the agreement also summarises the expectations of the voluntary organisation and the YJT in the case study and suggests a welfare orientation, given that one of the principles of the welfare philosophy is to respond to individual needs (Muncie, 1999a).

The fourth finding is that the police were reported to have occasionally hindered volunteers in trying to perform their role. Police practices may be different in different forces and even stations. However, at least within the case study, the police on the odd occasion refused the volunteer's requests for a legal adviser and to make representations to the custody officer, possibly to dampen the effect of an independent social force on exchanges between police and suspects (McConville *et al.*, 1991). Whilst the numbers were small, the police may have also used the time taken to contact the appropriate adult, the refusal of entitlements and derogatory comments to exert social discipline on the young suspects, although the appropriate adult was able to curtail this demonstration relating to the refusal of entitlements. This explanation would be in line with Choongh's (1997) findings.

The time taken to obtain volunteers could be reduced by bringing forward the time at which the police ask the volunteer to attend and establishing an earlier duty start time for volunteers. At the same time, the wait for the police and legal representative needs to be reduced. For volunteers to continue to perform the appropriate adult's role, as they appear to define it, attention should be paid to the substantive issues like welfare benefits and precise police procedure, such as 'appropriate consent', and skills, such as assertiveness, in training. The *Review Group* recognised that proper funding would be required (Home Office, 1995), and the Audit Commission (1996) proposed that around half of the savings should be spent on the recruitment, training and co-ordination of volunteers.

PART FIVE: DISCUSSION AND CONCLUSION

Chapter 7: Discussion and Conclusion

1. Introduction

Since the creation of the role, the appropriate adult has received relatively little attention from policy-makers and academics. This stands in contrast to the amount of discussion that has been devoted to the other parties who may be present during the detention and questioning of suspects, such as the custody officer, interviewing officers, the legal adviser and the suspect. However, there has been some renewed interest in the role amongst policy-makers and academics in recent years. The CDA referred to the role in two of its provisions (ss. 38(4)(a) and 65(5)(a)), as did guidance on the Act (Home Office, 1998a). This in turn led to small flurry of academic commentary and criticism (Littlechild, 1998; Nemitz and Bean, 1998; Groves and Brown, 1999; Pierpoint, 1999; 2000a; 2000b; 2001; 2004; forthcoming; Williams, 2000a; 2000b; White, 2002).

However, we still knew very little about what the appropriate adult is supposed to do and what they actually do in practice, particularly in relation to one category of persons who can act as appropriate adults. This is of concern because of the vulnerability of the young suspect and the potential impact that an appropriate adult could have on the young person's detention and questioning, and even on the outcome of the case itself. For example, the appropriate adult may influence the length of time for which a young suspect is detained by how quickly he or her arrives at the police station or by making representations to the custody officer when considering whether the continued detention of the young suspect is required (Code C para 15.1). The appropriate adult may also influence whether or not the young suspect has a legal adviser. The appropriate adult may even have an effect on the conduct of the interview and whether a confession is obtained and, hence, on the outcome of the case. A young suspect who has admitted his or her guilt may be subject to a reprimand or final warning. According to Baldwin and McConville (1980), the suspect's confession is only crucial in about a third of prosecution cases. However, it may be more central to a guilty verdict in cases of youth offending, where most offences are relatively minor (NACRO, 2003) and, therefore, where other ways of gathering evidence, particularly those using technology and forensic science, might be seen as too expensive and time-consuming.

Hence, the aims of this thesis have been to bridge the gap in existing knowledge by reviewing the role in more detail and identifying more fully than has been done before the philosophies and principles underlying the appropriate adult's role and the way in which it is operated in practice. The thesis has addressed these aims in a number of ways. In an attempt to examine the role of the appropriate adult and identify the rationale which underpins the role, statutes, the Codes of Practice, policy documents, case law and academic and practitioner literature were reviewed. This represents one of the first efforts, along with the work of Evans and Rawstorne (1994), to uncover the theoretical models that underlie the appropriate adult's role and to draw together interpretations of the role according to statute, policy documents, case law and academic and practitioner literature in one place.

In order to examine the practices of parents and social workers acting as appropriate adults, the existing empirical literature on how these groups operate was reviewed. However, there was no existing research on the national arrangements for the provision of volunteer appropriate adults and the only official guidance on what arrangements should be made for their provision came in the form of the *National Standards* (YJB, 2000). This document only contained a small number of broad principles to guide YOT managers in their provision of appropriate adult services. Moreover, there were only two previous studies on the conduct of volunteers in the role, neither of which had considered volunteer appropriate adults exclusively for young suspects (Revolving Doors Agency, 1996; Bean and Nemitz, 1997; Nemitz and Bean, 1998). Hence, in the virtual absence of any existing literature, a case study of a local volunteer appropriate adult service and a national postal survey of all YOT managers in England and Wales (n=120, data were missing in 34 cases) were conducted. The case study comprised: participant observation of volunteer call outs (n=21), training sessions (n=8) and meetings (n=5), a self-administered questionnaire survey of volunteer call outs (n=155) and the analysis of miscellaneous documents pertaining to the volunteer appropriate adult service. These documents were the agreement between the YJT and local voluntary organisation, local appropriate adult protocols, recruitment and training materials, correspondence, minutes of volunteer meetings and completed monitoring forms.

It should be acknowledged that there are certain limitations to the research design used. The main disadvantages were the small sample sizes involved in the case study and the limited external validity of the case study. Whilst, according to the national survey, the arrangements in the case study were fairly typical of arrangements elsewhere, some caution would be required in drawing inferences from the case study to larger areas. However, the research has provided useful findings on the national arrangements for the provision of volunteer appropriate adults and a more detailed insight than has been found to date on the operation of volunteer appropriate adults for young suspects in a single area.

This chapter will summarise the key substantive findings of this research and discuss the implications for philosophy, policy and practice.

2. Main Findings

By reviewing the existing literature and collecting data using the methods identified above, this thesis has made a number of findings in relation to what it is that the appropriate adult is supposed to do and what the practices of the appropriate adult are.

What is the Appropriate Adult Supposed to do?

In investigating what the appropriate adult is supposed to do, the thesis has made three substantive findings. Firstly, the current official definition of the role of the appropriate adult is undetailed and vague and, comprises potentially contradictory functions. Secondly, the history of the role's development does not reveal a clear, underlying rationale for the role. Thirdly, court cases referring to the role are too few to assist in clarifying the role and the case law which does exist often contains conflicting dictums.

The fact that the official definition of the role of the appropriate adult is vague and subject to multiple interpretations is perhaps to be expected of legislation and operational codes. However, one would at least expect the underlying purpose of, or rationale for, the role to be made clear and for case law to assist in the interpretation of the role. That is not the case here.

There has been no explicit explanation of the underlying purpose of or rationale for an appropriate adult stated in statutes, Codes of Practice, case law or policy documents reviewed for this thesis. Moreover, the courts have not assisted in clarifying the role either: their judgements on the role are infrequent and contradictory. For example, R v O'Neill (Birmingham Crown Court, 16th October 1990) indicated that the appropriate adult should not be someone with authority over the suspect, whereas in R v Palmer (Acton Crown Court, 17th January 1991), it was argued that the appropriate adult should be someone able exercise authority over the suspect. Moreover, in R. v Jefferson [1994] 1 ALL ER 270, the appropriate adult questioned the young suspect himself, whereas in Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180 the judge described one of the appropriate adult's functions as being "to see that the accused fully understands...that he does not have to say anything unless he wishes to do so". Academic and practitioner attempts to explain the role have been equally varied.

The significance of these findings is that those filling the role, and those responsible for overseeing those who fill the role, cannot be clear about what the appropriate adult is supposed to do. In other words, based on the above, appropriate adults and people responsible for professional appropriate adults, such as YOT managers, have to work out for themselves how they are going to execute the role with limited guidance.

What do Parents and Social Workers Acting as Appropriate Adults do in Practice?

The research literature shows that most parents act merely as observers in interviews, contrary to Code C para 11.6. Some social workers also fail to take an active role in interviews. Much of the evidence suggests that parents are unsupportive. This may be because they are too emotionally involved. However, the reason for a lack of contribution that has been suggested in relation to parents and social workers is that the police have failed to instruct them on the requirements of the role as required by the Codes. Moreover, social workers have in the past received little training on the role and some have had minimal experience of acting as appropriate adults.

What do Volunteer Appropriate Adults do in Practice?

The empirical findings of this thesis relate to the context in which volunteer appropriate adults operate, as gauged by the national survey of YOT managers, as well as their specific practices as described in the case study results. An analysis of the results has revealed three themes, applicable at both levels. Firstly, in the few instances where there is guidance pertaining to the co-ordination of volunteer appropriate adults and where the Codes are clear on how appropriate adults should operate, provisions have been followed in YOT areas and by volunteers. Secondly, where, more frequently, there is no guidance or the Codes are vague, YOTs, voluntary organisations and volunteers have had to place their own interpretations on the purpose of the role. Thirdly, the role has also been extended beyond its original remit designated in the Codes, by the arrangements for the provision of volunteers and the practices of volunteers themselves.

The co-ordination of volunteer appropriate adults

The *National Standards* contain only a limited number of broad principles about arrangements for the use of appropriate adults and YOT managers have been largely unguided in making their arrangements for appropriate adult services. Previously, nothing was known about how they operationalised their statutory duty to co-ordinate the provision of appropriate adults (CDA s. 39(7)(a)). However, the national survey of YOT managers in the current study has illuminated a number of patterns in the provision and co-ordination of volunteer appropriate adults in this previously uncharted area. In sum, 50 per cent of YOTs use volunteers in this role (n=120, data missing in 30 cases). Volunteer appropriate adults tend to be managed by YOTs directly, followed by a voluntary organisation. YOTs are most likely to be responsible, at least in part, for recruitment and selection, and they all require volunteer appropriate adults to be police checked. Volunteers tend to be subject to training designed and delivered by, at least in part, the YOT, including presentations and readings, PACE, the custody centre, child protection and communication skills. Volunteers are on call for nearly 14 hours on average. Volunteer appropriate adult services are likely to insist that their volunteers are accompanied by legal advisers during interviews, but not that they escort the young person home. The performance of most volunteers is monitored, normally based on police feedback. Generally, support is provided by at least the OHT.

Where guidance does, on the odd occasion, exist on the co-ordination of appropriate adults, many YOTs have followed it. When given some pointers in the form of guidance on the CDA (Home Office, 1998a) and the *National Standards* (YJB, 2000, para 2.1), YOTs have tended to take heed. For example, guidance issued under the CDA suggested that, in practice, appropriate adults would be provided in many areas by volunteers, including through partnership arrangements with voluntary organisations (Home Office, 1998a). As explained above, half of YOTs use volunteers as appropriate adults and whilst, most frequently, YOTs manage the volunteers, a quarter of YOTs have partnership arrangements with voluntary organisations. Moreover, in line with the *National Standards*, which require that volunteers who act as appropriate adults are trained and supported in this role (YJB, 2000, para 2.1), in all YOT areas volunteers are trained and are, generally, supported at least by the OHT. Moreover, most volunteer appropriate adult services require their volunteers to exercise their right to request legal advice on behalf of the juvenile (Code C para 3.13).

Mostly, however, there are no guidelines for YOT areas to follow when it comes to providing appropriate adults. Until now, YOTs have not even been given the benefit of knowing what other areas are doing in terms of appropriate adult provision and what options are available for them. For example, there is no official guidance in relation to the length of time for which volunteers should be on duty, on recruiting and selecting volunteer appropriate adults and whether they should be police checked and what form training should take. Added to which, as demonstrated in this thesis, the official definition of the role of the appropriate adult for young suspects is ambiguous and contradictory and does not have a clear rationale. Hence, YOT areas are having to make decisions on the basis of what they think the role of the appropriate adult is or should be. For example, in many YOT areas, training covers the Codes and the custody centre, but also child protection. The issue has not been mentioned or even alluded to in any official document pertaining to the role of the appropriate adult.

In sum, where guidance does exist on the provision and co-ordination of appropriate adults, many YOTs have followed it, but, beyond that, the role of the appropriate adult is being interpreted and extended in a certain way. The significance of this finding will be discussed below.

The practices of volunteer appropriate adults

The case study reported in this thesis was the first study of a volunteer appropriate adult service exclusively for young suspects. It found that, with a few exceptions, where the Codes are clear, volunteers have followed their provisions. Although untypical when it comes to the appropriate adult, the Codes are clear on a few points. For example, according to Code C Note for Guidance 1EE, appropriate adults should not be present for the solicitor's initial interview with the young suspect. The volunteers studied did not attend the consultation between the legal adviser and young suspect. They also exercised their right to request legal advice on behalf of the juvenile (Code C para 3.13). Fewer volunteers, however, made representations to the review officer considering whether the continued detention of the young suspect is required as allowed by Code C para 15.1. In terms of their role in the interview as described in Code C para 11.6, volunteers did not merely act as observers more frequently than has been observed of "parents and other appropriate adults"[25] see page 79 by Evans (1993). The main deviation volunteers made from the Codes was neglecting the requirement for 'appropriate consent' for identification procedures (Code D).

There was some evidence of the police not adhering to the provisions of the Codes. The main example was in the call out survey whereby, in just under half of call outs, the police took over two hours to contact the volunteers to ask them to attend the police station, contrary to Code C para 3.9 and Annex B Note for Guidance B1. However, there were very few examples recorded of the police giving inadequate instruction on the role of the appropriate adult or preventing the volunteer from exercising the right to legal advice or attend representations, unlike what has been observed in previous studies (see, for example, (Haley and Swift, 1988; Sanders *et al.*, 1989; Dixon, 1990; Brown *et al.*, 1992; Evans, 1993; Evans and Rawstorne, 1994; Littlechild, 1995b; Kearns, 1996).

However, most of the Codes' provisions referring to the appropriate adult are vague. Here, volunteers, and the voluntary organisation with which they are registered, had to interpret what the role of the appropriate adult was. In contrast to previous findings on parents acting as appropriate adults during interviews (see Thornton; 1988; Dixon *et al.*, 1990; Evans, 1993; Gudjonsson, 1993), volunteers have pointed out police questioning is unfair, checked the young person's comprehension of questions and processes and comforted the young person. Whilst the latter might be a reasonable interpretation of the requirement of Code C para 11.6 for the appropriate adult to facilitate communication, this interpretation had not been identified in any of the statutes, Codes of Practice, case law or policy documents.

Conversely, volunteers have shared the courts' interpretation of the role as being one to see that the interview is conducted correctly and to check the comprehension of questions (see Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180). The courts have also interpreted the role as being one to advise the suspect of his or her rights and advocate for the suspect (Francis v Director of Public Prosecutions [1996] Queen's Bench Division 36 BMLR 180) and to advocate for the police (R. v Jefferson [1994] 1 ALL ER 270), but volunteers did not report engaging in these functions.

Volunteers have also extended or been expected to extend the role of the appropriate adult beyond the remit described in the Codes. They have done more than just be present at the key stages of the young person's detention and questioning identified in the Codes. For example, they have arranged dry clothes and blankets for young suspects, advised young people on local youth services, discussed child protection issues, concerned themselves with developing a rapport with the young people and made representations to the custody officer and requested support on returning the suspects home and regarding their living conditions. Volunteers have not only extended the role themselves, but been expected to extend the role but in a way which is in stark contrast to the ways in which they have developed the role. For example, volunteers were expected by detention staff and parents to control the young suspects for whom they were acting as appropriate adults.

In sum, where there is guidance on co-ordinating volunteer appropriate adults and where the Codes are clear, provisions have been followed in YOT areas and by volunteers. Where there is no guidance or the Codes are vague, YOTs, voluntary organisations and volunteers have had to place their own interpretations on the purpose of the role. The role has also been extended beyond the boundaries specified in the Codes through the arrangements made for the provision of appropriate adults by YOTs and by the practices of volunteers themselves. There are variations in the interpretations of the role demonstrated by YOTs, voluntary organisations, volunteers, the police and the courts. However, this thesis has illustrated a degree of consistency amongst the interpretations of YOTs, voluntary organisations and volunteers and the philosophy to which it alludes. The question of which philosophies their interpretations reflect will be the focus of the next section.

3. Discussion

What Philosophies Underlie What the Appropriate Adult is Supposed to Do?

The introductory chapter demonstrated that the role in the Codes was poorly defined. The most likely reason for the ambiguous technical requirements of the role was the lack of an explicit theoretical underpinning. An examination of statute, legislative guidance and a working party report found elements of due process, welfare, crime control and crime prevention present within the role of the appropriate adult. As discussed in the literature review, the role has been interpreted differently by judges, whose interpretations have alluded to the model of due process, but also to those of crime control and welfare. There is also some variation among academics and practitioners, whose writings have highlighted due process and welfare concerns.

What Philosophies Underlie the Practices of Parents and Social Workers Acting as Appropriate Adults?

Given the lack of specificity about what an appropriate adult is supposed to do, it is not surprising that the practices of parents and social workers acting as appropriate adults might vary. The research literature has demonstrated that, where parents contribute, their contributions have been consistent with the crime control model. It has also demonstrated that some contributions of social

workers could be control orientated, although there is other evidence to suggest that they act according to a welfare ideology. Despite this, juveniles are likely to consider social worker appropriate adults to be instruments of control or punishment. There is some evidence which suggests that the police hold the same view. However, there is other evidence which indicates that the police also consider the appropriate adult's role is concerned with due process and welfare.

What Philosophies Underlie the Practices of Practices of Volunteer Appropriate Adults?

Due process role

As demonstrated in Chapter 6, key volunteer contributions in interview were preventing unfair questioning, checking comprehension of processes and comforting the suspect. These contributions adhere to both due process and welfare perspectives. Moreover, where the Codes, or protocol, were clear in their requirements, most volunteers performed the role at other key stages of the young person's detention in line with them. For example, with very few exceptions, they exercised the right to legal advice on behalf of the juvenile. As explained in Chapter 5, it was also the case in the national survey that most volunteer appropriate adult services required their volunteers to exercise this right. In the case study, volunteers did not attend the solicitor's initial interview with the young person and they made representations to the custody officer concerning reducing the length of detention. In this sense, the volunteers' actions and omissions conformed with the due process model. The main exception was volunteers' disregard for the requirement of appropriate consent.

Some of the ways in which volunteers judged their performances in the case study were also consistent with a due process model, relating to adherence with police procedures (Questionnaire 136) and reading the custody record (Questionnaire 77). However, these same volunteers also judged their performance on the welfare orientated criterion of level of rapport with the young person. One volunteer said that he or she: "Gave a lot of time to [young person] - talked about a lot of important stuff. All police procedures adhered to." (Questionnaire 136). Another volunteer who

considered that his or her performance had been 'very poor' explained: "Because I felt rushed I didn't read custody record or speak sufficiently with [young person]" (Questionnaire 77).

Welfare role

In addition to the above, there were examples of volunteers judging themselves exclusively on the welfare oriented criterion. In two cases, the volunteer mentioned the level of rapport that they had obtained with the young person (Questionnaire 46; Questionnaire 102). A number of other volunteer actions could also be defined as welfare oriented, such as comforting the young person at interviews. Volunteers were also concerned about diverting from the correct appropriate consent procedure to secure an earlier release from custody, offering advice on advocacy and benefits, counselling, protecting the child's physical and emotional welfare, trying to find local authority secure overnight accommodation instead of police custody, trying to divert the young person from the criminal justice system by securing the report for process disposal and, if successful, arranging transport home for the young person. In this sense, the role was welfare orientated. Even requests for support were likely to concern welfare. For example, they tended to relate to transport to take the young person home or the young person's living situation rather than police procedures. One volunteer wanted advice on: "How to tell [young person] about warrant [to keep him in custody for another offence]" (Questionnaire 41). He or she was clearly concerned about the young person's emotional welfare. Finally, in accordance with a welfare role, during volunteer supervision sessions with the co-ordinator, concerns which the volunteer had about the young person were recorded on the young person's confidential record maintained by YES. The national survey of YOT managers found that training programmes for volunteer appropriate adults have included the welfare-orientated issues of child protection, accommodation options, drug use awareness and mental health.

Crime prevention role

The volunteers' role also touched on crime prevention. The training session, *All about YES (16th February 1998)*, considered why young people offend. Regarding the referral process, volunteers were given a set of standardised questions to ask the police when contacted, as recommended by the Revolving Doors Agency (1996). However, there was a feeling amongst volunteers that YJT and OHT could provide more information (in addition to the young person's name, age and alleged

offence(s), why an appropriate adult was needed and whether the suspect was known to the police), particularly if there had been recent events that affected the young person (*Appropriate Adult meeting minutes, 5th October 1999*). This implies that the volunteers were interested in attempting to understand the young person's (alleged) offending. More specifically, volunteers were encouraged to: "...find out from young people, what they think would help them or would've prevented their offending behaviour. This needs to be discussed sensitively and without presuming guilt." (*Appropriate Adult meeting minutes, 13th January 1999*), including informing the young person of and passing on literature on PDT, which could assist in desistence. Consequently, desistence was also the topic of some requests for support. For example, one volunteer questioned: "How do I support 11 year old who is bored and wants something to do to prevent him offending - call back in 30 minutes -gave information on what can be done." (Questionnaire 142).

Hence, many volunteers' actions conformed with the welfare and crime prevention values. The interpretation of the appropriate adult's role as being a welfare orientated role would, in the past, have been compounded by a police attitude that the role is welfare orientated. Nemitz and Bean (1998:254) had found that volunteer appropriate adults, from the Southampton service, found that the police expected them to offer a "general welfare role". However, the case study demonstrated that the police, and parents, sometimes assumed the role was a quite different one.

Controlling role

In the case study, the police, and parents, sometimes assumed the volunteer appropriate adult's role was one which included control. For example, in call out observation 19, the reception staff, detention officers and police asked the author to control the young person. This interpretation could be compounded in volunteer training designed and delivered by the police and by the monitoring of volunteers by the police. Also, one mother assumed that the volunteer was a social worker and wanted the appropriate adult to control her son (Questionnaire 75).

Additionally, young people in the case study were concerned that volunteers were independent from social workers (Questionnaires 25 and 119). Indeed, in the Southampton study, volunteers

considered that it was particularly important that suspects perceived them as volunteers, as opposed to paid professionals (Nemitz and Bean, 1998).

Preference for a welfare role

The discussion above illustrates that the volunteer appropriate adult's role has included elements of due process, welfare, crime prevention and control. Broadly speaking, where provisions were clear, such as the right to request legal advice on behalf of the juvenile (Code C para 3.19), volunteers, in the case study, tended to exercise their rights to the letter. Where requirements were ambiguous, such as observing that interviews were conducted fairly (Code C para 11.17) and the nature of representations they were expected to make to the reviewing officer (Code C para 15.3), volunteers were forced to impose their own interpretations, which were in line with due process and welfare interests.

Volunteers also engaged in activities beyond those listed in the Codes and these took a marked turn towards welfare, and sometimes crime prevention in line with the CDA s. 37. This is a development in the social construction of the role. Much of this was undoubtedly the result of the voluntary organisation's interpretation of what an appropriate adult should be doing. For example, offering advice on advocacy and benefits, counselling, protecting the child's physical welfare, trying to divert the young person from the criminal justice system by over-looking the 'appropriate consent' requirements, by securing local authority secure overnight accommodation instead of police custody and the report for process disposal and, if successful, by arranging transport home for the young person and trying to prevent re-offending were all upon the instructions of the voluntary organisation. Indeed, the service level agreement indicated that the expectations of voluntary organisation and the YJT were welfare-orientated.

The voluntary organisation may have felt comfortable in directing its volunteers towards a welfare role, because it expected the legal adviser to ensure due process and, consequently, insisted on the presence of a legal adviser. Volunteers embraced the welfare philosophy in, for example, attempting to establish a rapport with the young people. Again, volunteers may have felt useful in

this welfare role, given, after all, volunteers have to carve out a role for themselves between suspect, police and legal adviser.

Welfare for due process and crime control?

It was established early on in this thesis that the role of the appropriate adult does not currently fit neatly into a single welfare or due process model. Some responsibilities, which at first sight sound like due process responsibilities, involve attending to the young suspect's welfare needs. For example, ensuring the interview is conducted fairly would surely involve ensuring that the young suspect is not subject to undue distress so he or she can understand the questions and processes being presented. This point was illustrated by the case study data. For example, in call out observation 13, the young suspect, who was very angry and upset in the interview because of persistent questioning by the police in response to his 'no comment' answers, was too distressed to understand the questions being presented until he was comforted.

Whilst the objective of the welfare strategy is to respond to individual needs, the objective of the justice strategy is to respect individual rights (Muncie, 1999a). However, in some ways, the argument is circular; to respect an individual's rights, his or her needs must be addressed. Just as Muncie (1999a) argued that welfare and justice are never present in pure forms, Sebba (1992:237) argued that: "the choice is not necessarily a dichotomous one, between a welfare or a justice strategy; there may rather be a *continuum* extending from extreme welfarism to extreme legalism." She maintained that the terminology is unsatisfactory given that supporters of welfare do not consider the approach to be devoid of justice, and welfarism today generally operates within a statutory framework and is, therefore, not lacking in legalism (Sebba, 1992).

However, it could be that due process, and welfare, are for crime control. McBarnet's (1981) argument could be extended to welfare. In other words, the law may attempt to provide for the welfare needs for the suspect, but the police are able to subvert the measure in the interests of crime control. This argument could be applied to explain some of the findings in the current research.

Firstly, in intending to look after the young suspect's welfare by comforting him in call out observation 13 above, meant that the interview could continue. However, following the young person's outburst, he was probably still residually upset and, therefore, more at risk of the police's crime control tactics. It may be better to arrange for the postponement of interviews in such circumstances, but this would not be 'facilitating communication'. Secondly, in the case study, volunteers were permitted to consent to identification procedures (which should require 'appropriate consent') taking place before charge, where it was the police's intention to subsequently charge the young person, to reduce the time spent by the young person at the police station. Therefore, the author consented to identification procedures in these circumstances (Call out observation 14). The diversion from the correct procedure was considered by the voluntary organisation to be in the welfare interests of the young person, to secure an earlier release from custody. However, it is conceivable that the police could inform the volunteer that they intended to charge the young person in order to complete the identification procedure, regardless of whether they actually did intend to charge the young person or not, to extend detention for crime control (see McBarnet, 1981) or social disciplinary (see Choongh, 1997) purposes. More generally, an over-riding concern to divert young people out of the police station could blinker volunteers in terms of missing challenges to due process, and could even result in volunteers exerting pressure on young suspects to confess (see Kay and Quao, 1987).

In sum, the appropriate adult's role, according to volunteer practice, has taken on a welfare, and a crime prevention, oriented nature, whilst not abandoning due process duties. However, some police officers and parents considered that the role involved control. Moreover, due process and welfare could be for crime control. In line with an adaptive approach, this represents a further perspective capable of explanation of appropriate adult practice. In the same vein, in the light of Evans and Puech's (2001) findings in relation to the reprimand and final warning scheme reviewed at the beginning of this thesis, restorative justice could be for crime control. Hence, this thesis has demonstrated that, whilst volunteers wish to include elements of due process, welfare and crime prevention in their role, they have to operate within the constraints of crime control and managerialism. Depending on whether the appropriate adult adheres to a due process, welfare,

crime prevention or crime control role or whether due process or welfare is thwarted towards crime control can alter the young suspect's experience of police questioning and detention.

4. Implications for Policy and Practice

Given that the appropriate adult's role can be subject to such disparate interpretations, the following section will explore some suggestions that might help to clarify the role of the appropriate adult and who should fill it.

Clarifying the Role of the Appropriate Adult

It was a decade ago when the *Review Group* recommended a clearer statement of the role of the appropriate adult (Home Office, 1995b). There are at least two possible reasons for now proposing that the role of the appropriate adult should be revisited. Firstly, it is important for the sake of equity that the functions of the role are clear. As explained above, an appropriate adult could potentially have an impact on the young person's experience of detention and questioning and even the outcome of the case itself. Given the range of interpretations of the role, young suspects might be treated differently in different locations and by different appropriate adults. A second possible reason is that it is widely accepted that punishment should not be the purpose of the pre-trial process as the current system is based on the presumption of innocence.

Arguably the only way of resolving the ambiguity in the role at a practical level is to determine a clear underpinning on a theoretical level. One possibility would be to restrict the appropriate adult's role to attending to the young suspect's welfare needs and to allow the legal adviser to ensure due process and the presumption of innocence are respected. Indeed, it has been argued that the first duty laid on appropriate adults during interviews of advising the suspect and observing whether or not the interview is being conducted properly and fairly would be better served by a legal adviser than an appropriate adult (Robertson *et al.*, 1996). Moreover, Haley and Swift (1988) argued that a solicitor is better equipped to make representations to a review officer regarding continued detention. White (2002) recommended adopting the Scottish guidelines where 'advice giving' function is limited and the 'facilitating communication' function emphasised. Robertson *et*

al. (1996) and Pearse and Gudjonsson (1997) argued, in relation to mentally vulnerable suspects, that the purpose of any third party called on behalf of the detainee should be to provide social and psychological support. Of course, conflicts could still arise between the appropriate adult and legal adviser or between welfare and due process concerns, but reference to the tenet of the presumption of innocence should be able to resolve them.

However, the claim that some of the current duties of the appropriate adult would be better served by a legal adviser assumes that suspects are represented by legal advisers and that legal advisers perform their jobs effectively. This has not always been the case in relation to young suspects (Brown *et al.*, 1992; Evans; 1993). Whilst most of the latest evidence suggests that the quality of advice has significantly improved in recent years (Bridges and Choongh, 1998; Cape, 2002; Cape and Hickman, 2002), concerns remain over the under-representation of young suspects by legal advisers. Therefore, some writers have demanded the mandatory presence of a legal adviser for young suspects (Sanders and Bridges, 1990; Heaton-Armstrong and Wolchover, 1992; Home Office, 1995b). In the meantime, both the case study and national survey of YOT managers indicate that the use of volunteers as appropriate adults substantially increases the proportion of young suspects who are represented by legal advisers.

Improving Awareness of the Role of the Appropriate Adult

The fulfilment of the appropriate adult's responsibilities and execution of the appropriate adult's rights are currently dependent on information provided by and the co-operation of the police. For example, the police may not contact the appropriate adult as soon as is practicable after the young suspect has arrived in custody or they may not instruct the appropriate adult on his or her role or allow him or her to exercise his or her right to legal advice or to attend representations with the custody officer, all of the police are required to do under the Codes. This instruction and co-operation may not be forthcoming as demonstrated in previous studies (Haley and Swift, 1988; Sanders *et al.*, 1989; Dixon, 1990; Brown *et al.*, 1992; Evans, 1993; Evans and Rawstorne, 1994; Littlechild, 1995b; Kearns, 1996), but to a lesser extent in the current study. It is important that the responsibilities and rights are clearly defined, but also that appropriate adults are adequately instructed on them and that the police co-operate to allow them to execute them.

Setting aside the possible implications of the HRA discussed at the beginning of this thesis (Ashworth, 1998; Colvin, 1999; Parsons, 2001; Brookman and Pierpoint, 2002; 2003; Cape, 2002; Pierpoint, forthcoming), the limited remedies available to the suspect when the Codes have been breached has a limited deterrent effect on the police (Sanders and Young, 2000). One possible argument is that the Codes provisions should be protected in the normal way by providing suspects with remedies if the provisions are breached, which would involve changing the legal status of the Codes.

The provision of remedies may have a deterrent effect to a certain extent, but the police station will continue to be an 'inner sanctuary' (Holdaway, 1983), where the Codes could be breached behind closed doors. Hence, appropriate adults may need their instruction on the role of the appropriate adult to come from elsewhere. After a decade of demands for professional appropriate adults to be adequately trained (Gudjonsson *et al.*, 1993; Home Office, 1995b; Evans and Rawstorne, 1997; Hodgson, 1997), the *National Standards* now require that professional appropriate adults are trained and supported in this role (YJB, 2000, para 2.1). However, the guidance does not specify the substantive and skill competencies required in order to execute the appropriate adult role correctly and the associated levels of competence demanded before social workers and volunteers are allowed to act in the role, as it should (Evans and Rawstorne, 1997; Hodgson, 1997; Pierpoint, 2000b).

Obviously it is not possible to train parents as appropriate adults in the same way as it is to train social workers and volunteers. In addition to the appropriate adult guidance suggested by the *Review Group* (Home Office, 1995a), Drakeford (1994) and Zander (1995) suggested a form of notice should also be handed to the appropriate adult, to specify concretely the role and associated rights, and the BASW has argued that the appropriate adult should be required to sign such a leaflet to confirm that he or she has understood its contents and shared the contents with the suspect for

whom they are acting (Littlechild, 1993). Littlechild (1995a) added that the custody officer should also be required to sign to confirm the explanation, offered in the leaflet, had been given.[44]

Rethinking Who Can Act as an Appropriate Adult

This thesis has also established that the lack of clarity over whether Code C para 1.7(a) (and CDA s. 65(7)) constitutes (a) a 'knock down' list prioritising the parent (Littlechild, 1998) or (b) a list with no order of priority (Haley and Swift, 1988). In fact, the *National Standards* now require that parents or primary carers must be encouraged to be present unless there are special circumstances that make this inappropriate (YJB, 2000, para 2.2).[45] However, YJB (2000, para 2.6) adds that: "The police must contact the local appropriate adult service immediately when it is not possible to contact the young person's parents or primary carer, social worker, or other adult family member and an appropriate adult is therefore required." Therefore, according to this latest guidance, it seems that Code C para 1.7(a) (and CDA s. 65(7)) constitutes a 'knock down' list prioritising the parent, unless the parent is not contactable immediately.

Limiting the role of parents as appropriate adults

Despite the benefits of parents acting as appropriate adults (Walinets, 1985; Dixon, 1990; Williams, 2000a), there could remain problems with parents' involvement in the role of the appropriate adult even if the precise nature of the appropriate adult's role was clarified. It could be argued that if parents were properly informed of the requirements of the role (see Littlechild, 1993; 1995a; Drakeford 1994; Home Office, 1995b; Zander, 1995; Pierpoint, 1999), it cannot be presumed that they would understand the information that they had been given nor that they will

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[44] However, it is submitted that a written notice may be less useful in some cases than an oral one. Some parents will be unable to read or unable to take its contents in, given their state of mind on hearing that their child is in custody. Moreover, there is no reason to think that the police would be more likely to serve a written notice than an oral one, unless there was a procedure for signing for receipt of the notice. The advantage of a written notice is that the adult could refer to it during the interview (Pierpoint, 1999).

[45] As explained in Chapter 2, a parent is excluded from being an appropriate adult if he or she is suspected of involvement in the offence in question, were the victim or witness, or were involved in the investigation or had received admissions (Code C Note for Guidance 1C; Code D Note for Guidance 1A) or if the parent is estranged from the young suspect and the young suspect objects to his or her presence (Code C Note for Guidance 1C; Code D Note for Guidance 1A; DPP v Blake [1989] 1 WLR 432). Moreover, Code C provides that if he the young person is 'in care' (used in the Code to cover cases in which a juvenile is looked after by a local authority), then the appropriate adult means the care authority (para 1.7(a)(i)).

act upon it (Pierpoint, 1999; 2000b), owing to either the parent's emotional involvement or the effects of police culture.

Littlechild (1998:9) suggested that, in relation to relatives exhorting suspects to confess the crime or abusing them physically: "the PACE Code should be revised so that the scheme acknowledges that at times an independent appropriate adult should be brought in where such inappropriate behaviour is disadvantaging the suspect." Alternatively, if a parent is to be present, perhaps it should not be as an appropriate adult. Current provisions could be amended to allow a parent to be present during the process, as well as an independent, properly trained practitioner, whether that person is a volunteer or social worker (Littlechild, 1995a; 1996; Pierpoint, 1999; 2000a; 2000b; forthcoming). This would allow for the qualified appropriate adult to offer the young person advice, which could be welfare-orientated. Additionally, this arrangement would allow the parent to offer the young person moral support, and, at the same time, would respect the parent's perceived right to be with their child (Dixon, 1990).

Social workers and volunteers as 'approved' appropriate adults

This thesis has demonstrated that volunteers are capable of attending to the welfare needs of young suspects. Assuming that social workers are able to operate according to a welfare ideology (Evans and Rawstorne, 1994; Municie, 1999a), they should also be well placed to fulfil a welfare-oriented appropriate adult role. However, volunteers' and social workers' fulfilment of the role should be subject to a number of provisions. As discussed above, they should be trained to a specified level. However the YOT may not provide the staffing for all appropriate adult duties, and EDTs, for example, might still be used out of office hours. EDT workers may not be required to perform the role frequently enough to develop significant expertise (Sandell, 1992).

Blackwell (1990) recommended the introduction of "approved appropriate adults", in the same way as approved social workers operate within the Mental Health Act 1983 (henceforth MHA). 'Approved' appropriate adults would receive specialist training and, importantly, build up experience and confidence in acting in the role. This would, hopefully, increase the extent of their

contributions. Moreover, it would be unlikely that 'approved' social workers would have to work alongside the police in other areas which may have hindered intervention in the past (Sandell, 1992; Nemitz and Bean, 1994; Thomas, 1995; Pierpoint, 2000a; 2000b; 2001; Brookman and Pierpoint, 2002; 2003), or would have prior knowledge of the suspect, which may have hindered impartiality in the past (Kearns, 1996). Finally, Evans and Rawstorne (1994) argued that, if appropriate adults were similarly empowered by statute, like approved social workers under the MHA, this would get around any possible conflicts of interests, highlighted in the literature review, relating to legal privilege between their status as appropriate adults and that as employees. Presumably, they meant that, whilst during the course of general social work it is expected that any relevant information imparted to the social worker from the suspect would be passed to the police, legal privilege could be conferred by statute on information released specifically to appropriate adults.

In the case study, the co-ordinator agreed with YJT and OHT that the service would not provide volunteer appropriate adults for persons suspected of committing very serious offences, that is murder, attempted murder and manslaughter and, hence, such cases should not be passed on to volunteers. For other serious offences, individual volunteers had to decide whether or not they would attend the call out and confirm their decisions and reasons with the co-ordinator (*Appropriate Adult meeting minutes, 5th October 1999*). This decision was probably influenced by the *Leach case* in which a volunteer appropriate adult Ms Leach mentioned in Chapter 2, claimed to suffer post-traumatic stress disorder as a result of sitting in interviews for Frederick West (Leach v Chief Constable of Gloucestershire Constabulary [1999] 1 All ER 215; 46 BMLR 77, [1999] 1 WLR 1421). The Court of Appeal allowed the plaintiff's claim to proceed to trial on the issue of the police force's failure to provide counselling services, but the author has been unable to determine whether or not the claim went to trial or has been successful at trial from searching newspaper and case citators. Nevertheless, the case may ultimately place responsibility on the police to provide counselling.

The decision not to provide volunteers for the most serious cases, where suspects face the greatest possible threat to their liberty, assumes that social workers can provide a better service as appropriate adults than volunteers and/or that social workers are better equipped than volunteers to cope with the stress of providing an appropriate adult service in a serious case. The reality is that these assumptions are false and that social worker appropriate adults have a number of weaknesses (Kay and Quao, 1987; Haley and Swift, 1988; Evans, 1993; Nemitz and Bean, 1994; Thomas, 1995; Kearns, 1996; Brown, 1997; Evans and Rawstorne, 1997; Hodgson, 1997; Pierpoint, 1999, 2000a; 2000b; 2001; forthcoming; White, 2002; Brookman and Pierpoint, 2002; 2003). The level of training and support provided to, and extent of experience gained by, accredited volunteers and approved social workers should determine which group would be best placed to act in serious cases. If their training, support and experience were adequate, then either group could act. However, in the current managerial climate, the most convincing argument in favour of volunteers for policy-makers is their financial benefit (Audit Commission, 1996).

5. Conclusion

This thesis has, for the first time, drawn together interpretations of the role of the appropriate adult according to statute, the Codes of Practice, policy documents, case law and academic and practitioner literature in one place. It has reported on the first empirical study of a volunteer appropriate adult service exclusively for young suspects and the first attempt to determine the extent and nature of volunteer appropriate adult provision nationally.

The thesis has demonstrated that the role of the appropriate adult has been constructed largely by what the legislator, courts and academic and practitioner writers think the appropriate adult is supposed to do. Their interpretations have alluded to due process, welfare, crime control and crime prevention perspectives. However, the role has also been constructed by the appropriate adults themselves. Parents rarely contribute in interviews and, when they do, their contributions tend to be consistent with the crime control model. Social workers may act according to a welfare or control ideology. The contributions of volunteers include elements of due process, welfare and

crime prevention. In fact, they have extended the role beyond its original remit designated by the Codes to encompass a number of welfare duties.

Depending on whether the appropriate adult adheres to a due process, welfare, crime prevention or crime control role, or whether due process or welfare intentions ultimately result in crime control, can alter the young suspect's experience of police questioning and detention. One possible way of bringing a greater degree of consistency to the role would be to limit the appropriate adult's role to welfare duties and rely on a mandatory legal adviser to protect due process. Assuming social workers and volunteers were adequately trained and supported, they would be well placed to fulfil a welfare role.

Given that in recent years the Codes have been revised on an annual basis (Home Office, 2002a; 2003a; 2004) and the Home Office/Cabinet Office has recommended the establishment of a national policy for appropriate adults and the development and implementation of full national guidance (Home Office/Cabinet Office, 2002), there are plenty of opportunities on the horizon for the nature of the appropriate adult's role to be clarified.

APPENDICES

The data collection instruments employed in the study are replicated on the following pages:

- Call out Observation Recording Form
- Self-Administered Questionnaire for Volunteer Call Outs
- Postal Questionnaire for Youth Offending Team Managers

Call Out Observation Recording Form

- Date
- Gender of young person
- Age of young person
- Number of hours for which the young person has been detained
- Living situation of young person
- Have police contacted the young person's parents?
- Reason for police request for an appropriate adult
- Have Social Services contacted the young person's parents?
- Reason for Social Services request for an appropriate adult
- Is the young person subject to a family court order, criminal court order or bail/remand?
- Alleged offence by young person
- Police station
- Date and time of young person's arrest
- Date and time of young person's arrival at police station
- Has a solicitor been provided for the young person?
- Date and time of the appropriate adult's arrival at police station
- Date and time of the appropriate adult's departure from police station
- Did the appropriate adult witness rights?
- Did the appropriate adult consult custody record?
- Time of 1st detention review
- Time of 2nd detention review
- Did the young person see a doctor?

- Interview start time
- Interview finish time
- Number and roles of police officers involved (e.g. custody officer, interviewing officer)
- Interview notes
- Outcome
- To which identification procedure was the young person subjected?
- If released, how did the young person return to where he or she lives?
- Other notes

Self-Administered Questionnaire for Volunteer Appropriate Adult Call Outs

Self-completion questionnaire for volunteer appropriate adults

Questionnaire no. ☐☐☐☐

INSTRUCTIONS

- Please complete one questionnaire for each individual young person for whom you act as an appropriate adult. You can complete the questionnaire at the end of the call-out (whilst you are still at the police station) or during any waits you may have at the police station.

- Please answer questions by placing a cross (x) in the box next to the correct answer, unless indicated otherwise. Questions asking for times should be answered using the 24 hour clock, *e.g. 4.00 pm = 16.00.*

- Please answer the open-ended questions ***as fully as possible***. Your answers will be treated ***anonymously and confidentially***. The questionnaire number will only be used to assist in the analysis of results; it cannot be linked to you in any way.

- Depending on your answers, you may not be required to answer all questions. You may need to ***'skip'*** some questions. If your answer means that you need to 'skip' questions, the next question that you need to answer will be indicated after an arrow (→).

E.g.

Q14 Were you present when the legal representative saw the young person to discuss the case?

Yes ☐→Q16 No ☐

This means that if you answer 'Yes' you should proceed to question 16 (Q16). If you answer 'No' you should proceed as normal to the next question which will be question 15 (Q15).

- Please place the completed questionnaire with the other paperwork in the envelope provided and return to Helen Yeo. She will forward the questionnaires to me directly, without looking at your responses. Your answers will be treated ***anonymously and confidentially***.

- Please note that questions are printed on both sides of the paper.

Your co-operation is greatly appreciated. Thank you for spending the time to assist us in this matter.

Q1 Date of completion of questionnaire ☐☐.☐☐.☐☐

Q2 For whom were you an appropriate adult?

Young suspect (appears to be under age of 17) ☐ Young witness ☐→Q26

Young voluntary attender ☐ Young victim ☐→Q26

Other, please specify.....

Q3 What is the young person's living situation?

Living with parents ☐

Local authority care (Residential home/Foster parents) ☐

Other, please specify.....

Q4 On what date and at what time was the young person arrested/asked to attend?

Date ☐☐.☐☐.☐☐ *e.g. 08.06.99* Time ☐☐.☐☐ *e.g. 16.00*

Q5 What offence(s) was he or she suspected of committing?

Q6 How were you requested to act as an appropriate adult for this young person?

Paged ☐

Pre-booking (via YES) ☐→Q8

Police asked me while I was at the police station acting for another young person ☐→Q8

Other, please specify.....

Q7 What time were you paged? ☐☐.☐☐ *e.g. 16.00*

Q8 Were you requested to act more than 2 hours after the young person was arrested/asked to attend?

Yes ☐ No ☐→Q12

Q9 Did you ascertain why it had taken this long? Yes ☐ No ☐→Q12

Q10 From whom or what did you ascertain why it had taken this long?

Q11 What reasons did they or it give?

Q12 Were you asked to attend at a certain time or as soon as possible?

Certain time ☐☐.☐☐ *e.g. 16.00* As soon as possible ☐

Q13 At what time did you arrive at the police station? ☐☐.☐☐ *e.g. 16.00*

Q14 At what time did you leave the police station? ☐☐.☐☐ *e.g. 16.00*

Q15 Did the young person have a legal representative? Yes ☐→Q17 No ☐

Q16 If not, why not?

→Q18

Q17 Were you present when the legal representative saw the young person to discuss the case?

Yes ☐ No ☐

Q18 Was the young person interviewed? Yes ☐ No ☐→Q22

Q19 At what times did the interview(s) start and finish?

	Start	Finish
1st interview	☐☐.☐☐	☐☐.☐☐
2nd interview	☐☐.☐☐	☐☐.☐☐
3rd interview	☐☐.☐☐	☐☐.☐☐

Q20 Did you say anything during the interview other than introduce yourself?

Yes ☐ No ☐→Q22

Q21 What did you **say**? Please **describe the circumstances** surrounding what you said. *(Please answer as fully as possible).*

Q22 What was the outcome for the young person at the police station? In cases where the young person was reported, charged, warned or cautioned, please indicate the relevant offence(s).

		Offence(s)
NFA	☐→Q24	
Report for Process	☐→Q24	.....
Charged and bailed to court	☐	.....
Charged and transferred to court that day	☐→Q24	.....
Charged overnight for court		
– secure local authority accommodation	☐→Q24	.....
– remanded in police custody	☐→Q24	.....
Held for further interview	☐→Q24	
Warning	☐→Q24	.....
Instant caution	☐→Q24	.....
Police Bail – Unconditional	☐→Q24	
Police Bail – Conditional	☐	

Other, please specify.....

Q23 What were the bail conditions?

Q24 Did you make representations regarding the above outcome to the custody sergeant?

Yes ☐ No ☐→Q26

Q25 What did you **say**? Please **describe the circumstances** surrounding what you said. *(Please answer as fully as possible.)*

Q26 How did the young person return to where he or she lives?

Not released *(i.e. young person transferred to court, remanded or held for further interview)*	☐
Youth Justice Team/Out of hours	☐
Taxi provided by YES	☐
Parent	☐
Transport from Children's Home	☐
Bus, fare taken from YES safe	£☐☐.☐☐

Other, please specify.....

Q27 Did you seek advice or support from anyone during the call out?

Yes ☐ No ☐→Q30

Q28 Who did you contact for advice or support?

Q29 What advice or support did you **ask for** and how did they **respond**? *(Please answer as fully as possible.)*

Q30 If any of the following people made **a comment (negative or positive) about the YES appropriate adult service**, please try to repeat it as accurately and as fully as possible below.

Young person

Legal representative

Police officer(s), please specify role(s).....

Detention officer(s) (civilian)

Parent(s)

Member(s) of Youth Justice Team

Other person(s), please specify.....

Q31 Please rate the performance, in terms of **professionalism and service,** of the following agencies in relation to this particular call out. If, however, you had no contact with an agency and are, therefore, unable to rate their performance, please indicate this below.

	No contact	Very poor	Poor	Average	Good	Very good
Legal representation	☐	☐	☐	☐	☐	☐
Police	☐	☐	☐	☐	☐	☐
Youth Justice Team	☐	☐	☐	☐	☐	☐
Out of Hours	☐	☐	☐	☐	☐	☐
YES	☐	☐	☐	☐	☐	☐

Q32 Do you have any **concerns** or **positive comments** regarding the service provided by any of these agencies for this call out? *(Please answer as fully as possible.)*

_____

_____

_____

_____

Q33 How would you **honestly** rate your performance in relation to this particular call out?

Very poor	Poor	Average	Good	Very good
☐	☐→Q35	☐→Q35	☐→Q35	☐

Q34 If you have rated your performance as either 'Very good' or 'Very poor', please can you explain why you think your performance was either 'Very good' or 'Very poor'. *(Please answer as fully as possible).*

_____

_____

Q35 Will you be claiming back expenses incurred on this visit to the police station?

Yes ☐ No ☐→You have finished the questionnaire.

Q36 How much will you be claiming **in total** for this **visit** to the police station?

£☐☐.☐☐ *e.g. £01.70*

Q37 Please indicate for how many young people you acted as an appropriate adult on this particular **visit** to the police station *(Remember to complete one questionnaire for each individual young person for whom you act as an appropriate adult.)*

☐☐

Thank you again for your assistance in this matter.

Postal Questionnaire for Youth Offending Team Managers

SECTION A: APPROPRIATE ADULT PROVSION

1. Please rank the persons deployed by the YOT as appropriate adults for young suspects (where parents/guardians are unable to attend), in order of frequency of use (1 being the most frequently deployed and 6 the least frequently deployed). Please insert 7 against persons who are never used.

A	Volunteers			
B	YOT members (excluding police officers)			
C	Sessional Workers			
D	Care/Children's Home workers			
E	Employees of private sector body			
F	Other persons (please specify)			

You need only answer the questions in section B if you have indicated that the YOT uses volunteers as appropriate adults (no matter how infrequently). If the YOT never uses volunteers as appropriate adults please now return the questionnaire as instructed on the front page.

SECTION B: CO-ORDINATION OF VOLUNTEER APPROPRIATE ADULT SERVICES

General Information

2 What date did the local authority start to use volunteers as appropriate adults? (Please use dd.mm.yyyy format) _____

3 How many volunteers does the local authority currently deploy as appropriate adults? _____

4 Between what times are volunteer appropriate adults on duty? (Please use 24 hour clock in hh:mm format)

A From _____ B Until _____

5 Do volunteers receive reimbursement for expenses incurred from acting as appropriate adults (e.g. travel expenses)?

O Yes O No

6

1 Are volunteers ever paid to act as appropriate adults?

O Yes O No

If 'Yes', please indicate for what periods they are paid. (Check all that apply)

1 ☐ Out of office hours

2 ☐ Weekends

3 ☐ Public holidays

4 ☐ Other periods (please specify) _____

7 For each of the following tasks concerning the co-ordination of volunteer appropriate adult provision, please state which organisation(s) is mainly responsible (e.g. YOT, voluntary organisation).

A	Recruitment and selection of volunteer appropriate adults		
B	Volunteer appropriate adult training design		
C	Volunteer appropriate adult training delivery		
D	Co-ordination and management of volunteer appropriate adults		
E	Volunteer appropriate adult performance monitoring		

Recruitment and selection of volunteer appropriate adults

8

A To what checks are volunteers subjected before they are permitted to act as appropriate adults? (Check all that apply)

1 ☐ No checks/references required

2 ☐ Employer's/personal references

3 ☐ Police checks

4 ☐ Checks of DoH's Consultancy Service Index

5 ☐ Other checks/references (please specify)

B _____

9

A Are volunteers required to complete any training prior to being permitted to act as appropriate adults?

O No
O Yes, please specify number of hours B _____

10

Are volunteer appropriate adults required to participate in on-going training?

O Yes O No

If you have answered 'No' to both questions 9 and 10, please skip to question 15

11

A Please indicate the means by which the training is delivered. (Check all that apply)

1 ☐ Trainee shadows 'trained' appropriate adult
2 ☐ Presentations/lectures
3 ☐ Reading material
4 ☐ Role play
5 ☐ Other means (please specify) B _____

12

A Please indicate which substantive issues are covered in training. (Check all that apply)

1 ☐ None
2 ☐ PACE Codes of Practice
3 ☐ Criminal law
4 ☐ Accommodation options
5 ☐ Custody centre
6 ☐ Case law concerning appropriate adult
7 ☐ Child protection
8 ☐ Links to support for volunteer
9 ☐ Other substantive issue (please specify) B _____

13

A Please indicate which skills are covered in training. (Check all that apply)

1	☐	None	2	☐	Communication skills
3	☐	Teamwork	4	☐	Record keeping
5	☐	Showing initiative	6	☐	Assertiveness
7	☐	Other skill (please specify)	B		_____

14

A Does this training lead to a qualification?

O No O Yes

B If 'Yes', please state:

1 Qualification

2 Awarding institution _____

_____

Monitoring of volunteer appropriate adults

15

A How often is the performance of volunteer appropriate adults monitored?

1	O	Never if never, please skip to question 17		O	Once a month
3	O	Per call-out		O	Once a year
5	O	Once a week		O	Varies
9	O	Other (please specify)	B		_____

16

A How is the performance of volunteer appropriate adults monitored?(Check all that apply)

1	☐	The performance of volunteers is not monitored
2	☐	Written feedback from volunteers
3	☐	Oral feedback from volunteers
4	☐	Observation of volunteers
5	☐	Feedback from the police
6	☐	Feedback from young people
7	☐	Other (please specify) _____

Interview arrangements

14
A Is the presence of a legal adviser insisted upon for the police interview?

O Yes O No

18
A Does the YOT/voluntary agency require the volunteer to escort the young person to where he or she is living if he or she is released from police custody?

O Yes, volunteers are required to escort young people home

O No, volunteers are prohibited from escorting young people home

O It's up to the volunteer

O Other (please specify) B _____

19
A Please indicate the persons from whom a volunteer can seek support whilst acting as an appropriate adult. (Check all that apply)

1 ☐ No support offered
2 ☐ YOT
3 ☐ Out of Hours Team
4 ☐ Voluntary Organisation
5 ☐ Family/Child Protection Team
6 ☐ Others (please specify) B _____

20
The next stage of this research might involve studying volunteer appropriate adult services in more depth, based around a small number of representative services. Would the YOT be interested in participating in this second stage?

O Yes O No

Thank you for completing the questionnaire. Please return it as instructed on the front page.

LIST OF ABBREVIATIONS

ADHD	Attention Deficit Hyperactivity Disorder
BASW	British Association of Social Workers
BBC	British Broadcasting Corporation
BSC	British Society of Criminology
CA	Children Act 1989
CDA	Crime and Disorder Act 1998
Code C	Police and Criminal Evidence Act 1984 Code of Practice C
Code D	Police and Criminal Evidence Act 1984 Code of Practice D
Code E	Police and Criminal Evidence Act 1984 Code of Practice E
Code of Ethics	Code of Ethics for Researchers in the Field of Criminology
DipSW	Diploma in Social Work
ECHR	European Convention on Human Rights
EDT	Emergency Duty Team
GSCC	General Social Care Council
HORS	Home Office Research Study
HRA	Human Rights Act 1998
IQ	Intelligence Quota
MHA	Mental Health Act 1983
NAAN	National Appropriate Adult Network
National Standards	Youth Justice Board's National Standards for Youth Justice
NFA	No Further Action
OHT	Out of Hours Team
PACE	Police and Criminal Evidence Act 1984
para	Paragraph
PACE monitoring form	PACE monitoring form for appropriate adults and police interviews (SS654)
PDT	Personal Development Training

RCCJ	1993 Royal Commission on Criminal Justice
RCCP	1981 Royal Commission on Criminal Procedure
Review Group	Home Office Working Party Appropriate Adult Review Group
SPSS 10.0	Statistical Package for the Social Sciences 10.0
SPSS Data Entry	Statistical Package for the Social Sciences Data Entry Builder 2.0
SSD	Social Services Department
UNCRC	United Nations Convention on the Rights of the Child
YES	Plymouth Youth Enquiry Service
YJB	Youth Justice Board
YJT	Youth Justice Team
YOT	Youth Offending Team

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AUTHOR'S PUBLICATIONS

Students are required to have copies of published materials bound in with the thesis (University of Plymouth, 2002). The author's publications, which are relevant to this study, are included on the following pages:

- Pierpoint, H. (2005) 'Using the Internet for Criminology and Criminal Justice Research: Applications, Benefits and Pitfalls', *Crime Prevention and Community Safety: An International Journal*, 7(4), pp. 7-18.

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