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FACULTY OF LAW, ARTS AND SOCIAL SCIENCES

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THE DOMINATION OF MINIMUM INTERVENTION: JUVENILE JUSTICE PRACTICE IN ENGLAND AND WALES DURING THE 1980s

by

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ABSTRACT

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Minimum intervention supporters predominantly question the value of the criminal justice system. Therefore, within a policy climate which highlights the importance of providing criminal policy answers rather than simply raising questions, the minimum intervention philosophy is highly vulnerable. However, the dissertation demonstrates that the minimum intervention philosophy can be critical for the improvement of the criminal justice process. This hidden aspect of minimum intervention is revealed from the analysis of the 1980s juvenile justice, which is in fact the secondary focus of the present work.

The reduction in the use of custody for juvenile offenders during the 1980s constitutes an important statistical fact which was left unexamined. The dissertation attempts to undertake a deeper examination from the perspective of the 1980s juvenile justice practice. The study demonstrates the existence of important trends directly associated with the performance of the practice level. The present work argues further, that the minimum intervention philosophy was at the heart of this era of change. As a result, the historical examination of the 1980s juvenile justice practice shows that the minimum intervention philosophy is particularly relevant to the improvement of the criminal justice process.

In chapter one, the theoretical background and the methodology are briefly presented. Chapter two reviews the juvenile justice statistics from 1980 to 1990 and determines the existence of a transformation in the direction the 1980s juvenile justice. The relevance of this transformation with trends in the philosophy of the 1980s practice level is highlighted. Chapter three considers the academic influence as this constitutes a significant part of the history of the 1980s juvenile justice. Chapter four unearths the existence of significant developments in the quality and the content of practitioners' professional performance during the 1980s. Chapter five examines the contribution of the influential academic group as well as the contribution of the so-called 'national network' to these developments. Chapter six argues that the cycle of practice development was the critical process behind the emergence of a new practice working philosophy. Nevertheless the dependency of this process from the organisational control of the policy hierarchy is discussed in particular. Chapter seven argues about the emergence of minimum intervention at the practice level and demonstrates its critical connection to the developments in practice working philosophy. Chapter eight questions the view of academic leadership behind the domination of minimum interventions; and highlights the need to look at the higher level of the criminal policy logic/agenda/rhetoric, during the 1980s. Chapter nine demonstrates the substantial link between the top policy choice of minimum intervention and the acceleration of the practice development cycle.

CONTENTS

CHAPTER ONE

INTRODUCTION

a) The problem with the minimum intervention philosophy

The concept of minimum intervention is particularly sceptical of the value of the criminalization process. Therefore, minimum intervention supporters predominantly argue in favour of the socialization process as being the appropriate way to deal with troubling behaviour.[1] Nevertheless, a problem remains in that they seem rather unable to provide specific policy ideas regarding the improvement of the criminal justice process. Instead, they tend to merely point out the problematic aspects of the criminalization process and question the efficiency of the criminal justice process. One could argue that this attitude is consistent with the main idea of the minimum intervention concept; namely the denial of the value of the criminalization process. Nevertheless from a policy perspective this lack of ideas regarding the improvement of criminal justice process is a clear weakness in the minimum intervention agenda. Indeed, critics of the minimum intervention philosophy can highlight its inadequacy to contribute with practical ideas to this important part of the governance process. Therefore within a common sense policy climate, or within the policy climate of managerialism; namely, within a policy climate which highlights the importance of providing public policy answers rather than simply raising questions, minimum intervention is highly vulnerable to this sort of criticism. Is this accusation correct? Is it

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[1] For an account about the problems of the criminalization process and the value of the socialisation process see the account of Schur (1973) *'Radical Non-Intervention – Rethinking the Delinquency Problem'* and Rutherford, (1992) *'Growing Out of Crime-The New Era'*.
It must be noted that it is not in the intentions of the present work to provide any definition of the concept of minimum intervention. The particular research project explores the domination of the minimum intervention at the practice level during the 1980s and not an ahistorical definition of this concept. Certainly the present work will eventually provide an understanding of the philosophy of minimum intervention and of the value of this philosophy. Nevertheless it is important to bear in mind that:
firstly, this understanding is from the perspective of the practice level and this is an important particularity for the present research; and,
secondly, this understanding will be gradually unfolded as the discussion progress; and will be concluded in the final chapter ten.

correct to state that minimum intervention supporters, despite their good intentions, actually have nothing to offer regarding the operation of criminal justice?

The dissertation demonstrates that the minimum intervention philosophy is particularly relevant to the operational problems of criminal justice. It demonstrates that the philosophy of minimum intervention can be critical for the improvement of the criminal justice process. This hidden aspect of minimum intervention is revealed from the analysis of the 1980s juvenile justice. The analysis of the 1980s juvenile justice is in fact the secondary focus of the present work.

b) Juvenile Justice during the 1980s

The reduction in the use of custody for juvenile offenders during the 1980s constitutes an important statistical fact which was discussed in a relatively small number of papers and chapters of books, mainly published during the 1990s.[2] The authors provided a number of

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[2] **Allen, Rob (1991)**, *'Out of Jail: The Reduction in the Use of Penal Custody for Male Juveniles 1981-88'*, The Howard Journal of Criminal Justice, 30:30-52; **Ashworth, Andrew (1995)** *Sentencing and Criminal Justice*, second ed. (BUTTERWORTHS); **Ball, Caroline (1992)**, *'Young Offenders and the Youth Court'* The Criminal Law Review, pp.277-287; **Cavadino, Michael – Crow, Iain - Dignan James (1999)**, *Criminal Justice 2000-Strategies for a New Century*, (WATERSIDE PRESS); **Farrington, David (1999)** *'Predicting Persistent Young Offenders'*, in G.L.McDowell and J.S.Smith (eds.) *Juvenile Delinquency in the United States and the United Kingdom*, (MACMILLAN PRESS LTD-GREAT BRITAIN), **and (1992)** *'Trends in English Juvenile Delinquency and Their Explanation'* INTERNATIONAL JOURNAL OF COMPARATIVE AND APPLIED CRIMINAL JUSTICE. 16.2:151-63; **Gelsthorpe, Loraine - Morris, Allison (1994)**, *'Juvenile Justice 1945-1992'* in M. Maguire, R. Morgan and R. Reiner (eds.) *The Oxford Handbook of Criminology* (Clarendon Press – Oxford); **Godfrey, David (1996)** *'Lost in the Myths of Crime' The Howard Journal of Criminal Justice*, 35:287-298; **Harris, Robert (1991)** *'The Life and Death of the Care Order'*, British Journal of Social Work, 21:1-17; **Lyon, Kate (1991)**, *'Partnership in a Local Juvenile Justice System: The Case for Marginality'*, in *Beyond Law and Order-Criminal Justice Politics and Policy into the 1990s*, R.Reiner, M.Cross (eds.), (MACMILLAN ACADEMIC AND PROFESSIONAL); **Newburn, Tim (1997)** *'Youth Crime and Justice'* in M. Maguire, R. Morgan and R. Reiner (eds.), *The Oxford Handbook of Criminology* (Clarendon Press-Oxford) **and (1995)** *'Crime and Criminal Justice Policy'*, ch.6:127-145, (LONGMAN – SOCIAL POLICY IN BRITAIN SERIES) **and Haggel, Ann and Newburn, Tim (1994)** *Persistent Young Offenders* (POLICY STUDIES INSTITUTE – LONDON); **Pitts, John (1992)**, *'The End of an Era'* The Howard Journal of Criminal Justice, 31:133-149; **Rutherford, Andrew (1999)** *'The New Political Consensus on Youth Justice in Britain* , in G.L.McDowell and J.S.Smith (eds.) *Junenile Delinquency in the United States and the United Kingdom*, (MACMILLAN PRESS LTD-GREAT BRITAIN), **and (1992)** *Growing out Crime-The New Era*, (WATERSIDE PRESS) **and (1989)** *'The mood and temper of penal policy-Curious happenings in England during the 1980s'* Youth and Policy, 27:27-31; **Wade, Susan (1996)**, *The Development of the Juvenile Justice Service in Hampshire (1987 to 1991), the Effect on the Criminal Justice Process, and the Implications for Establishing Radical Practice in Statutory*

insights to the causes of the custodial reduction. The association of the practice level with this sentencing trend was one of the issues highlighted in some of those studies. Nevertheless none of those studies attempted a deeper examination of this period. This is why the present work will not provide a complete reflection upon these sources of literature published after the historical period under examination (1980s). The limited depth of those studies does not allow a complete comparison/discussion between the arguments/accounts of those studies and of the present work. However, in several parts of the present work specific accounts included in these 1990s writings are considered and discussed in relation to the findings and arguments of the present work.

The dissertation attempts to undertake this deeper examination by looking into the history of this interesting period. A number of issues related to the practice level activity are discussed extensively. Practice development process; academic involvement, and policy impact are all issues which are examined from the perspective of the 1980s juvenile justice practice. It should be clarified that the present research deals in particular with the practice level which was composed by practitioners who were of social work background and were involved with the juvenile justice process; or by practitioners, who did not have a social work background, however they were employed in probation service. The present work has called these practitioners as 'helping'. Apart from reason of convenience, it must be noted that the present research considers the term accurate from a professional point of view, in relation always to the decade of the 1980s. Indeed, during the 1980s the development of specialisation of these juvenile justice practitioners was an important event. The specialisation they developed was how to deal with juvenile offenders with means other than custody and prosecution; namely technically they developed a 'helping' specialisation which describes positively their achievements against custody and prosecution.[3] Therefore this historical study presents a detailed picture of the dynamics of 'helping' practice development; and makes critical observations.

Organisations, MPhil, Faculty of Law, University of Southampton (January); **Wasik, Martin - Gibbons, Thomas - Redmayne, Mike (1999)**, *Criminal Justice- Text and Materials,* (LONGMAN).

[3] It must be also noted that these practitioners certainly distinguished themselves from the other components of the system, police and magistrates, on 'helping' and 'punishing' grounds despite their constant attempts to develop good working relations with them. This is evident in accounts of the historical memory of the 1980s. The tendency to see police and magistrates as more prone to custody and prosecution was one of the reasons they distinguished themselves from them. The

In particular, the historical examination demonstrates the existence of important trends that occurred during this decade. These trends were associated directly with the performance of the practice level; a finding which was concerned with significant improvements of the criminal juvenile justice process. The present work argues further that the minimum intervention philosophy was at the heart of this era of change.

Therefore the dissertation provides a detailed account of the occurrence of significant transitions in juvenile justice practice during this period. At the same time, it demonstrates the critical impact of the minimum intervention policy choice on the transformation of the criminal justice process that occurred in the 1980s. As a result, the historical examination of the 1980s juvenile justice practice shows that the minimum intervention philosophy is particularly relevant to the improvement of the criminal justice process.

c) The theoretical context surrounding the research question

The question of the impact of the minimum intervention philosophy on the practice process of criminal justice is concerned with the inter-relationship between the emergence of organizational strategies and the materialization of organizational development; certainly from the perspective of the activity of the actors of the lower hierarchical levels.[4] In short the question considers the issues behind the function of decision making in a particular field; the field of criminal justice.[5]

Within the theory of organisational management the interdependence of the various organizational levels (either vertical or horizontal) was regarded as critical for the

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other inter-related reason was certainly the development of a professional identity which naturally demanded to consider themselves as different from the others (but certainly parts of the system).

[4] The question of organisational improvement of the criminal justice process from a practice perspective has concerned researchers both directly and indirectly. See the study of Cammiss (2006) which sets direct questions about the improvement of organizational efficiency; and also see the study by Field (2007) which conceals issues of organizational performance in the field of juvenile justice.

[5] Rutherford in *'Criminal Justice and the Pursuit of Decency'*, (1994a), pointed out the lack of organisational studies concerned with the values and the impact of practitioners working in the field of criminal justice process.

development of organisational decision making.[6] Research papers published in the late 1980s highlighted the manipulation of organisational context (either internal or external) from the policy top. This was intended to influence the decisions made by the ground forces towards the development of new organisational agendas.[7] Nevertheless, the emphasis on context underestimated the importance of policy choices dealing with the resolution of perceived problems. The inter-relationship between policy choices and organisational environments was addressed within the context of operational research. Therefore 'complexity' emerged as the catchphrase which attempted to address the issues surrounding the development of organisational policies.[8] However, the problem is that confining the focus to bypassing 'complexity' concealed actually the real questions behind policy choices and organisational development.

The present work regards the 1987 paper of Mintzberg *'Crafting Strategy'* as being particularly relevant to the question of the domination of minimum intervention. Mintzberg highlighted the critical role of the ground level actors (the ground strategists) in the development of organisational policies/strategies. Nevertheless it must be pointed out that this important paper failed to explain a detailed explanation of the influence of the policy top and its choices, despite the fact that Mintzberg attempted to address this dimension.[9] Despite this weakness Mintzberg's paper is vital for the analysis of practice performance in chapter six.

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[6] See the *'Introduction'* of Hanf (1978) and the work of Clough (1983).

[7] Petigrew's 1980s paper 'Context and Action in the Transformation of the Firm' provides the most representative example of the work of this school. Nevertheless it must be pointed out that the question of the influence of context always attracted the research interest. Under the heading of 'environment' or 'context' older research studies attempted to identify the critical issues behind the function of decision making: Pugh *et al.* (1979), *'The Context of Organization Structures'*; Duncan (1972), *'Characteristics of Organizational Environments and Perceived Environmental Uncertainty'*; Dill (1958), *'Environment as an influence on managerial autonomy'*.

[8] See the Introduction in Rosenhead (1989), and the introductory chapter *'A New Paradigm of Analysis'* in Rosenhead and Mingers (2001). It must be pointed out the earlier attempt of Metacalfe (1978) to address in a structured way the question of complexity and organisational policies.

[9] Actually this the major critique of Peattie (1993), on Mintzberg's idea of the emergence of organisational strategies. The problem is that Peattie limited his analysis to only the influence of the top down rhetoric.

d) The structure of the dissertation

In chapter two, the dissertation begins with a review of the juvenile justice statistics from 1980 to 1990. Several previous papers looked at the statistics form this period, but not in detail. In the present work, the juvenile justice statistical course (namely, custodial sentencing, non-custodial sentencing, prosecution and cautioning) is examined in more detail. During the statistical review views raised in previous papers are considered. The review determines the existence of a transformation in the direction the 1980s juvenile justice. This conclusion supports Rutherford's view. In the final part of the chapter the relevance of this transformation with trends in the philosophy of the 1980s practice level is indicated. This practice level was composed of practitioners with a social work background who worked within the context of juvenile justice.

In chapter three the dissertation also considers it important to look at the academic influence as it constitutes a significant part of the history of the 1980s juvenile justice. Particular academics are identified and the question of the formation of a coherent group supporting minimum intervention is examined. Then the question of their influence is examined, in general. Finally, what made this academic group possibly different from any other researcher/academic of that time is discussed. In particular, the discussion sets the focus of the examination on their interest in those practitioners with a social work background who worked within the context of juvenile justice.

In chapter four, the dissertation sets the focus of the research on the 1980s developments in the working philosophy of those practitioners of social work background who worked within the context of juvenile justice. The examination of practice working philosophy is conducted with reference to the ideas of members of the influential academic group. The research unearths the existence of significant developments in the quality and the content of those practitioners' professional performance during the 1980s.

In chapter five, the dissertation examines the causes of this significant development; and in particular, the contribution of the influential academic group and the contribution of the so-called 'national network'. The term 'national network' refers to the policy communication nodes which were manned by a number of practitioners from a social work background who held a strong interest in juvenile justice policy development, during the 1980s. The examination is relatively detailed and the conclusion is that the

contribution of the above policy players should be limited mainly to particular aspects of policy development. In short, their contribution was significant but not critical.

In chapter six, the dissertation focuses on the key areas behind the development of practice working philosophy. Trends in practice working philosophy are examined through the following perspectives: practice intentions, practice culture, practice achievements, and practice success. The cycle of practice development is considered to be the critical process behind the emergence of a new practice working philosophy. Nevertheless the dependency of this process from the organisational control of the policy hierarchy is highlighted in particular. The discussion which follows concludes the key impact of the policy top organisational attitudes on practice development.

In chapter seven, several accounts are presented which suggest that the changes in the practice professional philosophy were responsible for significant improvements on the organisation of local juvenile justice settings; which in turn, affected the sentencing direction of those local settings. The dissertation then questions about the validity of this view. Further accounts are discussed which show that the practice policies of decriminalization constituted a further important trend in practice philosophy. The reasons for this trend are examined. The dissertation determines the emergence of minimum intervention at the practice level and demonstrates its critical connection to the developments in practice working philosophy which transformed the process and the direction of the 1980s juvenile justice.

In chapter eight, the contribution of the academic involvement to the domination of minimum intervention at the practice level is discussed. The academic rhetoric is presented and the existence of academic leadership is discussed. The dissertation questions the view of academic leadership behind the domination of minimum interventions; and highlights the need to look at the higher level of the criminal policy logic/agenda/rhetoric, during the 1980s.

In chapter nine, the criminal policy agenda/agenda/rhetoric of the policy top is discussed. The legitimacy of minimum intervention from the policy top appears to be the critical contribution of the higher policy level to the domination of this important concept. From this point of view, the emergence of minimum intervention appears to be, for the most part, a practice event. Nevertheless the dissertation questions this view and it demonstrates the substantial link between the top policy choice of minimum intervention and the acceleration of the practice development cycle. Overall, the analysis of the 1980s

juvenile justice showed that minimum intervention philosophy constituted a critical condition for juvenile justice practice development.

In chapter ten, the method of examination employed throughout chapters two to nine is stated; then the conclusions are grouped; at the same time critical conclusions are discussed either by reference to accounts from the 1980s or accounts contained in the 1990s writings; and finally the research understanding of minimum intervention is stated.

e) Methodology

i) Interviews

For the study of the history of the practice developments in the 1980s juvenile justice, thirteen persons were interviewed.

Four interviewees were leading practitioners during the period of the 1980s. One of them was also active during the latter part of the 1970s. All the four interviewees had made a significant contribution to the transformation of their local juvenile settings. Three of them also participated in the Association of Juvenile Justice; a practitioners' organisation which was established in the early 1980s.

Two interviewees were Chief Probation Officers in counties where the custodial reduction was particularly apparent in the late 1980s.

One interviewee was member of a magistrates' court, in a local juvenile setting which significantly reduced the rate of custody in the early 1980s. Furthermore, during the 1980s, the interviewee was heavily involved in juvenile justice practice training events. The interviewee was also involved in campaigning for the reduction of custody.

Two interviewees were NACRO members. Both were heavily involved in policy communication with respect to custodial reduction in juvenile justice. The one interviewee was more involved in the campaigning of the late 1970s to early 1980s; and the other interviewee from the early 1980s to the late 1980s.

One interviewee was a Home Office Senior Civil Servant, during the 1980s.

Three interviewees were academics during the 1980s. All the three had a strong interest in the reduction of custody for young offenders.

Twelve interviewees were contacted and interviewed during the period: May-July 2001; namely after the MPhil upgrade of the present work. One interviewee was contacted and

interviewed a year earlier. The reason for this premature interview was essentially practical, as the interviewee would subsequently relocate away from the UK for a long period.

The total interviewing time was 16 hours and 30 minutes.

It was stated clearly to the interviewees that anonymity was a main principle of the interviewing process.[10] Therefore the names and the sex of the interviewees do not appear in the text except in very few instances. Furthermore the interviewees have not been labelled otherwise (e.g. A, B etc) with minor exceptions. As a result the reader neither is able to recognise an interviewee, nor to create a profile of him or her by looking at the quotes.

The interviews were unstructured. The interviewees did not have to answer particular questions but rather they were left to recall their memories from this period.

ii) Document Review

For the study of the history of the practice developments in the 1980s juvenile justice, a number of documents were reviewed.

The documents included the *AJJUST* journals during the 1980s; and the NACRO (Juvenile Justice Section) publications during the same period.

The documents also included texts of David Faulkner's speeches, during the time that he was Deputy Under-Secretary in the Home Office; and some of Andrew Rutherford's unpublished papers.

Finally the documents included reports from local authorities which supported the development of alternative to custody schemes; or local authorities' reports on juvenile justice and crime, during the latter part of the 1980s.[11]

A number of publications in *Community Care* and in *Justice of the Peace*, which were very relevant to the 1980s juvenile justice practice developments, were also subjected to the document review method of social research.

Both the interviews and the documents constitute the main sources of the historical memory of the 1980s juvenile justice; a term which is widely used in the present work.[12]

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[10] This indication was important for some of the interviewees who were still employed in the field of Criminal Justice. It meant that these interviewees felt more confident about expressing their views about the practice juvenile justice developments during the1980s.

[11] See Appendix for a complete list of the documents that were reviewed.

iii) Validity of the data contained in the historical memory of the 1980s

The validity of the data contained in the sources of the historical memory of the 1980s was a constant methodological concern throughout the progression of the research project; from the very start to the end. The way that this problem was dealt with was multiple depending on the research stage.

First of all the range of individuals who provided interviews was examined carefully in order to satisfy an adequate representation of past memories. Interviewees were asked to provide names they considered critical for the research. Also names which appeared as critical from other sources were also considered. The actual list of names was therefore particularly representative while a longer list would only provide repetition of the same accounts. Also the document collection was particularly meticulous in order to satisfy, again, a good representation of the past memory.

Morevoer, during the interview phase, the interviewer, rather frequently, interrupted the interviewees demanding deeper information. Several times, the interviewer also questioned the accounts which accompanied these memories; because the interviewer wanted to test the coherence of the interviewees' accounts. Certainly, from the interviewer's point of view, lack of coherence was not seen as a questioning the validity or reliability of the content of the interviews.[13]

Furthermore, corroboration of data was the technique to validate the data. In particular 'methodological triangulation' was employed in order to increase confidence in the interpretation of data.[14] 'Methodological triangulation' is based on the corroboration of data which derives from the use of the three different methods of qualitative social research: observation, interview and document review. For obvious reasons observation was not employed in the present research. Nevertheless, document review and interviews

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[12] The view of the present work about the meaning of historical memory (of the 1980s) is very much in tune with the work of Mills *'The Sociological Imagination'*. It has also been influenced by the work of Carr *'What is History'*.

[13] With respect to the ethics in interviewing and reporting accounts see Kushner (2000) and Lee-Treweek (2000).

[14] About Methodological Triangulation see Stake (1995), *The Art of Case Study Research,* especially page 114.

provided sufficient amount of data, which could support the exploration of the validity of accounts and events which were critical for the progress of the research.

It must be noted though that in a number of cases triangulation was not possible, especially with respect to accounts which were contained in the interviews. Does this mean that these accounts should not have been used? Certainly not. For example, in a particular case, one interviewee, a former leading practitioner, claimed the occurrence of a meeting between the interviewee and Douglas Hurd when the second was Home Secretary. The interviewee argued that the words of Douglas Hurd about the future of juvenile justice policy in this country were still in the memory. Nevertheless, apart from the interviewee, nobody else could really verify the occurrence of this meeting. Does this mean that this account should not have been used? Certainly not. It just had to be interpreted within its limits; namely what this accounts was undoubtedly revealing was the admiration of this practitioner towards the views and the abilities of the then Home Secretary; and also the belief of the practitioner about the content of the policy views of the then Home Secretary. Therefore whether they met or not was not an important issue for the present research.

iv) Analysing the historical memory of the 1980s: the method of Case Study Research

The historical memory of the 1980s juvenile justice practice constitutes a particular case of very special interest because it is concerned with the unprecedented reduction of custody in England and Wales. However, it is also concerned with the unprecedented wider developments in juvenile justice policy and practice in England and Wales. In other words, the historical memory of the 1980s covers a wide range of policy/practice issues of the same importance. Therefore its analysis can become particularly problematic.

Moreover, the historical memory of the 1980s juvenile justice practice is complex, because the developments involved human interaction taking place within a range of practice/policy settings and within different hierarchical levels. Furthermore the historical memory of the 1980s is dynamic because it is associated with events which took place 20-30 years earlier. Indeed, the 20-30 years of policy in juvenile justice have affected the views of the interviewees about the events of that period.[15] Therefore the study of the

[15] For example, what was seen as practice success in the late 1980s was heavily questioned by policy makers from the mid-1990s onwards. This was a policy experience which was incorporated in all interviews; certainly in different ways. This was certainly not the only experience which impacted on the interviewees' accounts.

historical memory of the 1980s is a relatively difficult task which demands methodological discipline.

The (qualitative) case study research was the method employed in order to deal with the above issues which are inherent in the historical memory of the 1980s. The case study research provides methodological discipline as it demands the case which is to be studied to constitute a bounded system.[16] As a result it allows the organised analysis of wide complex and dynamic information; such as the information contained in the above mentioned interviews and documents.

Indeed, the particular case study research set the boundaries of the research in the domination of minimum intervention as an event which took place within the practice level, during the 1980s. In short, the focus of the study is on one perspective; despite the multiple developments which took place during this period. Therefore whilst the case study research allows us to learn widely about the history of the 1980s developments; it nevertheless restricted our insight into the impact of minimum intervention on criminal juvenile justice performance, only.[17] This is a critical methodological restriction in the analysis of the interviews and documents which allows us to tackle the above problems.

[16] See Stake (1995), *'The Art of Case Study Research'*.

[17] For example documents published after the 1990 were not examined. A feeling of guilt, which was evident in some interviews in relation to what happened after 1993, was not considered. Furthermore accounts about developments in other policy contexts, such as the academic or the policy contexts, were researched only in relevance to practice developments.

CHAPTER TWO

A PICTURE OF THE STATISTICAL COURSE OF CHANGE IN THE JUVENILE JUSTICE OF THE 1980S[18]

a) Young offenders' institutions[19] and the Care Order: Going down together... gradually

A statistical examination of the de-escalation of sentencing of juveniles during the 1980s should naturally start with a review of the custodial trend. The reason is that at the end of the 1980s, the sentencing to *young offender institutions* appeared to have decreased markedly both in actual numbers and proportionate use.

The strong interest of a number of 1990s commentators[20] about the grand decline of custody in the field of juvenile justice has provided us with interesting information about this decline. The custody decline constituted the central theme around which they constructed their accounts about the wider developments of the juvenile justice sentencing practice in the 1980s. Criminal Statistics also constitute an important source of information and particularly facilitate a further understanding of the picture of the change.[21]

i) Points about the custodial and care order trend

By contrasting the custodial numbers for the 14-16 age group to other older groups of male offenders sentenced to custody, Wade showed that the decline of custody was statistically

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[18] See the three statistical tables, Appendix II.

[19] Criminal Statistics cover two columns under the headings "Total Immediate Custody" and "Young Offenders' Institutions". Numbers in the two columns differentiate only minimally in the years 1983, 1984 and 1989 and rather widely only in year 1981. In the present discussion only numbers from the "Young Offenders' Institutions"-column are employed.

[20] The phrase 1990s commentators refers to the authors of 1990s papers which elaborated on the occurrence of the 1980s sentencing trends in juvenile justice during the 1980s and tried to establish a policy vision behind it.

[21] As Rutherford has supported, **"the de-escalatory turn in juvenile justice [...] is especially evident in the official criminal statistics"** (1992:11).

rather unrelated to the custodial trends in the wider area of criminal justice (1996:1,2 & Table 1)[22]. As Wade therefore rightly remarked: **"[t]he position of juveniles [was] considerably different"** (1996:2).

Rutherford also discussed statistical trends concerned with the 14-16 and 17-21 age groups of males sentenced to custody indicating that from 1980 to 1990 the decline was 81% and 38% respectively (1992:14,15 & Table 3). Without disagreeing with Wade's view, Rutherford was of the opinion that the decline in the use of custody for the 17-21 age group was 'smaller' but 'still' important.[23] Nevertheless, with respect to the statistical trend for juveniles Rutherford held the bold opinion that the 'turn away' from custody for juveniles was so 'striking' and unique **"as it sharply contrasted with practice in England and Wales over the [1970s] as well as with contemporary experience in other countries"** such as Canada and Denmark where custodial sentencing increased (1992:14, 27n4).

Hence the very first issue that has to be mentioned is that the decline in the custodial number of juvenile justice did not form a consistent part of the wider statistical picture of the custodial use of the 1980s period.

Gradualness and local variations were both further basic features in the picture of decline. Godfrey and Ball have discussed the existence of three successive periods throughout the 1980s, with the final one to be the most dramatic for the decline of custody. Indeed, according to information provided by a number of authors the most dramatic fall in the use of custody became evident in the end years of the 1980s. With respect to the local variations, Wade, while she indicated the leading role of the Hampshire services in limiting the use of custody, she concurrently referred to the existence of local variations in the decline of custody, the issue of 'justice by geography', a view shared by others.[24]

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[22] The statistical data used by Wade included both crown and magistrates courts for the years 1980-1990.

[23] See also Allen's similar remarks (1991:30,31). Similar fall in the numbers of *untried* juveniles remanded in custody was not observed, during the same period of time (Allen, 1991:31 & Table 2 – Newburn, 1997:643).

[24] In the NACRO document *Progress Through Partnership*, it was mentioned that "Historically sentencers in Great Manchester have made a use of custody for juveniles which, measured by head of juvenile population is **the highest regional figure in England and Wales. Within Greater Manchester disparities exist between courts**" (emphasis added) (1989b:1).

Furthermore, the unique course of the numbers of the young offenders' institutions should be paralleled with those sentenced to a care order. Indeed, the only indeterminate sentence of the period, the care order[25], appeared to have followed a rather similar pattern to custodial sentencing. It can already be argued therefore that a further feature of the declining course of both these sentencing disposals was that it reflected the development of a climate of negation about the need of institutional strategies in dealing with juvenile offending.

ii) Looking into the actual numbers and the proportionate use

In actual numbers, from 1980 to 1990, both male and female juveniles sentenced to a young offenders institution fell by 5,600, from 7,000 to 1,400, a spectacular decrease of 81.34%. In the same period the proportionate use by the courts was also down by 39%, from 10.56% to 6.42%.[26]

As regards the care order, and with respect to the 14-16 age group, (similar to the group concerned to custodial sentencing), the actual numbers fell in the period in question by 2,600, from 2.700 to only 100, a spectacular decrease of 96.30%. For the 10-13 age group, the decrease was an absolute 100%. The overall decrease was a decline of 97.80%, actually a percentage close to the one which described the decline of custodial sentencing.

See also the brief 1989 article published in *Community Care,* by Brian Leah and Elaine Rawlinson titled *Good practice needs good campaigning.* The subtitle of the article indicated that *"Research into juvenile custody rates in the north-west shows that the battle against custody is not won"*; and later inside the article it was mentioned the case of nine areas which "had experienced **a significant rise** in the use of custody between 1986 and 1987 [...] that is **40 per cent** of the areas surveyed in the north west" (emphasis added) (1989:vi,vii).

[25] The care order constituted a case of a formerly welfare tariff turned to a practically punitive tariff in the 1980s. As Harris described it in his account about the life of care within the policy thought and rhetoric: "[The care order] began with a set of benign **therapeutic** aspirations, genuflecting only cursorily at the altar of punishment; it survived a period of **confusion** from the late 1970s, when the edifice of which it was a part began to show distinct signs of wear; it took on **a new form** following the reconstruction heralded by the Criminal Justice Act 1982; and it finally succumbed to the view expressed by the Minister, David Mellor, **but held by many**, that it was **'inappropriate that care should be used as a punishment in criminal courts'**" (emphasis added) (1991:2).

[26] For separate statistical data and analysis on male juvenile offenders, female juvenile offenders and young blacks see Gelsthorpe & Morris 1994:974,75 & Table 20.2. According to Gelsthorpe & Morris the decline of custody rates was less clear for young blacks and less clear cut for female juveniles.

With regard to the proportionate use, the care order appeared in the period 1980-90 to have a larger decline compared to custodial sentencing. The proportionate use of care order was down by 88.60% overall, from 3.95% to 0.45%. Actually the percentage-decrease of care order was twice as large the percentage-decrease of custodial sentencing.

In general, the two disposals appeared to have followed a similar pattern of decrease both in actual numbers and proportional use. The decrease in actual numbers describes the existence of a decarceration phenomenon, at least at the statistical level. Moreover, it can be argued that the decrease in proportionate use of these disposals certainly implies the concurrent decrease of their importance within the courtroom decision making process.

Looking further into the detail of this development, a number of differences but also similarities between the two forms of sentencing can be observed, which primarily signalled the crucial years of the change.

With respect to the young offenders' institutions, in 1981, there was a small increase in actual numbers, followed in 1982 by a rather large fall. From 1982 onwards the decrease was constant. For the care order the constant decrease in actual numbers started a year earlier. As regards the custodial sentences, from 1985 the decrease in both actual numbers and percentage rate took a dramatic turn, with a break for the actual numbers of the 1987. For the care order the dramatic turn was immediate from the 1981. The very punitive modes of custodial sentencing therefore presented a harder resistance compared to the ...lonely care order. It was only in the middle of the 1980s that the change in the direction of custody accelerated. But in the end years of the 1980s, the change towards decline appeared to be established for both.

On the other hand, the decrease in the proportionate use of custody began only in 1988, namely in the period when the dramatic decrease in both custodial and care order actual numbers was peaking. Until 1987, the proportional share of custodial disposals remained practically unchanged at the level of 10.50% to 11.50% therefore implying a kind of stubbornness from the part of the custodial disposals to correspond to the changes in actual numbers. Again, for the care order the time to eclipse started much earlier as the proportionate use of care order entered a period of constant decrease as early as in 1983. It is a question whether the fatigue of the concept of care order evident in the early stages

of its declining course also signalled the future of the more punitive forms of custodial sentencing. However, from the statistical angle point of view, it is certain that only in the late years of the 1980s the negation of the whole of the custodial complex appeared largely established.

iii) The internal life of custody: Detention centres and youth custody

A further understanding of the course of the sentencing to young offenders' institutions also derives from a deeper study of the course of the elements comprising the set of custodial sentencing.

In 1983, when the care order entered a period of neglect on the part of the bench, some changes had also occurred within the internal life of custody. Indeed, the unequal rate of decline between the two elements of custodial sentencing, detention centres and youth custody, mirrored the formation of a new balance between them.[27]

As Godfrey reported, based on the findings of a Home Office report in 1985, the **"overall receptions of male juveniles had fallen a little, but the distribution of sentences had markedly changed"** (1996:292). According to Ball, 1983 saw a sharp rise in the use of youth custody, while the detention centres showed signs of decline. In 1985, detention centres were down by 16% and youth custody receptions up by 41% (Godfrey, 1996:292). In the latter part of the 1980s, detention centres simply disappeared (Rutherford, 1992:65,n12). Statistics referring the relative use of detention centres and youth custody for male juveniles aged 14-16 for the period 1976-1987[28] showed that the fall in the use of detention centres was particularly striking, to the extent that the prison authorities presided over some **"almost empty units"** (Allen, 1991:37).[29]

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[27] The sentence of youth custody was introduced by the *Criminal Justice Act 1982* to replace *borstal* and *prison sentences* for persons aged under twenty-one. Practically, youth custody applied from year 1983. Actually, the *Criminal Justice Act 1988* introduced a single custodial sentence terminating therefore the co-existence of youth custody and detention centres.

[28] See Allen, 1991:Table 6.

[29] For the increasing course of detention centres for male juvenile offenders in years 1969-1981, see Godfrey, 1996, Table 1.

From year 1982 to 1987 receptions in detention centres were in steady decline. The overall decline in the years 1981-1987 was at the level of 58%. The steady decline of youth custody sentence started in 1985, after a two year increase that started with the introduction of youth custody in 1983. The overall decrease of youth custody in the years 1984-1987 was at the level of 33%. For the same period 1984-1987, the decline in detention centre receptions was still larger than youth custody by 12 percentage points.

It could therefore be supported that the introduction of youth custody had a supportive impact on the custodial course of the early 1980s, functioning rather as a new start to the working philosophy of custodial sentencing. Nevertheless, in the end, the minimum use of custodial intervention was a fact, which, as it is supported in the present work, reflected therefore the emergence of a new direction for juvenile justice.

The emergence of a new sentencing direction for juveniles, and particularly the content of this strategy, can be better understood by also looking at the course of the *alter ego* of a sentencing policy, namely the set of the non-custodial disposals.

b) The course of the non-custodial sentencing in the 1980s and the particular question of the 'I T Initiative'

i) Defining the course of non-custodial disposals through the accounts contained in a number of 1990s writings

In the period of the 1980s, a group of non-custodial disposals included a sentence of punitive tariff, as the attendance centre[30] along with a sentence of welfare tariff, as the supervision order, or, the supervision order plus IT[31]. The term 'supervision order plus' refers to a set of supervision orders empowered with further requirements such as the

[30] For the attendance centre as a non-custodial sentence, see the White Paper *Young Offenders* (Home Office, 1980).

[31] For types of tariff in juvenile justice and the distinction between punitive and welfare tariff see Morris & Giller, 1983:Figure 6.1. Also, for a full tariff system which would include both punitive and welfare elements under a new ranking order see again Morris & Giller, 1983: Figure 6.1. In the relevant figure, it is interesting that the actual severity of punishment is not always defined in accordance with the punitive or welfare origins of the sentence. Hence, the welfarist care order stands at the high level of the full tariff, while the punitive attendance centre is positioned at the low levels. For a general discussion about the sentencing pyramid see Ashworth, 1995:292.

Intermediate Treatment (IT) or the Specified Activities (SA). The last mentioned was introduced by the *Criminal Justice Act 1982,* and became applicable from 1983. The range of the non-custodial sentences of that time also included the absolute or conditional discharge, the fine, and finally, the community service order. The community service order was expanded to include 16-year-old offenders by the *CJA1982*, and therefore it became applicable from 1983 onwards.

The course of the group of juvenile non-custodial sentences in the 1980s was, briefly and collectively, commented upon by Godfrey in his study for the decline of penal custody for juvenile offenders (1996). According to Godfrey, sometime in the mid- 1980s, "many offenders who would formerly have gone to detention centres received non-custodial sentences" (1996:292). Hence, Godfrey, certainly, linked the decline in custody numbers with the collective set of non-custodial sentencing. On the other hand, from this statement, it could further be inferred that an increase in the importance of non-custodial sentencing became evident from the mid-80s onwards. Nevertheless, such a view should not simplistically lead to the conclusion that the supposedly increased importance of non-custodial sentencing, of this period, was being translated into increased actual numbers as well. Furthermore, it is a question whether the perceived increase of the importance of non-custodial sentencing should be equally distributed to all the elements of the non-custodial group of sentencing. Instead, it should be emphasised that it has been a perception among a number of commentators that only a particular sub-group of non-custodial disposals captured the spirit of that time. Or to put it better, it was particular disposals that managed to capture the spirit of the courtroom decision making process therefore affecting the course of the custodial sentencing in the second part of the 1980s. More precisely, the decline in the use of custody has been associated directly or indirectly with the wider use of the influential set of the alternatives to custody, otherwise defined as community-based sentencing.

In his paper, *The End of an Era*, Pitts (1992) drew attention to the greater use of alternatives to custody during the second part of the 1980s. In the majority of the 1990s papers and books, a particular reference to a greatly increased use of community-based sentences is evident. In *Young Offenders and the Youth Court*, Caroline Ball, in particular drew attention to the community-based alternative to custody schemes, which she considered to be the key factors for the decline in custody numbers. Here, the question is

about the types of influential non-custodial disposals with which the alternatives to custody or the community based sentencing should be identified.

Sentencing Handbooks, research documents and policy documents provide some pointers. For example, Ashworth in his book *Sentencing & Criminal Justice* employed the term community orders to describe non-custodial sentences such as the attendance centre order, and supervision order (1995:317). In their report about the relationship of intermediate treatment to the rest of the system in the mid-1980s, Bottoms *et al.* used rather invariably both the terms community-based and alternatives to custody to describe or simply to refer to the requirement of intermediate treatment (1990).[32] This exercise could be continued with more documents describing at a different time and for different purposes different sentencing disposals as either alternatives to custody or community-based. However, this is not the way to understand this type of non-custodial disposals. Attention should rather be directed to these forms of sentencing that the 1990s authors pointed to or particularly mentioned when they discussed the dramatic decline in custody numbers in the 1980s.

According to Pitts alternative to custody programmes were included as provisions in the Initiative projects or otherwise Intermediate Treatment (IT) Initiative (1992:136). It is exactly the Intermediate Treatment Initiative which Pitts considered to be "a factor, and probably the most important factor in diverting many custody-prone young people in England and Wales from prison in the period 1984 to 1989" (1992:139). The term 'intermediate treatment' generally refers to the s.12(2) of the *1969 Children and Young Persons Act* requirement in supervision orders.[33] The term 'Initiative' referred to the policy initiative launched in 1983 by the Department of Health and Social Security (and the Welsh Office), supplying therefore with £15 million a large number of intermediate treatment schemes. The performance of the intermediate treatment requirement or otherwise IT Initiative constituted a main topic not only for Pitts but also for most of the 1990s authors who

[32] See for example p.2 par.4 line 6, and p.3 par.1 line 18.

[33] Already here, it should be noted that the term intermediate treatment can bear more meanings apart from the statutory one depending on the historical or organisational or policy context where it is employed. As an example see Bottoms *et al.* 1990:8,fnt.5.

Also for the unfortunate course of the intermediate treatment in the 70s see Bottoms *et al.* and NACRO's *Final Report.*

appeared with a particular interest in its course as an influential alternative to custody or community-based sentencing disposal.

Hence, Allen related the IT Initiative to the 'alternatives to custody' movement (1991:49) and he devoted two pages in exploring its life in the 1980s. Certainly Allen also provided information for a wider set of non-custodial penalties and particularly for those disposals introduced by the *CJA1982*, such as the extension of community service to 16 year olds, or the application of requirements added to supervision orders. However, it is the two pages under the subtitle 'the DHSS IT Initiative', which constituted the sequel of his paper in which the decline of custody numbers is strongly correlated with the success of the IT programmes (1991:48,49).

Newburn in his briefer account supported the perspective that intermediate treatment "did serve as an alternative to custody" (1997:644). And though Newburn rather cautiously suggested that it would be difficult to "assess the impact of IT", however he still fell in with the view that the decline in the proportionate use of imprisonment was associated with this alternative to custody (1997:644).[34]

Ashworth, who also described intermediate treatment as part of the community orders, certainly subscribed to the above idea about the sole performance of this supervision order requirement. As he stated, "intermediate treatment [...] seized the imagination of the magistracy in the 1980s and [...t]he figures suggest that it was often and genuinely used instead of custody" (1995:317). A similar position was taken by Caroline Ball who referred to IT projects as community-based projects, which provided alternatives to custody; and she particularly considered the intermediate treatment projects as one of four developments related to the substantially reduced custodial sentencing for juveniles by 1988 (1992:282). According to Ball the schemes were growing continuously, though more at a local than national level indicating also that their use by the courts was strongly dependant on the justice-by-geography effect (1992:282).

In his article, under the subheading *A Reductionist Policy, 1988-1993*, Godfrey among other things discussed the course of supervision orders with a particular emphasis on intermediate treatment. Godfrey considered that "[s]upervision orders were increasingly used as a vehicle for intermediate treatment" (1996:293). Emphasising further the role of

[34] It might be mentioned that intermediate treatment was actually the only non-custodial disposal discussed by Newburn in his paper.

intermediate treatment, he indicated that the development of IT was "accelerated" therefore suggesting, similarly to the others, that intermediate treatment "supported the trend towards decarceration" (1996:293).

Sue Wade briefly, but rather emphatically, indicated the role that the Initiative played in relation to the decline of custody. She considered the Initiative to be "perhaps one of the most important policy decisions that may have affected juvenile sentencing". In her opinion the schemes "added to sentencing options for courts [by] providing 'credible' alternatives to custody and care orders" (1996:16). Still Wade was cautious if not reluctant to adopt a clear position with regard to the extent of the development and actually the contribution of the intermediate treatment Initiative to the course of custody. She therefore provided the findings of the Parker *et al.* survey and the NACRO survey titled *Diverting Juveniles from Custody*, both published in 1987. Wade pointed solely to the "differing" findings of the two surveys on "the impact of these schemes on sentencing" (1996:16).

Research findings were also referred to and used in the paper by Gelsthorpe and Morris, however they stood rather on the other side of the debate. Gelsthorpe and Morris seemed definitely reluctant to subscribe to a hard view about the course and the role of intermediate treatment despite the fact that the requirement of intermediate treatment was the only non-custodial disposal discussed by the two co-authors within the space of an extended paragraph. Drawing on the work of Bottoms *et al.* published in 1990, Gelsthorpe and Morris presented the role that IT seemed to have assumed as a "high tariff [...] option specifically aimed at those at risk of residential care or custody" (1994:976). Nevertheless they still came up with a modest account about its association to the declining custodial sentencing. According to Gelsthorpe and Morris, IT, which had been developed into a form of mechanism, managed to reduce, for example, the number of care orders imposed, but not to affect the proportionate use of custody which, in their opinion, "remained remarkably stable until 1989 at least at national level" (1994:976). Despite the fact that Gelsthorpe and Morris undermined the effect of IT projects in custody reduction, they still felt obliged to refer to the findings of two surveys of IT schemes conducted and published

by the NACRO and titled *Replacing Custody.*[35] Based on the findings, Gelsthorpe and Morris however indicated that "in some areas, 'alternative to custody' packages were effective" (1994:976).

On the one hand, it could be suggested therefore that the Intermediate Treatment of the 1980s impressively captured the spirit of a good number of the 1990s authors. Certainly not all of them subscribed to a *mega*-view about the course and the influence of this disposal. Nevertheless, they all, directly or indirectly, pointed to a dynamic Intermediate Treatment course that resisted the development of custody, by assuming a high tariff role.

On the other hand, as intermediate treatment tended to appear as a sole answer to the question of the custody decline, the question of the assessment of its course was also brought into the debate with research findings to support or deny any success. The research findings mentioned by Wade, and Gelsthorpe & Morris derived from research projects conducted in the 1980s. Furthermore, the point is that these research projects had their own life–histories and agonies, while, some of them they also had their own affiliations with the course of the intermediate treatment.

ii) A review of two plus one research projects on the IT impact

The 1987 NACRO survey and the 1987 Parker *et al.* survey, both cited by Wade, presented antithetic results about the effectiveness of intermediate treatment in reducing the use of custody. The Parker *et al.* survey, published in the *British Journal of Social Work,* led to the "inevitable conclusion [...] that the new 'alternatives' like others before them, are not supplanting custody but other sentences" (1987:38). The findings of the NACRO survey concluded in a diametrically opposite way "the major contribution of the DHSS Initiative to the reduction of custodial sentencing of juveniles". The NACRO paper, though published in 1987 as was the Parker *et al.* paper, reported, however, research findings covering the period July/December 1986 and not the early period of 1983/84, which the Parker *et al.* study had covered. In the crucial decade of the 1980s a difference of couple of years did matter for the understanding of the custodial course and this certainly had an impact on the findings

[35] The NACRO document *Replacing Custody* contained the findings "from two census surveys of schemes for juvenile offenders funded under the DHSS intermediate treatment initiative covering the period January to December 1987" (1989).

of the two surveys. Beyond this, it could further be argued that despite a commonly shared agony about the future of decarceration, there is nevertheless a world of difference between the two papers.

The Parker *et al.* survey derived from a larger study, funded by the Home Office Research and Planning Unit, on the implementation of the *CJA1982*. As part of this study, Parker *et al.* administered a postal questionnaire to all Probation Services in England and Wales in June 1985 with the backing of the Home Office and the Association of Chief Officers of Probation. The purpose of the questionnaire was to obtain information on Probation policy-and-practice in the years after the introduction of the *CJA1982*, namely 1983/84. The implementation of the sentencing disposals introduced under the *CJA1982*, as supervision with specified activities, supervision with negative requirements, community service order, constituted only a part of this survey. The course of the Intermediate Treatment Initiative was not the focus of the study but only a contextual issue to be considered.

The research question of the study was concerned with the ambivalence of the response by the Probation Service to the 'new orders'. Under the term 'new orders', the authors summarised the thrust of government policies embodied into the *CJA1982* and the accompanying Circulars, the Financial Management Initiative Scheme, the Statement of National Objectives and Priorities for the Probation Service (SNOP) and, finally, the DHSS Intermediate Treatment Initiative. To this end Parker *et al.* collected information from the 38 of the 56 Probation Areas who responded to the questionnaire and conducted an analysis of the survey, which covered mainly metropolitan and urban rather than rural areas.[36]

The Home Office-funded Parker *et al.* paper was, therefore, a mainly academic paper addressing trends in the Probation Service only during the early period of 1983/84 rather than the course of the intermediate treatment Initiative and its linkage with sentencing outcomes. Put in another way, and with respect to juvenile justice, the Parker *et al.* paper provided direct information and interesting accounts on the impact of the newly introduced policies on the life of the Probation Service, but certainly not on the courtroom outcomes. From this point of view, the paper certainly offered valuable

[36] As they noted the 18 Services not represented in the sample were "from the less heavily populated and more rural areas".

accounts about the policy context of the time and the climate of 'ambivalence' in the Probation Service. It also provided useful findings on Probation policy and practice in the early period of 1983 and 1984.

However, courtroom process, where the sentencing decisions were taken, was not the epicentre of the study, as the impact of probation practice on alternatives to custody was not surveyed but only assumed. Accounts about the course of sentencing and particularly the interaction between intermediate treatment and custody decisions were based only on the experience of the past. Hence accounts on the future of juvenile sentencing expressed only the agony of the co-authors about the future of decarceration in England and Wales.

The NACRO study titled *Diverting Juveniles from Custody,* and mentioned by Wade, was only part of a wider project funded by the DHSS in relation to the launch of the IT Initiative. The two NACRO surveys titled *Replacing Custody* and cited by Gelsthorpe and Morris were also part of the same wider project. Unlike the one-off Home Office-funded study of Parker *et al.*, the NACRO project was a long-term study, for a different subject and with wider aims. Furthermore, the NACRO study can hardly be considered an academic work.

The involvement of NACRO was provisioned in the DHSS *Circular LAC(83)3*, which also launched the IT Initiative. In the ANNEX-B of the circular, titled *Further Development of the Initiative*, and under the subtitle *Monitoring* a number of primary and secondary aims for the NACRO project were described: "To monitor [the] overall impact" of the Initiative on custodial sentencing was one of the two primary aims. As a response, NACRO established the *Juvenile Offenders Team* and produced a number of publications, which basically contained the findings of semesterly run census surveys; relevant analysis to consider the impact of the IT Initiative on custody; and, finally, policy recommendations. *Diverting Juveniles from Custody* (NACRO, 1987) was one of these publications with a discussion of the findings of the fourth census for the period July/December 1986. A final and thorough account can be better found in the 1991 published NACRO's *Final Report on the DHSS Intermediate Treatment Initiative to Divert Juvenile Offenders from Care and Custody: 1983-1989.* In the *Final* Report, and in particular in chapter four, under the title *Reducing Care and Custody:The Impact of Initiative Projects on the Sentencing of Juvenile Offenders,* it was concluded that:

> "evidence from the census surveys suggest that Initiative projects were successful in reaching their target group and involving them in community-based programmes. In this way, the Initiative made a major contribution to the reaction of the use of care and custodial disposals for juvenile offenders since 1983" (NACRO, 1991).

The conclusion of the *Final Report* confirmed what all the previously successive NACRO-research-papers supported, despite some fluctuation in their findings.

Some observations however should be stressed about the nature and the limitations of the NACRO study. The project was not of academic character but of an operational one and its affiliation with the course of Intermediate Treatment was particularly strong. The study was concerned exclusively with monitoring the course and the effectiveness in replacing care and custody of the IT Initiative schemes. It did not provide further information for any other disposal or for organisations involved in the operation of the project. Also, the study covered exclusively statistical trends in the Initiative areas and certainly within the time limits during which the fund was available and the projects commenced, namely mid-1983 to mid-1987. National level trends were therefore only implied, and strictly speaking for the period after 1987 the impact of the IT projects could only be assumed or be the subject of hypothetical scenarios.

Gelsthorpe and Morris also referred to a third study, namely by Bottoms *et al.* The relevant study can be considered the *alter ego* of the NACRO project, while the Bottoms *et al.* project certainly assumed the need of an academic-oriented contribution in the monitoring of the Intiative. The Bottoms *et al.* research project had also been funded by the DHSS in relation to the LAC(83)3 IT Initiative. In the pages of *Community Care*, Roy Jones (1984:27) characterised it as being 'expensive', a view shared by many at that time. The report of Bottoms *et al.*, *Intermediate Treatment and Juvenile Justice* emanated from research conducted by the Institute of Criminology, Cambridge University. The report was principally written by Prof. Anthony Bottoms, and it was based on the findings of a national survey of intermediate treatment policy and provision. The relevant fieldwork was conducted in the years 1984-85 (Bottoms *et al.*, 1990:1). In other words, in the middle of the 1980s. Unlike the NACRO reports, the findings of Bottoms *et al.* were not circulated at successive periods during the 1980s; namely, they did not provide a kind of census but only covered a small period of the course of the 1980s. Actually, the text of

the report was only finalised at the end of 1989, and it was first published only in 1990 (Bottoms *et al.*, 1990:v).[37]

Both the NACRO-JOT documents and the report of Bottoms *et al.* can be therefore seen as an integral part of the course of the 1980s, only in relation to the course of the IT Initiative. In other words, the relevant research projects, and especially that of NACRO, did not constitute only an attempt to assess the impact of IT projects on custody, but also these Home Office sponsored surveys emphasised the very existence of these particular projects. So, any employment of these documents as sources of understanding of the non-custodial course of the 1980s should definitely take into account the nature of this information within the policy setting of the 1980s.[38] This is an important point, as the course of other local projects of non-custodial disposals did not always enjoy a similar attention.[39] Furthermore, statistical data shows that all non-custodial disposals followed an interesting course in the 1980s.

iii) Looking into the course of all the non-custodial disposals

With particular respect to supervision orders, Allen indicated a decline in their absolute numbers, while as a proportion to all sentences appeared slightly increased (1991:45,Table 10). His account was based on the 1981 to 1987 official statistics. Hence in the years 1981-87, the absolute numbers of supervision orders experienced a similar decline as did the ones of custody. The difference was that contrary to decline of custody as proportion to all sentences, supervision orders appeared to have followed a slightly increasing course. In order to acquire a better understanding, Allen looked more carefully to the course of all supervision orders and not only of IT. He observed therefore, that in 1987, the specified activity requirement (a requirement used increasingly since 1983 when it was introduced

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[37] According to an interviewee, former Chief Probation Officer, who had greatly involved in the course of the 1980s **"[the] report [had been] scandalously late [...] 7 years overdue before was finally published in the 1990s"**.

[38] The question raised here therefore is whether the number of 1990s commentators who saw the IT Initiative as the very reason behind the custodial trend in the 1980s actually were particularly influenced by the very existence of the relevant documents which however were part of a policy and not the policy itself which influenced the 1980s course.

[39] It should be mentioned that the early 1980s successful anti-custodial *Woodlands project* widely mentioned by Rutherford and the consequent successful development of the non-custodial strategies in Hampshire survived mainly by Wade (1996) both were not related to the IT Initiative.

by CJA 1982) over-took the much debated 'IT requirement' in the preference of the sentencers (1991:46, Table 11). As regards the overall course of the supervision-plus orders, he also observed an increasing use since 1984. According to Allen this could mean that "the new orders have been effective in replacing custodial sentences" (1991:47). As Allen put it, for the whole set of supervision orders (and not only for the IT requirement), "although far from conclusive" the evidence suggests that "supervision orders have been used as an increasingly higher tariff option throughout the 1980s" (1991:47).

Statistical data of most of the non-custodial disposals, for the whole of the decade of the 1980s, particularly highlight Allen's view that there was a decrease in absolute numbers combined with an increase in importance. Indeed, the non-custodial sentences of attendance centre order, supervision order, and community service order all appeared to have followed a similar general path in the 1980s. Their actual numbers decreased substantially at the end of the 1980s. In the period from 1980 to 1990 the use of attendance centre order and supervision order decreased in total by 61% and 71% respectively. For the 14-16 age group the decrease was a closer 66% and 65% respectively. In the case of the community service order (for the 16+ years old), the decrease was a close of 50%, but for a period starting from in 1984 and ending in 1990. With its application to begin in 1983, and taking 1983 as the start year, community service order shows a sharp increase of 80% for the period 1983-1990.

With respect to proportionate use, in the end of the 1980s, all the non-custodial sentences seem to have widened their share, however to different extents. From 1980 to 1990, attendance centre order and supervision order increased their share by 13% and 12% respectively. From 1983 to 1990 the community service order increased its share spectacularly by 402%. Nevertheless, from 1984 to 1990, the increase was a more reasonable 33%.[40]

At the same time, the use of fine followed a course that showed it had considerably lost the attention of the sentencers. The actual numbers in the use of fine fell by 86% in total and by 84.50% for the 14-16 age group. When it comes to the proportionate use the fall was a spectacular down by 98.50%.

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[40] It is worth to be mentioned that according to Allen, the evidence suggested that, "the type of offender receiving community service has not been dissimilar from those receiving custody" (1991:43).

With respect to other disposals of the non-custodial sentences group, Rutherford has referred particularly to absolute or conditional discharge stating the "greater willingness on the part of sentencers to use discharges together with a profound reluctance to sentence young people to prison system institutions" (1992:14). It is true that the little debated sentence appeared to have followed a course that particularly indicated the emergence of a new anti-interventionist strategy. In terms of absolute numbers, from 1980 to 1990, unlike custodial sentencing or the other non-custodial sentences, the fall of the absolute or conditional discharge was a more limited 46%. The number can be compared only with that of the community service order, this however applied only to 16 year olds and had a life starting from the years 1983/84.

On the other hand, and with the exception again of the community service order, during the same period, the absolute or conditional discharge was a champion in proportionate use by increasing its share in sentencing decisions by 74%. In this case it is not that this disposal increased its importance, but rather that the various forms of sentencing-intervention suffered from an importance-negation-syndrome.

In order to better understand the size of the negation-syndrome and the emergence of a new anti-interventionist strategy, attention is better turned to further stages of the juvenile process. Indeed, the size of the developments in juvenile justice in the 1980s and, more particularly, the significant decrease of custody numbers should also be seen through the course of the known offenders numbers and the related stages of cautioning, guilty findings and prosecution.

c) The course of the number of known offenders in the 1980s: Cautioning practice, Guilty found and Prosecution

The term 'known offenders', or otherwise 'recorded offenders', refers to persons who have been formally cautioned after having admitted their offence to police or who are found guilty by a court of law (Rutherford, 1992:11). The total number of known offenders in a period of a year therefore includes the numerical output of the extrajudicial process as well as those of the courtroom process. With respect to juvenile justice of the 1980s, according to Rutherford, "little" change occurred in the levels of this number between the years 1980-85 (1992:11). Nevertheless, for the second half of the decade and particularly the years

1985 to 1990, the trend was one of "overall decline" (Rutherford, 1992:11). A "sustained and significant" decline in the second half of the 1980s has also been reported and discussed by Newburn (1997:636-38, 643). Overall, from 1980 to 1990, the number of known offenders decreased by 37%, or, in other words by one third, from 175,700 to 111,000.[41] Remarkably, during the second part of the 1980s and particularly in the years referred to by Rutherford, namely 1985 to 1990, the decrease is the same, 37%; or, in absolute numbers, from 175,600 to 111,000. In other words, the rate of decline in the total number of the known offenders between the two periods is identical. If 1989 is taken as the ending year, the decline for both periods increases to an almost, but certainly significant 50%; from 175,700 in 1980, or 175,600 in 1985, to 89,200 in 1989. Instead, as Rutherford has indicated, in the years 1980-1985 the change is little, if not negligible. From 1980 to 1985 the decrease is approaching the zero level, from 175,700 to 175,600. It is only the years 1983 and 1984 when the decline in the first part peaked by only 4.5% and 3.5% respectively. Moreover, unlike the years of the second part when the decline is sustained, in the first part of the 1980s a steady decrease is definitely not evident but rather marginal fluctuations can be observed. It is therefore the sustained and significant decline in the second part of the 1980s that marks the course of the total number of known, or, otherwise, recorded juvenile offenders.[42]

The question is: what does this marked decline of this number say? The answer largely depends on the possible associations of the relevant data and certainly falls within the coin–paradigm considerations. An association of the data to youth crime issue would provide the one side of the coin, while its association to juvenile justice process would provide us with the other.

Both Rutherford (1992:12) and Newburn (1997:636-38) have referred, though with different emphasis, to the number of known juvenile offenders as a reflection of the number of offences committed by juveniles, or, in other words as an indicator of the youth crime course. From this point of view, a decrease in the total number of known offenders

[41] In this part of the chapter, statistical comparisons are based on "total" numbers and not on particular age group numbers. Had statistics of age groups been compared separately the picture would have not changed crucially. For instance, for the 14-16 age group, from 1980 to 1990, the decline is similar to the total's number, 30%. On the other hand, comparing the total numbers helps as there is no data for prosecution age groups, while it emphasises the total climate of change.

[42] See Appendix II, third table, column W.

could be seen as the result of a reduction in youth crime. This is the one side of the coin. But it is a weak one as definitions of youth crime, statistical trends and the reality of youth have a difficulty in coming together easily. Hence, both authors considered the decline in the number of recorded juvenile offenders as also mirroring considerable changes in the philosophy and practice in the operation of criminal justice. The idea that changes within the process of juvenile justice are represented in the developments in the number of known offenders in the 1980s has been strongly supported, though with a different attitude to Rutherford's, by Farrington (1992 & 1999). This approach provides the direction for understanding the other side of the coin, namely the workings of the juvenile justice process. This side of the coin is of interest to the present work.

According to Farrington, changes in the practice of juvenile justice constituted the only meaningful aspect of the marked decline in recorded juvenile crime rates in the late 1980s. In his opinion (as it was offered by Newburn) the meaning of the late 1980s downturn in recorded juvenile crime rates is that "the reverse of the net-widening process that took place in the late 1960s and early 1970s occurred" (Newburn, 1997:636). In other words, in contrast to the previous decades, in the late 1980s something different happened in the recording process of juvenile offenders. According to Farrington that was only the reverse of the 'net-widening'. Farrington, with his own attitudes about youth crime, particularly stressed that:

> "Unfortunately, it is highly unlikely that the decrease in recorded juvenile offenders coincided with a true decrease in the number of juvenile offenders. The reasons for the recorded decrease almost certainly lie in procedural changes" (1999:3,4).

According to Farrington, the procedural changes, which therefore caused the marked decline in the number of recorded juvenile offenders, were the ones of being convicted or cautioned (1999:4). Clearly Farrington directed attention towards these two stages of the juvenile justice process. True, the stages, or otherwise processes, of courtroom-guilty findings and police-cautioning are particularly important for the making of the total number of known offenders and juvenile offenders.

However it is remarkable that the police-cautioning stage predominantly attracted the interest of most of the 1990s authors, while the courtroom-oriented guilty findings were often disregarded. Exceptionally Rutherford, when analysing the total number of known juvenile offenders, discussed along with the rising use of cautions and the meaning

of the total number of guilty findings (1992:13). Similarly to the case of the intermediate treatment, cautioning practices alone gained enormous attention from the 1990s authors, certainly at the expense of the other part of the recording process. This is an issue.

More particularly a number of things can be traced from the 1990s accounts. First, the police-cautioning of juveniles was considered to be steadily increasing throughout the 1980s. Secondly, the increasing use of cautioning was seen as an established policy in the field of juvenile justice. Thirdly, the established cautioning policy was welcomed by most of the authors. Finally, and more importantly, cautioning practice was seen only through its dimension as a crucial and successful mechanism to divert young people from the courts, as the case was earlier in relation to the intermediate treatment. In other words, the strong association of cautioning with custody was the only angle from which most of the 1990s authors studied the use and establishment of cautioning practice in the 1980s. As a consequence, the domino effect of cautioning on the custody reduction for juveniles in the 1980s has been at the epicentre of the relevant debate. As Allen has put it:

> "[t]he argument is rather that the effect of increased cautioning has simply been to reduce the pool of juveniles to be sentenced and hence to be sentenced to custody" (1991:33).

Characteristically, Gelsthorpe and Morris considered cautioning as the key-issue to understand trends in juvenile custody. As they indicated it was the impact of diversion (cautioning) practices, rather than other trends in the field of juvenile justice in the 1980s, which reduced custody (Gelsthorpe and Morris, 1994:976,77). Rutherford in his 1999 paper *Youth Justice in Britain* referred to the police as the "harbingers [...] of the youth justice reforms which flowered in the 1980s" (:48). Also, Caroline Ball (1992:282), and Wasik *et al.* (1999:485) stated the use of police cautions as part of the context in which custody decline should be seen, while Ashworth emphatically referred to the steep increase of the cautioning rate (1995:317).

It is therefore the association of an imminent strong link between juvenile cautioning and juvenile custody which directed the accounts and the observations of the 1990s authors on juvenile cautioning. Nevertheless, the changing picture of the inter-related process of police cautioning and guilty findings, which made the number of known offenders, was rather ignored.

Indeed, the point argued here is that the understanding of the meaning of the marked decline of known juvenile offenders in the late 1980s is linked to the understanding of the relationship of the two official processes, which define in legal and lawful terms the official number of offenders, an issue to be considered in turn.[43]

i) The interrelated course of the cautioning and the courtroom guilty findings business[44]

With respect to the development of the inter-related processes of police cautioning and guilty findings it should be stated that it cannot be approached narrowly as a question of the juvenile justice of the 1980s only. McConville, Sanders and Leng stated in their study of police practice, that the development of police cautioning was a "real" issue to be observed during the **"successive decades of the 1970s and 1980s"** (1991:101). They indicated therefore the already long life of this extrajudicial process. Nevertheless the use of police cautioning was regarded as particularly established in juvenile justice only in the second part of the 1980s to the extent that McConville *et al.* indicated that "[t]he presumption in favour of cautioning now clearly operates in juvenile [...] cases" (1991:103). The reason lies in the change of balance, throughout the 1970s and 1980s, between the extrajudicial process of found guilty/sentencing, namely the cautioning-process, and the judicial process of guilty found, which in turn concluded with the delivering of a sentence.

For many years the number of juveniles cautioned went hand in hand with the numbers of juveniles found guilty. Or to put it more precisely, the numbers of those

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[43] The total number of known juvenile offenders represents a necessary marriage of the statistical data deriving from the extrajudicial process of police-cautioning and the courtroom-process of guilty-found. With respect to the administrative nature of the two processes, a few things might be mentioned. While the courtroom process of guilty-found is simply limited to what it says, the cautioning process expands on two functions, since the decision to caution automatically involves two decisions. The first function is defined by the decision of the police officers to record the juvenile as offender, namely as found guilty, certainly under the condition that the juvenile pleads guilty. In this case the police assume the role of the courts in deciding who is guilty, and consequently be dealt with by the mechanisms of criminal justice. This is the extrajudicial process of guilty-found, a function that is primarily linked to the total number of known offenders. The second function is defined by the decision of the police officers to caution, namely to deliver a form of conditional sentence. This is the extrajudicial process of sentencing. This function is, formally speaking, irrelevant to the making of the number of known offenders. In the following paragraphs the emphasis will be on the former aspect of cautioning.

[44] See in Appendix II, third table, columns 1 and 3.

juveniles found guilty in the extrajudicial police-administered process were generally at balance with the number of those found guilty in the judicial process. From 1971 to 1982 the balance between the two processes was practically unchanged. The two processes shared relatively equally the numbers of known juvenile offenders. In general, the business of the police stood at the same level with the business of the courts. During this period, the absolute numbers of juveniles sentenced to a custodial disposal were constantly increasing.

From 1983 onwards the gap between the two processes began to widen at the expense of the judicial process of guilty found. The absolute numbers of those found guilty in a magistrates-court were steadily decreasing. The absolute numbers of those found guilty in a police station increased dramatically only in the year 1985. During the second part of the 1980s and particularly from 1986 onwards the absolute numbers of cautioning were mainly in decline with the year 1989 marking a dramatic fall. In 1989, the absolute numbers of cautioned juvenile offenders landed on the 1971 levels, 62,800. Certainly the year 1990 corrected the numerical dive but still the absolute numbers were lower than those between 1981-1987. On the other band of the scale, the absolute numbers of judicial guilty found were steadily and rather dramatically decreasing. With respect to absolute numbers, both processes followed a decreasing course, though at a different rate, during the second part of the 1980s. During the second part of the 1980s both processes actually reduced their business though at a different rate. This is an important point. It is important because the general impression in the accounts of the 1990s authors has been that the business of police-cautioning, in contrast to the court-business, experienced a steady increase in the second part of the 1980s. This seems not to be true, at least in absolute numbers, as on the contrary, in the second part of the 1980s the extrajudicial intervention seems to be in tune with a climate of decrease.

However, the second part of the 1980s is also important for the inter-related course of the two processes since it is then when the number of juveniles found guilty in police stations overwhelmingly exceeded the number of juveniles found guilty in a magistrates-court. More precisely, in 1985, it was for first time when juveniles 'found guilty' in a police station, represented the two thirds of known juveniles offenders. Throughout the second half of the 1980s until 1990, cautions, despite some fluctuations, stood sharply higher to guilty findings. In 1990, proportionally, cautions stood at a record level

compared to guilty findings. In 1990, 86,400 juveniles cautioned in contrast to 24,600 found guilty, or, in percentage terms 78% to 22%.

It could therefore be supported that the marked decline in total number of known offenders evident in the last part of the 1980s represented a real decrease, though at a different rate, in the business of the extrajudicial and judicial process of the recording of juvenile offenders. At the same time, on proportionate grounds only, the extrajudicial process of guilty findings widened significantly, while the judicial process of guilty findings was shrinking.

By the end of the 1980s, and within a context of declining numbers of intervention the extrajudicial process administered by the police emerged as the privileged component of the juvenile system, and the cautioning as the dominant form of dealing with juvenile offenders both in terms of recording and sentencing. Furthermore, according to Newburn, cautioning policy in juvenile justice was believed to be so successful that the Home Office with the 1988 Green Paper *Punishment, Custody and the Community* signalled its intention to transfer the lessons to the general field of criminal justice policy (1997:645).

It is therefore this dominant, but not increasing (as it has incorrectly been assumed) form of police-cautioning process that should be linked with the atmosphere of de-escalation particularly evident in the late 1980s custody course. Moreover, we can talk of a dominant police-cautioning process only because at the same time and unlike the 1970s the business of the judicial process was on a course of rapid decrease.

Here, two further issues should be discussed. One is about the question of net-widening (already raised by Farrington); while the other is concerned with the course of prosecuting.

ii) Net-widening in the 1980s

There is a widely accepted view that 'net-widening' did not actually occur in the second part of the 1980s, when the police was predominantly exercising its extrajudicial powers. The concept of net-widening is related not only to the consequences of the police function, but also to other forms of punishment, as the alternatives earlier mentioned. However, here the attention is turned only to the use of cautioning, which emerged as a dominant form of juvenile offending control. In general, the problem is that cautions can be used "to

replace informal warnings or 'no further action' decisions as well as substituting for prosecutions" (Cavadino&Dignan, 1997:260). In other words, the use of formal caution can supply the formal net of the justice system with juveniles who otherwise would escape formal contact with it and all the relevant consequences. But, according to Rutherford:

> "the data lend support to the view that formal cautioning in the 1980s largely avoided the undesirable consequence of 'net-widening' by being used as an alternative to informal warnings" (1992:12).

Gelsthorpe and Morris share and support the same view (1994:977-79). Among other things, they have referred particularly to the well-known *Home Office Circular 14/1985*, which indicated explicitly the dangers of net-widening and "encouraged the use of no further action or informal warnings instead of formal cautions" (1994:977). It is worth mentioning that in the 1970s when cautioning stood at high levels along with the court-intervention the case was rather dissimilar. As Rutherford had observed, in the early 1980s, with respect to this period of time, "it is likely that cautioning has brought to official notice many juveniles who would in earlier years have been ignored or handled with the proverbial 'clip around the ear'" (1983:80).

iii) Prosecution in the 1980s

Prosecution numbers and the relevant course remained basically outside the interest of the authors.[45] Some of the authors looked at the side of prosecution practice linked with the police administered stages, and they pointed to prosecution policy as part of a context supporting the cautioning process. Hence, Wade (1996:15), Gelsthorpe and Morris (1994:977), Farrington (1999:4) all referred to the *Code of Practice for Prosecutors*, in generally; or more specifically to the provisions contained in the Code that prosecution should not occur unless it was 'absolutely necessary' or as a 'last resort'. The idea therefore is that, in the 1980s juvenile justice, a policy of diversion from the courts included both the use of cautioning practice along with the restriction and minimisation of prosecution numbers. Statistical data from 1980-1990 strongly supports this view. Indeed, from 1980 to 1990 prosecution numbers declined by 63 %, from 98,000 in 1980 to only 36,000 in 1990.

[45] The reason probably lies in the low status that the CPS enjoyed in England and Wales.

Nevertheless, the story of the prosecution numbers course can hardly stop here. A reading of the statistical relationship between prosecution numbers and court guilty findings would provide a clearer picture. It is true that the declining of prosecution numbers could support a mechanistic view about the relationship between the two stages. In other words, the view that almost any juvenile prosecuted would actually be found guilty in the court and actually punished if not discharged. Such a view therefore again linked directly the decline of custody with only the earlier stages of the juvenile justice process.

Statistical data of the course of the relationship between the two stages provide a picture of an increasing dynamism, if not transformation, in the courtroom.[46] In 1980, 92% of juveniles prosecuted were found guilty in the courtroom. The percentages remained almost unchanged for the entire first half of the 1980s. However, from 1986 onwards a change can be observed as the percentage numbers declined rather dramatically. Finally, in 1990 only 68 % of juveniles brought before the court were found guilty, a change of almost 25% in a period of five years. The more rapid decline of found guilty numbers is a further indicator of the evolving dynamics of the courtroom process. While prosecution numbers declined throughout the 1980s by 63 %, the found guilty numbers followed the faster rate of 72 %, a difference of 9 points.

It is remarkable that all this was happening within a juvenile courtroom in which the atmosphere was characterised, at least statistically, by the negation of custodial strategies and other interventionist methods.

d) The *where, when and what* of the changing course

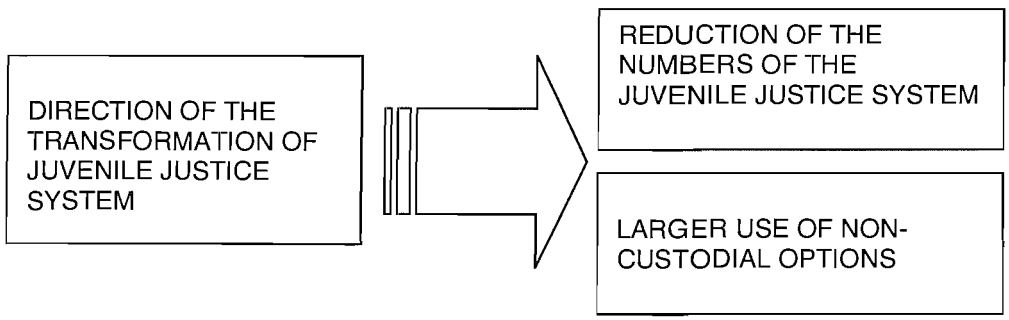
Both the exploration of the 1990s-accounts-and-views about the development of the juvenile justice agenda of the 1980s and the relevant statistical information provided a number of issues featuring the actual picture of the course of change.

In particular, on terms of *where* and *when*, the course of change was featured by two characteristics. First, the change was in accordance with the 'justice by geography' concept; as the change in sentencing numbers did not occur harmonically throughout

[46] See in Appendix II, second table, columns 2 and 3.

England and Wales. Secondly, the change was gradual and occurred in time-phases, but not in the same phases for all the elements of the sentencing system. Nevertheless, it can be argued that a line could be drawn in the middle of the decade separating it into two periods of different dynamics. In the first half of the 1980s, the rate of change is certainly slower, while the change itself did not seem to have a certain direction. Numbers went down slowly, or did not go down at all. Also, with respect to their proportionate composition, again the change was slow, or negligible. On the contrary, during the second half of the 1980s the change was accelerated to become rapid, both on the size and the composition of the numbers, at the end of the 1980s.

With respect to the *what* question; namely *what* happened in juvenile justice during the decade of the 1980s, the primary feature is certainly that the change occurred, as Rutherford suggested (1992), 'virtually at every stage of the process' - a 'sea change'. It was a 'transformation of juvenile justice', which in the words of Rutherford became evident **"in the number of 'known offenders', the shrinkage of the court caseloads and the reduced severity of sentencing practice"** (1992:11). Indeed, the statistical analysis has showed a transition from the big numbers of 'known offenders' of the early years to the small numbers of 'known offenders' of the late years of the 1980s; while, non-custodial options gradually gained considerable ground within the courtroom sentencing process. No doubt, it was a new dual direction for the juvenile justice system, which is featured in the following diagram:



e) Accounts associating the transformation of the 1980s juvenile justice system with the role of the 1980s 'helping classes' practitioners

In *Growing out Crime-The New Era*, Andrew Rutherford strongly connected the sea-change in the juvenile justice system to the working ideology of the 1980s practitioners[47] of the 'helping classes'[48]. As Rutherford indicated:

> "The juvenile justice transformation that occurred during the 1980s was certainly a 'philosophical turn around' but it perhaps best regarded as a sea-change in the working ideology of practitioners" (1992:26).[49]

Similarly, Loraine Gelsthorpe and Allison Morris indicated the relevance of the 1980s practice activity to the dramatic changes in the numbers of custody and residential care. As they indicated:

> "Towards the end of the 1980s, practitioners appeared to be in the ascendancy in controlling, from the ground, what happened to juvenile offenders and there was [...] a 'successful revolution' in terms of ameliorating an apparently harsh governmental response to juvenile offenders by 'managing' to keep many of them out of the system. The figures on the use of custody and residential care reflect this success" (Gelsthorpe and Morris, 1994:983).

Both the above quotes therefore emphasised the emergence of a new practice activity, which actually affected the sea-change in the direction of the 1980s juvenile justice system.[50] Rutherford, Gelsthrope and Morris did not particularly describe the content of

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[47] Rutherford did not underestimate the policy level in relation to the sea-change in juvenile justice during the 1980s. So in pages 16-19 he examined the *National Policy Initiatives*. However, his emphasis was certainly on the practice level, what he called *Practice Initiatives*, covered in pages 19-27.

[48] The term 'helping' classes which is employed in the present work has been borrowed from Pits (1992), *'The End of an Era'*. The term describes the practitioners of social work background who participate in delinquency management, either through Social Services or through the Probation Service.

[49] Already in 1987 Rutherford indicated that "[a] 'bottoms-up' change pattern is clearly discernible. The experience of the last few years has been a remarkable example of practice leading policy" (Rutherford, 1987).

[50] Other authors also indicated the role of practitioners. Pitts stressed the 'apparent' "ability of workers in 'Initiative' projects to cooperate with, and influence the sentencing decisions of, magistrates" (1992:136). Pitts considered the projects developed within the DHSS Intermediate Treatment Initiative as a 'key factor' in the reduction of custody (1992:136).
Caroline Ball did not limit her view on the IT schemes but widely considered the effect of the practitioners' activity indicating as an 'important development' the "innovations of local authority social workers and probation officers working with young offenders" stating the "practice led search for alternatives to avoid the damaging effects of care or custody" (1992:280).

this new practice activity; but they certainly associated it with the prevailing 'anti-custody ethos'[51] and the tendency to keep many of the juvenile offenders 'out of the system'[52].

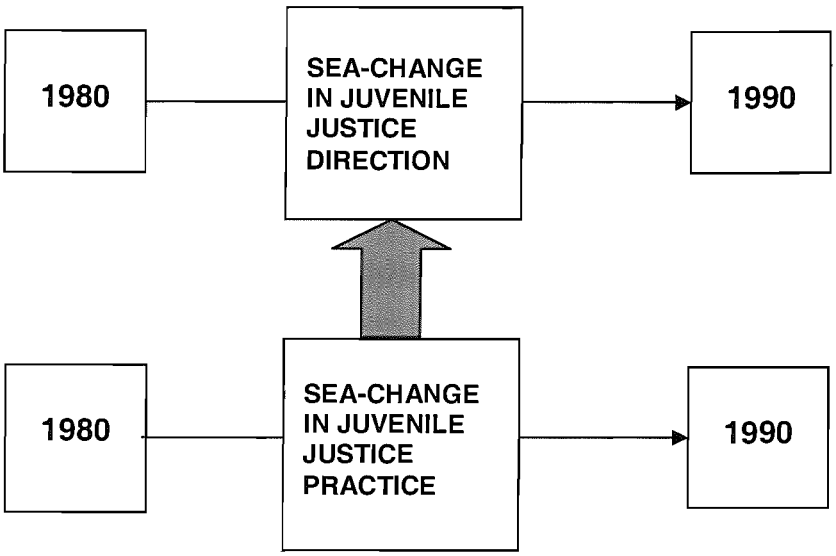
A further source which has provided a long account of the 1980s practice activity is mainly the MPhil study of Sue Wade; a juvenile justice practitioner herself during the period in examination. In her study *The Development of the Juvenile Justice Service in Hampshire (1987 to 1991), the Effect on the Criminal Justice Process, and the Implications for Establishing Radical Practice in Statutory Organisations*, Wade provided memories showing that the anti-custody ethos and in particular a tendency to keep juveniles outside the formal interventions of the system were important features of a new local 'radical' practice. At the same time, Wade has also provided a further feature of this new local 'radical' practice of the 'helping' practitioners, which was the tendency to work efficiently within the local setting; a working philosophy which was paramount in the working culture of those local juvenile justice practitioners (1996:36-7). Importantly, Wade also connected the drastic drop of the local custodial rates to the emergence of this new 'radical' practice which was applied within the local setting.

Therefore, sea-change of the juvenile justice direction was strongly associated with a sea-change which occurred at the practice level working philosophy. In fact, the sea-change in the working ideology of the practitioners of the 'helping classes' was suggested as the critical event behind the sea-change in juvenile justice direction of the 1980s.

Finally, according to Rob Allen "[t]he success of the Initiative and the effective reduction of custody for juveniles in many parts of the country has been due in no small part to the energy, enthusiasm and the commitment of practitioners and managers 'on the ground'" (1991:49).

[51] In sharp contrast to the previous decade when social workers routinely recommended both care and custodial orders a new anti-custody ethos took hold of most juvenile justice practitioners during the 1980s. In its pure form, this represented and absolute dissent from resort to custody" (Rutherford, 1992:25).

[52] Rutherford indicated that "some practitioners placed a particular sharp focus upon process" (1992:18) a view which reflected the tendency of practitioners to keep juveniles out of the system.



Naturally the emergence of a new working philosophy should be regarded as an important event, which demands a deep examination. Understanding the development of the emerging practice therefore will be the subject of the following next chapters. However, in the next chapter - chapter three - the influence of particular academics during the decade in question will be examined due to their strong relevance to the agenda for a new philosophy in criminal justice; but also due to their strong association with the practice world and the development of a new working ideology.

CHAPTER THREE

THE ACADEMIC INFLUENCE DURING THE DECADE IN QUESTION: THE INDIVIDUALS BEHIND SYSTEMS MANAGEMENT AND THE DEVELOPMENTAL APPROACH

a) 'Systems management' and the 'developmental approach': Two schools behind the 1980s minimum intervention

In *Tough Justice,* in particular in chapter seven, titled *Early Release and Structured Sentencing; the Criminal Justice Act 1982,* Dunbar and Langdon examined the effect of the CJA1982 on juvenile justice in the decade in question (1998:73-78). In the five relevant pages, reflection upon official documents and case law prevails. The conclusion appears to be that **"[a]bove all, controlling the use of custody for juveniles was an idea that went with the grain of the time, rather than cutting across it"** (Dunbar & Langdon, 1998:78). In this phrase, Dunbar and Langdon attempted to describe their view about the sentiments of the time ignoring at the same time the existence of an agenda behind the abolitionist idea for juvenile offenders.

However, the 'sea change'[53] that occurred during the 1980s was based on a certain and concrete idea; the idea for the limited use of the justice system for juveniles. Academics, and researchers like David Thorpe, David Smith, Chris Green, Norman Tutt, and Andrew Rutherford, intentionally cut across the course of juvenile justice process, drafting and propagating for a minimum intervention policy agenda.

It was the very early year of 1980 when the Lancaster researchers Thorpe, Smith, Green and Pailey published their abolitionist agenda, *Out of Care*, for juvenile offenders expressing their conscious intention that **"it is time to try something new and different"** (1980:23). They suggested action based on a new, very different from the past, agenda summarised in the objective that **"[e]ach child who does not come to court (or who does not come to court again) can be counted as a success"** (Thorpe *et al.*, 1980:23) It was also the early year of 1980 when Andrew Rutherford of Southampton University, six years before

[53] The phrase *sea change* appeared in the second edition of Rutherford's *Growing Out of Crime* and describes the dramatic change in juvenile justice in the 1980s.

publishing his *Growing out of Crime*, indicated in a Howard League day conference on juvenile offenders that **"[o]ur task is to shift events in the opposite direction..."** towards **"the elimination of much of the existing custodial capacity"** (Rutherford, 1980:2).

It would be certainly a mistake to claim that this circle of academics hold identical views. What they certainly had in common was a strong distaste for institutions, as well as a preference for minimum use of interventions towards children. Their views could be grouped into different versions of minimum intervention, and indeed a more precise account about the two minimum intervention streams can be found in chapter seven of the book *Criminal Justice 2000: Strategies for a New Century*, authored by Cavadino, Crow and Dignan. The authors have referred to the work of the Lancaster group and that of Andrew Rutherford from Southampton University as representing the two versions of the minimum intervention policy agenda that dominated juvenile justice practice in England and Wales during the 1980s.

More precisely, Cavadino-Crow-and-Dignan linked the Lancaster University version of minimum intervention to a 'systems management' approach. They characterised the systems management approach as a **"sophisticated and politically streetwise position [...] which gained great popularity among youth justice workers in the 1980s and succeeded in influencing policy makers and juvenile justice practices in many local areas and at the national level"** (1999:181,82). Also, Cavadino *et al.* named Rutherford as the academic behind the **"attractive 'developmental' approach"**, the other version of minimum intervention in the 1980s (1999:182)[54]. Their views were amalgamated in two books; *Out of Care* and *Growing out of Crime.* The two books pointed towards a new direction for the course of juvenile justice system.

Out of Care was one of the two influential books on juvenile justice, especially for the first part of the 1980's. According to the authors it was intended **"to put a spoke in the wheels of the law-and-order bandwagon"** (Thorpe et al., 1980:31). One interviewee, a former member of the formerly influential group of Lancaster remembers that:

> "The book was originally the brain child of David Thorpe, and his agenda was very much, throughout the late 70s a campaign against of what he calls 'the excessive

[54] Furthermore, they stated that *growing out of crime,* the key-phrase of the developmental approach, was 'popularised' by Andrew Rutherford's book *Growing Out of Crime: Society and Young People in Trouble* (1999:202), which was first published in 1986.

use of care' – especially for children that came into the care system via the courts, as a result of offending."

In *Out of Care,* the four Lancaster University academics[55] argued clearly and unambiguously for a policy of 'decarceration', or 'abolition', or 'decriminalisation'. Their proposed policy agenda was undoubtedly one of abolition, a theme which came across in every chapter of their book. In chapter one, they reminded the readers that in the Ingleby report the **"major thrust of policy was directed at decriminalisation"** (Thorpe *et al.*, 1980:4). More expressively, in the very beginning of the chapter two and under the heading *Decarceration, Welfare and Law,* the authors stated that, **"in this book we argue for a policy of 'decarceration'"** (Thorpe *et al.*, 1980:27). Later, in chapter five, a *New Framework* would be analysed which was concerned with what the authors called the 'abolitionist alternative' (Thorpe *et al.*, 1980:96). Then, in chapter seven they reminded their readers that 'community' was **"one of the two policy objectives of a reformed juvenile criminal justice system"** therefore implying that the other one was abolition (Thorpe *et al.*, 1980:135). Finally, in the concluding chapter eight, in the first of their six specific recommendations, the authors clearly indicated that the **"initial aim should be the decarceration of children from expensive and largely and ineffective CHEs"** (Thorpe *et al.*, 1980:163). Hence a strategy of abolition for juvenile offenders was the key theme in the pages of *Out of Care*, which was first published in 1980.

A year earlier[56], Andrew Rutherford indicated **"the unnecessary incarceration of persons under the age of 17"** (1979:2)[57]; while, in 1980, in his paper *Why Courts should make non-custodial orders*[58], Rutherford clearly unveiled an abolitionist strategy suggesting as a first step the 'elimination of 4000 places' of prison facilities for juveniles:

"An effective range of non-custodial dispositions will only be created in the context of a decarceration strategy which reduces the capacity to incarcerate young people at

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[55] Norman Tutt, a previously influential policy advisor in the then Department of Health and Social Security (DHSS) had written the *Preface* of the *Out of Care.*

[56] *Growing Out of Crime*, the classic title of Andrew Rutherford, was published a few years later, in 1986, and actually it rather marked the late part of the 1980s. As it was mentioned in 1992 in the *Book Reviews* of the *Justice of the Peace*, the second edition was an "expanded edition of an influential book first published and much read in the mid-eighties" (1992:665).

[57] From *Dealing with Juvenile Delinquency: Alternatives to Custody'*, a paper read at the Parliamentary Panel on the International Year of the Child.

[58] From the paper read to Howard League Day Conference, *Juvenile Offenders Care, Control or Custody.*

the central and local level of Government. [...] The first step must be the elimination of the 4000 places being used for juveniles in Prison Department facilities by bringing into effect sections 7(1) and 7(3) of the 1969 Act. This would serve to ensure that local secure custody would be used as a last resort, and that viable non-custodial sanctions will emerge and be used" (Rutherford, 1980:6,7).

The abolitionist message was therefore a common theme for the Lancaster context and Andrew Rutherford; while, as it will be shown later in chapter eight, their common abolitionist message was specified through their different minimum intervention strategies, (mentioned earlier above by Cavadino *et al.*,) the 'streetwise systems management' and the 'attractive developmental approach'.

In any case, the common abolitionist view about the future of juvenile justice was the very one theme that virtually united this academic group, as in reality these academics never formed themselves into a coherently organised group, not even the Lancaster group itself.

b) A loose group of researchers who were strongly linked to the progressive question of their time about the penal future of juvenile justice

The so-called Lancaster group cannot be regarded as a coherent group of researchers working closely for the making of a 1980s agenda. Rather the Lancaster group was a loose group identified partly by the 1980 published book and the systems management label, and collectively referred to by a number of people in the field as the Lancaster University. Furthermore relations with Rutherford seem to have been random.

An interviewee, former member of the Lancaster context, while giving some information about the book *Out of Care* has provided a picture of looseness about the group of Lancaster University. In particular, the interviewee's account shows that the initial members of the group, and authors of the book *Out of Care* did not remain together for long in the run up to the decade of the 1980s:

"The book was originally the brain child of David Thorpe who had been [in Lancaster] since 1975 and before that he had been a quite prominent figure from about 1972. Norman Tutt actually arrived later, he arrived here in 1979, and he wrote a foreword to the book [...] He was a prominent name. Chris Green and John Paley were [in

> Lancaster] at the time, working on a DHSS-funded piece of research on the kind of varieties of intermediate treatment, which at the time was a big issue. By the time we got it written, Chris was still [in Lancaster] but John Paley had moved on [...]. David Thorpe went off to Australia [...] in the mid-80s".

Andrew Rutherford considers that "the Lancaster group had already begun to take shape prior to Norman Tutt arriving"; whilst, Norman Tutt remembers that his involvement in Lancaster University as Professor was a 'completely random thing'.

> "It's one of those completely random things. What had happened is I knew David Thorpe. I'd been working with the Department of Health, I'd got David to talk to – to lecture to a group about intermediate treatment on two or three conferences and then he said to me one day, they're looking for a Chair in his department at Lancaster, would I be interested? And I said, no, you know, that's the last thing I would want to do. And then there was an election and the government changed and I phoned David up and said, you know, is that Chair still available and they said yes, they were about to advertise, so I thought, well, I'd better apply for it and was interviewed and accepted."

With respect to Andrew Rutherford and the Lancaster group, an interviewee, former member of the Lancaster context, has indicated a kind of direct connections which seem however to be linked only to the *Woodland's Project*:

> "Of course there were direct connections between Lancaster and Rutherford and Growing out of Crime, because Chris [Green] went from [Lancaster] to run the Woodlands Project in Basingstoke".

It must be pointed out that the case of the *Woodland's Project*, run by the Lancaster member Chris Green, was included and presented in the fourth chapter of Rutherford's *Growing out of Crime*, under the subtitle the *Woodland Centre* (Rutherford, 1986:136-147). There Rutherford indicated that:

> "Green had been a member of a research team at Lancaster University which served as a resource to local authorities wishing to develop alternatives to sentences of care and custody" (1986:137).

But, as Rutherford remembers, his link with the Lancaster group did not go much beyond this point or the conference platforms he would share with some of the Lancaster people.

> "I didn't know the Lancaster group awfully well, except, I'd had these meetings with Tutt – I never went to Lancaster, but occasionally would share conference platforms with people like Tutt and David Thorpe and other people associated with the Lancaster group. My other link with Lancaster came through the Woodlands project in Basingstoke in the early 1980s because Chris Green was the first director of

> Woodlands and had been part of the Lancaster group and was part of the co-authors of *Out of Care.* So there was that Lancaster connection through Chris Green and Woodlands, that was very important a little while later."

Norman Tutt also remembers that meeting with Andrew Rutherford was again a chance connection based on the similarity of their views about juvenile justice.

> "[Andrew] came back [from America] and a friend of mine said, oh, you know, this guy's been over looking at things in America, you might be interested to meet him. That's when I was in the Department of Health [prior to 1979] and he, Andrew, came over and talked about the work Jerome Miller was doing in Massachusetts[59]. I thought that's it! [laughing]. That's exactly what I think. And on the back of that I went over and met Jerome Miller in the States. [...] It was completely chance connections, really."

Andrew Rutherford also confirms the like minded meetings shared with Norman Tutt in the late 1970s.

> "Norman was interested in how central government might play a greater role in encouraging local authorities to partake of what was then being called intermediate treatment. And I recall certainly about probably 1978, possibly '77, coming ... when I was in London attending a meeting Norman had organised that set up something called the IT fund – this was a fund of money that local authorities could apply for – and aspects of Massachusetts, my description of Massachusetts, fed into that model."

It can be supported that it was actually this interest, for something new and different in juvenile justice that created a kind of common base among them. It was their common interest in the question about an anti-institutional future for the young people which primarily connected these individuals rather than an organised academic space where they constantly met and developed a common view. The meetings in the *IT Fund*, the academic environment of Lancaster University, the writing of the book *Out of Care*, the co-authoring of a number of articles for practitioners, the *Woodlands Project*, the talks they gave about a new and different approach in juvenile justice all constituted several chances to consider the same issue; namely the viability of an anti-institutional anti-custodial practice policy.

We can therefore talk better of a very loose academic/research group united by an abolitionist vision about the juvenile justice process; while for the particular case of the

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[59] The Massachusetts case refers to the drastic abolition of the Training Schools in Massachusetts under the leadership of Jerry Miller. The case was extensively presented by Rutherford in both editions of his book *Growing out of Crime.*

Lancaster people, we should also talk better of the loose Lancaster group, and this is how it will be referred to in the present work.

The important point is that this loose academic/research group actually influenced, with their ideas, the course of the 1980s juvenile justice process – a point to be argued immediately below.

c) Evidence about the influence of the anti-institutional anti-custodial academic work

Through their work, known either as 'systems approach' or as 'growing out of crime' approach, the loose circle of academics/researchers who expressively described their abolitionist, anti-interventionist thesis in relation to juvenile delinquency, also offered an influential policy agenda for dealing with juvenile offenders. This is certainly what, more or less, the interviewees have supported.

i) The interviewees about the influence of the loose academic/research circle

Indeed, an interviewee, a former leading policy consultant of the time, has indicated that "David Smith and his colleagues at Lancaster University were influential"; while another leading policy consultant has highlighted the influence of Rutherford's book: "Growing out of Crime – Andrew's classic title." The first interviewee has suggested that:

> "David Smith and his colleagues at Lancaster University were quite influential and they were involved in a lot of the conferences. They were involved in the committee, New Approaches to Juvenile Crime. They were probably the most influential academics apart from Henri Giller."

Also, in the view of the same interviewee, *Growing Out of Crime* "was an essential core value at that time".

An interviewee, former leading practitioner, looking back to the course of the 1980s has stressed the influential role of the Lancaster group and of the systems approach:

> "I think the inspiration originally came from the Lancaster group, Giller, Tutt, Thorpe, Green, you know that piece of work [*Out of Care*], and the systems approach, which showed that you could actually play with the system, you could work the system".

Similarly, another interviewee, a former leading practitioner has confirmed this account and further has indicated his admiration for the systems approach:

> "I did get my inspiration from Norman Tutt and Henri Giller, and people like them and we were all very keen on the systems approach, which I am still keen on".

Another interviewee, a former leading practitioner, shares the same view about the influence of the Lancaster school, especially in relation to the criminal care order which was overused in the late 1970s.

> "I was doing a lot of reading, got to know the work of Lancaster University David Smith, Chris Green, Norman Tutt, David Thorpe who produced a very good book in 1980, called 'out of care' it was a really important book at that time, it questioned for the first time the use of section 7(7) care orders?"

As the interviewee has further indicated:

> "the book questioned the use of intermediate treatment and it said 'let's treat children going through our court system and our care system, not only with some welfare, let's treat them with some justice, let's not heap loads of penalties on them'."

Also, another interviewee, a former leading practitioner has particularly mentioned the **"writers that were beginning to say 'pay attention to the deep end'"**, namely the writers that pointed to the abolition of custody, and in the view of the interviewee this academic stance constituted an important 1980s 'national thing'. Similarly, another interviewee, former leading practitioner, remembers that diversion and the other elements of the 1980's agenda were coming "from work which David Thorpe, Norman Tutt and those of Lancaster did [while] Andrew was around saying similar sort of things. As the interviewee has supported **"it was very much academic-led in the middle of the 1980s, '85."**

With particular respect to Norman Tutt, an interviewee, a former senior probation service manager, has indicated that "Norman Tutt wrote a great deal about juvenile practice at that time, and Norman Tutt was hugely influential in the development of the particular policy". According to the interviewee, Norman Tutt's "contribution was to push with missionary zeal a systemised approach to it." At the same time the same interviewee has indicated that "Andrew Rutherford had a big part in [the course of the 1980s]".

Regarding the role of the Lancaster group, another interviewee, a former senior probation service manager, remembers that "Lancaster University research and Norman Tutt in particular was very, very evident throughout the decade and Norman Tutt was a figure you met whether you wanted to or not". In particular the interviewee has further stated that "[Norman

Tutt] was one of the key figures, and certainly in terms of the world of social services, who were key players after all, he was very influential." The same interviewee has also stressed that the book *Growing Out of Crime* worked very well as "it caught the temper of the time, it caught the mood".

The accounts of a number of interviewees have therefore suggested the influential role of the academic work. At the same time, it would be a mistake to suggest that the juvenile justice practice microcosm were fully aware of the academic origins of the policies they followed. Indeed, Lorna Whyte, then a principal social worker with Hammersmith and Fulham Social Services Department, in an interview with Andrew Rutherford[60] offered an interesting account about the loose awareness of practitioners to the academic ideas about the juvenile justice agenda of the 1980s:

> "[W]e picked them up in social work magazines, all sorts of places such as the London IT Association which was very strong at that time. We did this without really knowing the context of the ideas. It was a bit later before we began to understand work such as what Thorpe at Lancaster and other academics were doing and were able to put that on the framework of the 'justice versus welfare debate'" (Rutherford, 1992:26).

Rutherford has rightly concluded that the interesting point arising from this view was that **"at the time most practitioners were unaware of the origins of the ideas that influenced them"** (1992:26).

ii) Other sources about the influence of the loose academic/research circle

Furthermore, it is important to mention that besides the above mentioned accounts of the interviewees, accounts about the influence of academic work on the practice world can be also found in further sources as well. The paper of Kate Lyon, *Partnership in a Local Juvenile Justice System: The Case for Marginality*, published in 1991, is a particularly important source. It is based on a fieldwork study conducted in the second part of the 1980s and certainly before 1988. In particular, Lyon examined the *partnership*

[60] Andrew Rutherford in his "preliminary exploration of the transformation of juvenile justice during the 1980s" in the second edition of *Growing Out of Crime* indicated how much his attempt was facilitated and enriched by the discussions he had with four individuals directly involved in these events (1992:16). Indeed, that time interviews reflected a fresh memory of the participants, and as a consequence they can still be regarded as an important source about the history of the 1980s juvenile justice process.

relationships developed by an alternative-to-custody scheme established in 1985 and "designed for 'heavy-end' offenders in a Petty Sessional Division where both high number of juvenile offenders and a high custody rate were seen to be cause for concern" (1991:186). It was therefore an alternative to custody project scheme of the time belonging to the Initiative schemes, which were regarded as the key vehicles of the change that occurred in the 1980s course of juvenile justice.

Lyon indicated that the project staff **"were proponents of the *minimalist* approach"** (1991:192). She further informed us that **"[t]he values of project staff have been heavily influenced by those of the Lancaster model of Thorpe *et al.* (1980) of community support of juvenile offenders"** (1991:191); while, later on she underlined that the project staff believed that **"in order to bring about change in an area with high custody rates, the first and most urgent task is that of systems management"** (Lyon, 1991:194). Lyon also pointed to the influence of Rutherford's work on the project workers views (1991:192) in particular in the paragraph where she mentioned that:

> "[p]roject workers are committed to the view that most offending by young people is situational and opportunistic, and that is sufficient to maintain them in the community until they 'grow out of crime' (Rutherford, 1986)" (Lyon, 1991:192).

Further information about the influence of systems management on the development of the juvenile justice practice can be retrieved from the paper *The Life and Death of the Care Order (Criminal)* authored by Robert Harris and published in 1991. Robert Harris looked at the research of Lancaster University group in relation only to the implementation of the provision 7(7) of the CYPA69 about the 'care order (criminal)':

> "Research conducted at Lancaster University in the 1970s (for example Thorpe *et al.*, 1980; Thorpe, Smith, Green and Paley, 1980) was showing that the spread of offenders receiving care orders (criminal) was both wide and inexplicable" (1991:5).

Harris considered the research of the Lancaster group as 'significant' in engineering a negative context in relation to the use of the care order:

> "Though this research is vulnerable to criticism for setting at an arbitrary high level the criteria which justified residential care, its demonstration of the low criminality of most youngsters subject to care orders (criminal) was significant and the research paved the way for the development of a range of community-based initiatives in a number of social services departments" (Harris, 1991:5).

A further source about the influential role of the Lancaster school can be also found, in the book, *Unmasking the Magistrates: The 'custody or not' decisions in sentencing young offenders,* published in 1989. The three authors, Parker, Sumner and Jarvis, under the subtitle *Social work alternatives to custody and care*, discussed the 'series of research studies, led by Lancaster University' which 'produced a critique of the practice of welfare' (1989:11). According to Parker *et al.* the Lancaster critique constituted an important school of criticism which critically influenced the emergence of a new style of social work practice which aimed at preventing the early use of care or custody:

> "[The] academic critique of juvenile justice since the 1969 CYPA [led by Lancaster University] produced the conditions for the emergence of a progressive form of social work practice. [...] The monitoring of juvenile justice systems, the creation of a 'practice theory' theory for establishing intermediate treatment (IT) as a genuine alternative to care and custody and the option of manipulating the sentencing scale emerged in the early 1980s. Identifying tariff sentencing allowed social enquiry report writers the opportunity to 'manage' the role of supervision and IT recommendations to ensure proportionality between the offence and sentence, and, ideally, to prevent the early use of care or custody" (1989:11).

A particularly interesting commentary on the influence of the Lancaster group can be found in the book *Holiday Camps* authored by John Holt. John Holt was an active practitioner in the Intermediate Treatment field since 1977. In the years 1984 to 1986, he was a committee member *Association for Juvenile Justice* (AJJ) which became gradually influential. The first print of his book *No Holiday Camps* was forewarded by John Pratt, member of the Institute of Criminology at the University of Cambridge. John Pratt was also a member of the publications committee of AJJ, which in turn published Holt's book. Also, the end page of the book accommodated a positive commentary by David Smith from Lancaster University, Andrew Rutherford from Southampton University and Chris Green then Assistant Director of Rainer Foundation and formerly with Lancaster University. According to the publishers the book attempted "to locate the perspectives of 'radical criminology' within the IT field itself" while suggesting at the same time the need for a "framework for future action" (Holt, 1985:*Endpage*).

Essentially, John Holt was heavily linked to the business of juvenile justice of that time, and from this point of view his account on the academic role can be regarded as important. Nevertheless, the importance of John Holt' work should be seen in the context

of that period. Indeed, in 1985, the 'sea change' in the numbers of custody was not yet evident, while Rutherford's *Growing out of Crime* had not yet been published. With this time restriction in mind, Holt's account should be considered important and revealing.

Indeed, in the pages of his book Holt indicated the particular role that the Lancaster University group had played in the diversionary direction of juvenile justice practice. More precisely, according to Holt "**[t]he publication of 'Out of Care'** (Thorpe et al, 1980) marked **the most significant theoretical development to date**, [1985] in the field of Intermediate Treatment" (1985:17). And, he continued, by indicating that:

> "Lancaster University's involvement in 'I.T.' policy development has been the most marked in terms of their 'Delinquency Management' strategies. [...] A number of local authorities, particularly in the North of England, influenced by the work of Lancaster University, began to develop 'Delinquency Management' strategies during the late 1970's" (Holt, 1985:18).

He therefore remarked that as a result:

> "Lancaster University's work has emphatically debunked [the] style of 'I.T.' through its emphasis on 'gatekeeping' and diversionary strategies" (Holt, 1985:22).

A characteristic source about the Lancaster school influence can be found in a letter written by Sue Ross, then a leading practitioner, and published in *AJJUST*; the magazine of the developing Association for Juvenile Justice, of which Ross was a founding member. The letter staged an attack on a modest critique of the systems management by Nellis. The relevant point is that, Sue Ross, while attacking Nellis' views, particularly indicated the influential role of the Lancaster group mentioning that **"IT owes a debt of gratitude to Lancaster University which the rest of Social Work has to learn from, despite Mike Nellis's naïve critique"** (Ross, 1987:6). It is also rather characteristic that Nellis in his responding letter to Sue Ross indicated very early in his letter his great respect for Lancaster University stating that **"there is a lot I agree with in Sue's letter particularly regarding the debt of gratitude owed by IT to Lancaster University"** (Nellis, 1987:6). In other words, the whole argument resulted in a form of tribute to the Lancaster's influential role.

Finally, a characteristic source which strongly implied the influence of the Lancaster group, and of the Professor Norman Tutt in particular' was the concluding paragraph in the paper *Justice for Juveniles – A corporate strategy in Northampton*, published in 1986 by the Northampton juvenile justice pioneers, Julian Bowden and Malcolm Stevens. Under the subtitle *Conclusions* Bowden and Stevens quoted as a

conclusion part of Norman Tutt's address in a conference co-organised by Northampton and Lancaster. Furthermore, the way that they introduced the passage from Tutt was characteristic of the high influence of Tutt:

> "Perhaps the last word can be left to Professor Norman Tutt, also addressing the conference in 1983, organised by Lancaster University and Northamptonshire SSD, to consider corporate action with juveniles with particular reference to diversion" (1986a:347).

The loose group of academics had therefore influenced with their ideas the course of the 1980s. The Lancaster group features more highly in the early part of the 1980s, while Rutherford's influence seems to be acknowledged during the latter period of the 1980s. It is important to stress however that the idea of abolition as the potential future for juvenile justice was not the only theme which featured in the loose academic group within the juvenile justice course of the 1980s. All the above accounts, more or less, have shown that a kind of bond between practice and the loose academic group did exist. Actually the quote from Bowden and Stevens was characteristic of the working relation between practice and Lancaster.

Indeed, it can be supported that Lancaster school's 'streetwise systems management' and Rutherford's 'attractive developmental idea' were influential (and are seen as critical in the present study) also because of the common strategic stance of this loose group towards the local settings and, in particular, the practitioners of the 'helping classes'.

d) The strategic stance towards the potential of the practice world

A particular feature of the loose academic research group was that in their studies they considered the role of practice highly. Both *Out of Care* and *Growing out of Crime* were forms of academic book, which clearly targeted the juvenile justice system practitioner. In *Out of Care* priority was certainly given to the social worker, as this book was 'to be helpful to the social worker'. *Growing out of Crime* was "intended mainly for persons directly coping with young people who are involved in crime or other troubling behaviour" and

Rutherford referred to a wide list of groups such as parents, teachers, youth workers, social workers, probation officers and magistrates (Rutherford, 1986:9).

The strong interest of the loose academic group in the juvenile justice practice world has also been reflected or acknowledged in the accounts of interviewees. Some of them indicated the existence of a strong bond between academia and practice. As a former leading practitioner has indicated **"interestingly, then, academics and practitioners were much closer, I mean they would work much closer together"**. Another former leading practitioner has also indicated that **"the academics were very active in the field of IT; they would come to our conferences and speak without charging for it, and AJJ ran a joint conference with Lancaster one year."** And indeed a strong view about the importance of the juvenile justice microcosm and the juvenile justice practitioner can be evidenced both in the papers, but also in the practice of the loose academic/research group.

i) The practice and the view of the loose Lancaster group about the juvenile justice practice microcosm

In 1983, in the aforementioned conference co-organised by Northampton and Lancaster University, Norman Tutt, emphasised to the audience the conference 'message'; namely the power that the local settings enjoy in shaping a 'more rational, cost effective and humane' policy:

> "You should go back to your agencies [...] to produce an agreed strategy – what that strategy should be is for you in your local areas to determine given constraints of local practice, finances and resources available. [...] Only by such means may we who are responsible for social policy produce the more rational, cost effective and humane social policy which we owe to our young people" (Tutt cited in Bowden & Stevens, 1986:347).

It was actually a very characteristic view of Tutt indeed. In *Doing Justice to Great Expectations*, Tutt (and Giller) had explicitly stated a strong distrust in the power of legislation to bring about change by stating that:

> **"[T]he introduction of a principle into legislation does not guarantee that it will be adhered to in practice"** (Tutt & Giller, 1985:20).

Furthermore, this was a particularly common view in the earlier work of Thorpe *et al.* who highlighted to their readers, namely the social work practitioners, the factual importance of the local settings in shaping the outcomes of juvenile justice:

> **"there is no one juvenile criminal justice system, only an aggregate of local systems, local practices and local procedures – local situations differ widely"** (Thorpe *et al.* 1980:128).

In the view of Thorpe *et al.*, this power of the local settings was a fact, which had to be appreciated; and not simply rejected by referring to the directly supposed capability of a legislative provision as able to resolve the multiplicity of the local sentencing outcomes. Hence, in the concluding pages of *Out of Care,* Thorpe *et al.* clearly indicated to their readers, the social work practitioners, that the 'grounds of hope' for a change of direction in juvenile justice lied in those people's intentions and values:

> "[T]here are grounds for hope. [T]here are magistrates who are aware of the lack of proportion in the sentences they are compelled to impose, and who know that basic principles of equity and due process have been abandoned in the juvenile court. There are policemen who have other criteria of excellence [...] and know that most juvenile offenders are trivial and could be dealt with more creatively than by the bureaucratic machinery of law enforcement. There are social services managers who know that their residential establishments for offenders are a useless waste of money and staff talent and energy, and that their staff are demoralised and incapacitated by the lack of more constructive alternatives." (Thorpe *et al.*, 1980:177,178)

Furthermore, Thorpe *et al.* believed that the ground people were capable of bringing about change, at least, as they said, their studies could confirm it:

> "This example[61], at a local level, creates the basis for a renegotiation of the juvenile liaison system centred on the use of cautioning which can be informed by discussion about specific cases. It highlights the processes by which a client is selected, if at all, for reports and recommendations by one service or the other and raises questions about the effect of that selection" (Thorpe *et al.,* 1980:77).

The loose Lancaster group therefore wanted to become engaged with practice and utilise its power to bring about change. Thorpe *et al.*, indeed, indicated that the evaluative studies they conducted were part of a wider strategic project, the aims of which were stated in *Out of Care*:

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[61] The 'local example' refers to a study of six months' proceedings in an area covered by one court. It must be noted that Thorpe *et al.*, were careful enough to indicate that **"this study is offered solely as an example of a local study rather than as a basis for generalisation about differential practices"** (1980:71).

> "In all the areas where it was carried out, the section 7(7) care order study formed part of a strategy not of research, but of policy development and change. [...] Its effect was to confront practitioners with the results of their practice" (Thorpe *et al.*, 1980:93).

Therefore, in the research work of Thorpe *et al.*, the practice world, and the practitioners of the 'helping classes', in particular, constituted the very audience towards which 'policy development and change' in juvenile justice was directed. Practitioners were at the epicentre of the academic activity of the loose Lancaster group:

> "in 1979 [in Lancaster University the] idea [was] of setting up a centre for research into youth - there wasn't one in the country at the time [...] and really the idea was to address practitioners and involve practitioners in policy development and change" (interviewee, former member of the Lancaster group).

Working within practice[62] or, generally, working with practitioners constituted an important value for the academic activity of the loose Lancaster group:

> "if you sent out new law it didn't mean anything, it was how it was interpreted by the people who actually implemented it. So [we] developed this model which said that there are policy arises from research in one area and from practice, so if you could make practitioners and research work closer together you could have more influence on policy" (interviewee, former member of the Lancaster group).

In many aspects that was the case for Andrew Rutherford as well; namely a strong belief in the value of practice world to institute policy change.

ii) The practice and the view of Andrew Rutherford about the juvenile justice practice microcosm

In 1980, Andrew Rutherford concluded the conference paper, titled *Juvenile Offenders: Care, Control or Custody*, by expressing his strong dissatisfaction with top down 'Grand Design', and the 'armchair theorising' in relation to the development of juvenile justice policy. Characteristically Rutherford indicated to the audience:

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[62] Chris Green was a case of a member of the Lancaster group who was involved in the ground decision making. It is must be reminded that in the very early 1980s, Chris Green became the director of an innovative project in Basingstoke. Through his engagement with the Basingstoke located *Woodlands Project* he put into practice the Lancaster anti-custodial strategy. In the late 1980s, his name appeared in practitioners' seminars on the development of Information Systems for juvenile justice.
It is of note that Norman Tutt himself was an individual moving in and out of academia. During the second part of the 1980s, Norman Tutt left Lancaster University and moved to the post of director of the Leeds Social Services Department.

> "Progress, is perhaps, most likely to be achieved through a series of ad hoc steps rather than be consequent to a Grand Design. I doubt whether much would be achieved by a Royal Commission at this time [...]. There has been little shortage of armchair theorising on these issues" (Rutherford, 1980:9).

Three years later, in the 1983 published paper *A Statute Backfires: The Escalation of Youth Incarceration in England during the 1970s*, Rutherford again indicated the inefficiency of top down policy in making any impact on local juvenile justice settings and particularly on the courtroom process. This time, the direct reference to CYPA 1969 had replaced the term 'Grand Design':

> "[one of the] four principal reasons for the failure of the 1969 act to reduce the incarceration of young offenders [is that] central government is, at best, able to exert only a marginal influence on the sentencing decisions of the courts" (Rutherford, 1983:75).

Rutherford therefore had a strong distrust in the ability to enforce change through top-down 'Grand Designs'. Instead, much like the loose Lancaster group, Rutherford believed in the need to become involved with the practice world. During the 1980s the involvement of Rutherford within the juvenile justice microcosm had taken place in various ways.

One way was in organising training events. An interviewee, close to Andrew Rutherford, remembers organising successful training events on the operation of juvenile justice, as training events for practitioners was an important aspect of the juvenile justice course of the 1980s:

> "We were both involved in talking about juvenile justice and the lecture circuit, if I can put it that way and particularly events in London which we used to organise. I remember one of those events at that time attracting hundreds of people who were lining the walls and filling the auditorium."

A number of examples can show Rutherford's involvement with the conferences of the practice world. In 1985, Rutherford gave the 'opening talk' for the first conference for the staff of the National Children's Home[63]. In 1986, we can read in *AJJUST* about "Andrew Rutherford speaking at the Wales Intermediate Treatment Forum near Cardiff". The half-page coverage of his speech concluded with the editorial comment **"Andrew once again [etc]"**, indicating therefore the frequency of Rutherford's involvement with the practice organised

[63] Information provided in the NACRO-JOT sponsored *Initiatives* (Summer 1985:4).

conferences (AJJUST, April/May 1986:12). Also, we can read in *AJJUST* about Rutherford's participation in the successful June 1987 conference of AJJ and the comment about his **"extremely lively lecture"** (Hester, 1987:15). In 1988, Rutherford was the main speaker of the morning session in the local one day Sandwell 'Inter-agency conference', which "aimed at senior policy makers and managers in Probation, Social Services, Education and Youth provision as well as at senior police officers, magistrates and court clerks"[64]. In 1988, he was the 'guest speaker' in the half day seminar organised by the 'Miskin Project' on alternatives to care and custody[65]. In 1989, Rutherford was among the speakers of the NITFed practice oriented conference *Twenty Years on... Who's Managing to Care?*[66] These, indicative only, examples show Rutherford to have been very involved in the conference events of the juvenile justice microcosm, therefore spreading the anti-custodial message.

Nevertheless, it can be argued that Rutherford was also open to learn from the practice potential and to disseminate practice developments. The case of Basingstoke is characteristic. Indeed, Rutherford had early recorded the developments in Basingstoke, which seem to have impacted on his view on the potential of local practice[67]. The 'Woodlands project', reported extensively in *Growing out of Crime*, was certainly a turning point in the strategic thought of Rutherford about the potential of the juvenile justice practitioner. Indeed, *Growing out of Crime,* which contained distilled personal experience on policy and practice of over 15 years, also accommodated Rutherford's impressions from the juvenile justice paradigm of the 'Woodlands project'. A source close to Rutherford has indeed suggested the late apocalyptic role of the Woodlands in his

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[64] From conference materials of the one day conference *Policy on Juvenile Crime-Issues and opportunities for Sandwell*, Friday 22n April 1988 – Sandwell Park Farm West Bromwich. Rutherford talked of *'Juvenile Justice in the new decade: An evaluation of recent experience and the lessons for the future'.*

[65] From seminar materials of the 'Miskin Project' half day seminar held on Thursday, 16th June 1988 at the Pontypridd Rugby Football Club, Sardis Road. Rutherford talked of the *'the Criminal Justice Bill – Its Implications for Offenders under 21'.*

[66] From the conferences programme. The conference was held at the University of East Anglia, Norwich, 18th-20th September 1989.

[67] It should be noted that research evidence show that Rutherford was involved in the policy decision making process which was taking place in Hampshire Probation Services and Social Services as well.

philosophy: "Rutherford had seen a lot in America of what was going on and I think he'd done a lot of the thinking that went into that book before he suddenly realised that there was something happening on his doorstep - I don't know the way in which the book grew but I think Basingstoke was discovered later rather than at the beginning of the work".

Hence, the Woodlands project occupied eleven pages of the fourth chapter of *Growing out of Crime*, and evidenced what Rutherford had suggested to readers in the beginning of this chapter; namely that "[w]ithout question, some everyday practice leads policy with respect to the developmental approach to youth crime". At the very beginning of chapter four, Rutherford, a strong proponent of the developmental approach, further indicated, within the setting of the Thatcher years, that "[m]uch can be learned [...] from practice within the criminal justice arena which seeks to strengthen the community's capacity to manage young people and crime"; while, at the same time he concluded that "[p]olicy on youth crime has been retarded by a failure to build on the lessons of successful practice" (1986:108).

Much like the loose Lancaster group, Rutherford believed in the power of the local settings and, in particular, in the power of practitioners to enforce a reductionist change in juvenile justice local settings.

iii) But not everybody thought the same in the early 1980s

The view shared by the loose Lancaster group and Rutherford was therefore the appreciation of the bottom level of practice policy making. They both believed that, on the one hand, 'Grand Design', legislative interventions, could not contribute towards a reductionist strategy in juvenile justice. On the other hand, they believed that the local settings had more potential to bring about change, as it was mainly within the local settings where the actual power for day-to-day decision making was located. Moreover the loose academic group took the pragmatic view that despite the punitive outcomes of local juvenile justice settings, the local settings themselves were not a problem but a reality in the world of policy making. As a result, local settings were legitimate policy settings, which had to be understood by those who wanted to initiate a reductionist change at national level. Furthermore, within the local settings the loose Lancaster group and Rutherford particularly believed in the potential of the practitioners of the 'helping classes'.

Here, in order to further enhance the argument about their pro-local/pro-practitioner view, it is important to mention that this loose academic group was also connected with

policy spaces, which also believed in the power of locality and of the 'helping' practitioners, such as the organisation of NACRO. NACRO had initiated a number of projects aiming at local action towards progressive agendas. During the very early 1980s, the CAYO (Community Alternatives for Young Offenders) pilot projects constituted an exemplary case of NACRO involvement with local juvenile justice projects. The CAYO team, which co-ordinated the local projects, published the *Development Kit-Community Alternatives for Juvenile Offenders*; a guide aiming at practitioners involved in these projects. Importantly, throughout its pages, the *Kit* certainly highlighted the importance of the local settings as carriers of practice policy making[68]. It is therefore important to mention that the CAYO policy scheme also included a steering committee, and Professor Norman Tutt and Andrew Rutherford were among its members.

However, it must be pointed out that within the progressive academic/research context, (namely the context which supported the imperative need of an anti-custodial, minimum intervention strategy), this kind of policy thinking (pro-local/pro-practice) was not shared by many. A number of researchers or academics certainly considered the local setting as a problem, which had to be corrected from the outset. Characteristic of such an attitude were the views of the proponents of the influential 'Justice Model' in juvenile justice, Henri Giller and Allison Morris.

Henri Giller and Allison Morris were among the four authors who had written the 1980s published book *Justice for Children*, which indicated in the very last paragraph of the *Introduction* that **"the judicial system has only a limited role to play in the socialisation of children"** (Morris *et al.*, 1980:9). Undoubtedly, it was a statement which strongly supported a minimum intervention aim for the juvenile justice system, or as the authors supported in their own terminology **"our aim is to provide justice for children"** (Morris *et al.*, 1980:9). However, at the same time, Giller and Morris considered it appropriate to

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[68] In particular, the NACRO sponsored *Development Kit* stated that "it has been NACRO's experience that some changes can be brought about locally within the existing system" (NACRO, 1982:1). It was suggested therefore that "projects intended as alternatives should be geared to local requirements" (NACRO, 1982:1); while, "projects which can act successfully as alternatives to custody or residential care in one part of the country may not be appropriate elsewhere" (NACRO, 1982:5); or, even, in relation to inter-agency panels which had relatively flourished in the 1980s, that "in some areas it may not be appropriate to set up an inter-agency development group" (NACRO, 1982:4).

prescribe a detailed 'Justice Model' which had to be enforced within the local settings[69]. Indeed, a tendency to impose formal rules on the local settings was characteristic of the policy development attitude of Giller and Morris:

> "What is required in both police cautioning and diversionary schemes is formal criteria to identify those children for whom such action is suitable" (Morris & Giller, 1981:84).

Three years after the publication of *Justice for Children*, in 1983, in the paper titled *Residential services and justice*[70], Giller was still considering questions of implementation of the 'Justice Model' through 'middle-range policy alternatives', while any appreciation of the local dynamics was absent. In the same year, his 'Justice Model' partner Allison Morris, in her paper *Legal representation and justice*, employed the rich findings of the three evaluative studies on juvenile justice in order to conclude only the aphorism that "[r]esearch on the English juvenile justice system indicates a system in confusion" (Morris, 1983:131). Indeed, within the discourse of the 'Justice for Children' movement, the evaluative research findings of **"disparities in dispositions in English juvenile courts"** were mainly invoked only to discredit the image of the juvenile courtroom process of the 1970s, which was regarded as responsible for the increased use of custody. Any further appreciation of these findings did not occur. Instead the imposition of a 'Grand Design' of legal principles – the 'Justice Model' – strongly prevailed in the agenda of the 'Justice' group. Consideration of the potential for change within the local juvenile justice settings was indeed absent from the policy thought of the Justice Model duo, in the early years of the 1980s.

The same attitude could be also observed in the strategic thinking of the researchers who conducted evaluative studies of local juvenile justice settings. The Priestley *et al.* study, *Justice for Juveniles* (1977), Anderson's study, *Representation in the Juvenile Court* (1978) and the Parker *et al.* study, *Receiving Juvenile Justice* (1981) all provided a rich evidential picture about the process of the juvenile justice system of the time through fieldwork based methodologies. However, all of them, Priestley *et al.*, Anderson, Parker *et al.*, finally failed to appreciate the potential of those local processes. They therefore

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[69] Truly their book *Justice for Children* provided a detailed justice, especially in chapter 5 titled *New directions: Justice in the Juvenile Court* (Morris *et al.*, 1980).

[70] The paper was a chapter in the collective work titled *Providing Criminal Justice for Children* edited by Giller and Morris.

regarded them as problems in relation to the juvenile justice sentencing course; and they believed that the local settings/problems had to be corrected from the top through new legislative reforms, in order to decrease the use of institutional interventions. Priestley *et al.* suggested several new reforms (1977:102–06), suggesting "the disappearance of the juvenile court as such" to be their goal. Anderson constitutes the most interesting case. While in his *Introduction* he considered that "[c]ourt themselves, in fulfilling their own tasks, must arrive at some understanding of the meaning and intentions of the law" (1978:2) and despite a very interesting summary of findings (1977:58,9); in the final sentence, of the final page, Anderson turns the local question for policy development to a political one only. The reason was that Anderson actually attributed the problematic findings to the confusion between welfare and control concepts embodied in the relevant legislation of the CYPA 1969; and he therefore considered the need for a re-conceptualisation of the relation of theses terms to be an issue of the political level of policy making, only. Similarly, Parker *et al.*, despite the interesting observation that "the local system becomes, over time *the* system" (1981:128), actually supported the introduction of "[s]tricter rules" and "measures [which] would go some way to preventing local responses to juvenile crime [...] from becoming grossly unjust" (1981:243,44).

Overall, all the above mentioned studies proposals failed to recognise what the loose academic group mainly had, namely that the problem of the punitive wave of the 1970s had to be addressed from *within* the local settings and not *without*[71]. The clear

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[71] In her 1995 published study *Sentencing Young People-What went wrong with the Criminal Justice Act 1982*, Burney did consider the importance of the local settings. But it can be argued that she had an ambivalent, half-hearted, if not pessimist attitude about their potential. The following paragraph is rather characteristic of Burney's pessimism (note particularly the phrase 'are schooled to seek'):
"All the arguments so far have pointed in one direction: minimal custody and rehabilitative sentencing for young offenders. But it would be quite unrealistic to rely on this position without recognising the very strong forces and traditions which point in quite other directions, sometimes cutting right across the restraints which CJA 1982 was supposed to impose. [...]. If people on all sides of the court – lawyers, probation officers and social workers, as well as magistrates – are schooled to seek out systems which can be presented as standing in lieu of detention centre or youth custody, there is more likelihood of these systems being viewed as one-off opportunities which are supposed to be the final chapter in somebody's criminal career" (Burney 1985:93).
Here however a much earlier report should be mentioned, which certainly considered the legitimate role that local settings can play in the making of a diversionary strategy in criminal policy, in general (and not in juvenile justice only). Hence, in the middle 1970s a NACRO Working Party, chaired by **Michael Zander** (then Reader in Law, in the London School of Economics) had examined the potential of a policy of diversion within the English context. The then committee pointed out that "[o]ne important and legitimate control should always be the local situation which

differentiation of the loose academic/research group was certainly an important step in the early 1980s academic policy thinking as the juvenile justice locality was considered to be a legitimate practice policy making space. Hence, this recognition brought to light the 'local production' of the local systems as issues which legitimately had to be appreciated, rather than seen as problems which had to be exterminated from the top.

Furthermore, the differentiation of the loose academic/research group from other academic/research groups view about the role of the local settings embodied their very differentiation about the potential of the 'helping classes' practitioners in bringing about practice policy development, a strong feature of the loose academic/research group, which was identified above. Actually, what really differentiated them from the other anti-custodial or anti-interventionist thinkers of their time was that they addressed the very issues of the local settings from the perspective of the practitioner of the 'helping classes'. Indeed, a consideration of the development of juvenile justice practice towards a strategy of minimum intervention, in England and Wales during the 1980s, should mainly take into account the work of those academics/researchers who also considered anti-interventionist strategies in relation to the bottom level potential, and actively pursued the engagement of their thoughts with the life of this level. From this perspective the case of the loose academic/research group was therefore characteristic.

In the subsequent chapters the contribution of the loose academic/research group to the juvenile justice practice of the 1980s will be specifically addressed and examined. It can already be mentioned that the loose Lancaster group significantly contributed to the course of the integration of the practitioners of the 'helping classes' within the local juvenile justice settings. All appear to have contributed to the development of the rational of minimum intervention, therefore defining the operational scope for the 'helping' practice within the juvenile justice settings.

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might dictate an approach based on local factors that might not apply in other areas" (NACRO, 1975:20). Interestingly, research evidence show that Andrew Rutherford was on this committee, as well.

CHAPTER FOUR

UNEARTHING THE MOSAIC OF THE EFFICIENT 'HELPING' PRACTICE INTEGRATION OF THE 'HELPING CLASSES' WITHIN THE LOCAL JUVENILE JUSTICE SETTINGS DURING THE DECADE OF THE 1980S

a) The disappointing research findings of the late '70s about the role of the 'helping classes' practitioners within the local juvenile justice settings

From the late 1970s to the very beginning of the 1980s, within the climate of rising custodial numbers, the social work practitioner attracted some research interest, rightly as the **"1969 Act, even in its revised form, gave far greater responsibility to local authority social workers than they had previously had"** (Anderson, 1978:22). In other words, the input of the social worker (and probation practitioner) in local juvenile justice decision making was researched in order to evaluate the relevance of this input with the punitive phenomenon of the 1970s. Hence studies such as those of Anderson, *Representation in the Juvenile Court*, and Parker *et al.*, *Receiving Juvenile Justice*, arose with an atmosphere of strong disappointment as they suggested the social work practitioner (and the probation practitioner to a rather similar extent)[72] to be weak participants in local juvenile justice settings.

The deficit of power from the side of social work was the first issue to be identified. In *Receiving Juvenile Justice*, Parker *et al.* pointed out that they had "found no evidence" of considerable social work power in criminal proceedings (1981:244). According to Parker *et al.* actually, at the end of the 1970s the decision making power was "really vested in the hands of local police and magistrates" (1981:244), the 'punishing classes'. Marginality was reported to be a further problem. As Parker *et al.* indicated, social workers shared "the sense of discomfort, anxiety and reluctance to assert themselves in the criminal court" and they did not develop "the sense of 'belonging' in the court setting" (1981:143).

[72] A parallel emphasis to the problems of the probation officer within the court setting derived mainly from the work of Parker *et al.*

Along with the picture of a powerless social worker working in the margins of a juvenile justice courtroom process, further problems from the microcosm of practice were reported in the studies. Mutual hostility,[73] magistracy distrust,[74] and disrespect about the profession of social work[75], were all featured as important problems in the discussion of the findings.

Moreover, the research discussion pointed out the particularly disappointing performance of social workers, especially in the preparation and presentation of the Social Enquiry Reports,[76] as well as in their engagement with children and their families.

According to Parker *et al.*, who in the meantime also indicated that "for many of [practitioners] their attendance at court is infrequent" (1981:143), the key word to describe their SER-presentation performance was 'passivity'[77]. Anderson, who reported 'wide variation' in the content of SERs, discussed also the poor performance of practitioners arguing

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[73] Parker *et al.* indicated that they had 'elicited' views of 'hostility' between police, solicitors and magistrates, on the one side, and social workers on the other: "it was clear that they held similar levels of hostility and prejudice for these groups as were held about them by these groups" (1981:132,33).
Similarly, Anderson in his earlier study quoted a magistrate commenting that "*in my court there is scarcely concealed hostility between the bench and the social workers*'" (1978:22).

[74] In his study, Anderson indicated the magistracy-distrust against social work by saying that "(t)he social worker [...] is regarded as overprotective and unwilling to recognize the reality of [the court] situation [and put it to the child]" (emphasis added) (Anderson, 1978:26,7). As a result the social worker was seen "as less reliable from the court's point of view" (Anderson, 1978:26,7) and "magistrates complained [...] that social workers were not the people best suited to take the sorts of decisions needed, either in respect of the control of crime or to ensure that a child's life welfare was not neglected" (Anderson, 1978:22).

[75] A sense of disrespect towards social work was described as apparent, with probation service to gain more sympathy because "they are marked by 'professionalism and realism'" (Anderson, 1978:26).

[76] From the perspective of both Anderson and Parker *et al.* the preparation and presentation of SERs was considered a particularly '**significant**' step in the sentencing. Anderson characteristically pointed out that "in the practical arena of the court[, t]he single most important contribution [social workers] made is in the preparation of a social enquiry report" as this report "is often the only source of information available to the court concerning a particular child [...] and it is certainly the most significant" (1978:24).

[77] Parker *et al.* stated the following: "Within the courtroom the performance and presentation of both the social workers and probation officers was characterized by passivity. None of the few probation officers who were present in court spoke, or were asked to speak, to the bench, either to elaborate on the SER or make any comment about a case. [...] Both probation officers and social workers took a very low profile in the actual courtroom" (Parker *et al.*, 1981:129).

mainly about the absolute influence of magistrates, who actually determined both the content and the process of the SERs[78].

With respect to the degree of engagement with children and their families as a second important performance indicator of practice, Anderson and Parker *et al.* concluded again a poor level of conduct[79]. Furthermore Parker *et al.* suggested a 'grey picture' about the 'manner' of statutory intervention of social workers, with both the 'helping' practitioners and their clients usually seeming trapped in an unhappy engagement[80].

b) The pessimistic interpretation of the disappointing research findings

Deficit of power, marginality, poor working climate, and poor performance all constituted the findings of the disappointing working profile of the late 1970s juvenile justice practitioner of the courtroom setting. The findings, however disappointing, were not necessarily pessimistic. What can certainly be regarded as pessimistic was the explicit or implicit evaluation verdict of the studies that the practice input was not needed; because

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[78] Anderson concluded that reports had to be 'acceptable' to magistrates (1978:24). Hence, as Anderson stated, "[t]he ability to be convincing depends upon grasping and fulfilling the particular requirements of the bench [...] and is constrained in turn by the degree to which the reporter is both personally and professionally acceptable" (1978:29). According to Anderson, the magistrate factor was particularly evident in the wording of the reports. As Anderson stated "what might be termed as 'punitive magistrate' may in such a situation receive a recommendation for: 'an added control over his behaviour', while a welfare-oriented magistrate will be advised of: 'the need for an additional support'" (1978:28,9).

[79] Anderson indicated that "[i]n 22 of the 90 cases covered by the present study no contact was made with the defendant before a report was written; in 30 cases no contact was made with the defendant's parents" (1978:55).
Similarly, Parker *et al.* said that, "[s]ince, social workers and probation officers were not routinely present at the hearing, the opportunity for them to advise juveniles what to do in court was limited to the occasion of their home visits or when the youngster was seen at the office" (1981:139).

[80] A number of the case studies, which according to Parker *et al.* 'spoke of themselves' indicated the resentment of the families about "the *manner* in which local welfare officials did that something [that needed to be done]" (1981:238); or, that in the family's terms "the level and manner or intervention [were] totally inappropriate", while the "social worker hardly enjoyed the case either" (1981:236). Furthermore, Parker *et al.* pointed to what they called "a massive gulf between social worker and those receiving welfare justice and statutory care and control" (1981:227,241).

such a thing simply did not exist[81]. It was a pessimistic verdict on the value of the social work profession, and consequently about the position of the 'helping classes' in general. The verdict was based on the combination of the disappointing findings and the political view of the researchers about the actual meaning of the research findings.

Indeed, what underlined the research conclusions of Anderson and Parker *et al.* was the importance they attributed to the determinant nature of the powerful local systems where practice was taking place. In particular, Anderson was clear about the theory which framed his research interpretation suggesting that "[n]o one can discuss the representation of the juvenile offender without reference to the variable contexts from which it takes a meaning – in which it becomes a meaningful concept" (Anderson, 1978:35,6)[82].

Hence according to Anderson and Parker *et al.* the powerful structures of local juvenile justice contexts [83] 'fundamentally shaped'[84] or 'limited'[85] or 'totally undermine'[86] the position of the social work/probation practitioners, to the extent that their "influence in court is marginal and *reflects* rather than creates the local production of juvenile justice" (the emphasis from the original) (Parker *et al.* 1981:244). In the research eyes of Anderson and Parker *et al.* the 'helping classes' were therefore the pariah of the juvenile justice

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[81] Certainly Anderson was more explicit about the lack of future for the practitioner, while, Parker *et al.* implicitly aired this sense through their aphorisms about the poor position of practitioners at the local settings.

[82] Parker *et al.* were not clear about the theory that underlined their research interpretations a similar research attitude can be observed however in the discussion (and the aphorisms) of the findings. Also it should be born on mind that Parker *et al.* explicitly considered the study of Anderson as the **"only published study of significance"** indicating in particular the **"well-worked analysis of two juvenile courts"** (1981:7,8).

[83] According to Parker *et al.* the **power** was "really vested in the hands of local police and magistrates" (1981:226); while, "the social work welfare role in juvenile justice proceedings is a small part of [the] system" (1981:144). Anderson's view was certainly similar if not stronger.

[84] "Social worker's own attitudes are fundamentally shaped in the context of the court in which they work out their role" (Anderson, 1978:28).

[85] "The social worker's independence and discretion is [...] limited by the structure in which he or she operates" (Parker *et al.*, 1981:226).

[86] The function of social workers and probation officers "can be totally undermined by local magistrates" (Parker *et al.*, 1981:144).

process, and naturally, Anderson and Parker *et al.* presented them as totally unable to re-determine their future role and position within the juvenile justice process[87].

As a result, any change in the penal direction of the 1970s juvenile justice, the main research issue behind the two studies, could not be linked with the 'helping classes'. Explicitly or implicitly, lack of trust towards the value of the 'helping classes' was the main impression left from both studies.

c) The different interpretation of the loose Lancaster group and the issue of practice integration with the local juvenile justice processes.

In 1980, Thorpe *et al.* did not remain immune to the disappointing picture of practice and of the social work practitioner, in particular. Indeed, it could be rightly argued that, in a supposed meeting[88], Anderson (1978), Thorpe *et al.* (1980) and Parker *et al.* (1981) all would agree, (practically they did agree) with the passage in *Out of Care* that **"the truth is that in juvenile courts, at least, there is no evidence that the presence of social workers shifts sentencing practice towards humanitarianism or leniency"** (Thorpe *et al.*, 1980:40). The point is however that Thorpe *et al.* did actually disagree with Anderson and Parker *et al.* about the degree of decision making power that practitioners bore within the local juvenile justice processes.

In particular, Thorpe *et al.* would find it difficult to side fully with either the explicit or implicit argument of those evaluative studies about the absolute dominance by magistrates of the sentencing process, with practice activity to be seen only as a by-product of this environment. They certainly recognised that the 'apparent inexorability', 'massive calm', 'smooth self-assurance' and the 'arcane and complex rules' of the sentencing process **"seemed to awe social workers into deferential anxiety"** (Thorpe *et al.*, 1980:41).

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[87] Characteristically Anderson stated with the certainty that "where the social worker seeks to play an advocacy role on behalf of the defendant, such an approach is unlikely to be acceptable to the court" (1978:58).

[88] Thorpe *et al.* reasonably did not refer to Parker *et al.* as their work was published a year later, 1981. Anderson was referred only once in *Out of Care* in page 49 (chapter note 60).

Nevertheless, at the same time, Thorpe *et al.* held the view that social workers were responsible for their punitive recommendations[89]. Even more, they were also responsible for the non-progress in particular stages such as in the SER process and in dealing with young offenders[90]. As a result social work practice itself was a serious contributing factor to the increasing rate of incarceration.

Certainly it can be argued that, the approach of Thorpe *et al.*, however different from Anderson and Parker *et al.* was still disappointing for practice. However, without doubt, their approach already included an important recognition with respect to the position of the social worker, and the juvenile justice practitioner in general, within the local juvenile justice settings. In the thinking of Thorpe *et al.* (and of the loose Lancaster group in general) the social worker was not seen as the pariah of the system but as a process participant; certainly a process participant that contributed towards incarceration, but still a 'key' participant[91]. This was an important differentiation from the thinking of Anderson and Parker *et al.*[92].

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[89] According to Thorpe *et al.*, "social workers appear to be somewhat more likely than probation officers to recommend custodial sentences for juveniles [...] less inclined to recommend supervision orders and more inclined to recommend care orders than magistrates" (1980:40).

[90] Norman Tutt's viewpoint in the *Foreword* of the *Out of Care* was reflected throughout the pages of *Out of Care*. According to Norman Tutt "[social work practitioners] have failed to grasp that national trends are merely aggregates of individual decisions by practitioners and that consequently the number of young people being incarcerated is linked with the recommendations they make in their social enquiry reports to the juvenile courts and the practitioners' willingness or otherwise to develop alternative community-based methods for helping young offenders" (Thorpe *et al.*, 1980:vii).

[91] In relation to the studies of the local practice of the Section 7(7) care order, Thorpe *et al.* stressed that the studies "provided "an insight into a key sector of the juvenile criminal justice system" indicating therefore their perception about the importance of the 'helping classes' practice (1980:94).

[92] It is rather interesting to find out the roots of this differentiation. Certainly this is not the subject of the present work. Nevertheless the assumption is that this recognition of Thorpe *et al.* primarily derived from their different understanding of the social work environment which allowed them to judge effectively in *Out of Care* that "it is common for social workers to argue that inappropriate sentencing decisions stem from the primarily retributive concerns of magistrates" (1980:84,5).
In other words, it was like Thorpe *et al.* saying that '**it is common**' for social workers to justify the sentencing outcomes by pointing to the 'retributive concerns of magistrates' and presenting therefore a secondary, pariah role of themselves in decision making. Even more, it was like saying that studies on the degree of power of the social work practitioner can be biased by the fearing-responsibilities accounts of practitioners.

Indeed, Thorpe *et al.* by recognising the participatory aspect of the social worker (social worker as a decision making factor) opened the way to consider the pro-youth potential of his/her role towards decarceration[93]. They suggested therefore that under a **'specific strategy'** the social worker could obtain a new role and become an **'effective gate-keeper'**, the harbinger of decarceration (Thorpe *et al.*, 1980:40).

One dimension of this **'specific strategy'** was the development of the pro-youth, anti-institutional ethos. The other dimension was about the successful efficient integration of the 'helping classes' within the local processes of juvenile justice[94]. However, the efficient integration demanded that social workers, and juvenile justice practitioners in general, would acquire a 'sense of belonging in the court setting'; or, very importantly they would improve relations with magistrates against the magistracy distrust; or, they had to improve their performance and deal with the passivity in the presentation of the SERs[95].

In other words, the problems of the disappointing practice (indicated by Anderson and Parker *et al.*) were brought into the wider agenda of diversionary change and formulated the content of the efficient integration agenda of the 'helping classes' within the process of juvenile justice.

It must be particularly noted however that it is a concealed and greatly disregarded part of the strategic thinking of the loose Lancaster group that through a different interpretation about the position of the 'helping classes' they recognised the need of a strategy towards efficient practice integration, early.

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[93] True, in the first pages of *Out of Care*, Thorpe *et al.* unhesitatingly issued the question **"what the individual social worker can do?"** answering that at the same time that **"we shall argue that paradoxically [the social worker] is in unique position to bring about changes in policy"** (1980:25). Later, again they suggested the pro-youth potential of practice indicating that "social workers *could* influence sentencing in a humanitarian direction [and] this can be more than a pious hope" (the italic emphasis from the original) (1980:40).

[94] Interestingly, in their evaluative piece of work *'Intermediate Treatment and Juvenile Justice'* published in 1990, Bottoms *et al.* had suggested the existence of a 'take over' aim embodied in the philosophy of the **systems management**. As Bottoms *et al.* mentioned: "The context of much 'inter-agency' discussion altered in the 1980s, with the development (in some areas) of 'systems management' approaches in SSDs, the aim of which was to 'take over the system, basically' (Bottoms *et al.*, 1990:64). Here the idea of 'taking over' is seen as synonymous with the idea of successful integration, a label employed in the present study.

[95] In a rather instructive tone, Norman Tutt in the *Foreword* of *Out of Care* indicated that "[s]ocial services and probation must learn to work closely with the courts, education services, the police [...] to prevent juvenile crime" (Tutt in Thorpe *et al.*, 1980:vii).

d) The practice integration agenda of the loose Lancaster group and the turn in practice strategies

Systems management has been mainly referred to as a diversionary strategy for the reduction of custody through the emphasis on process rather than on program.[96] The emphasis on the process demanded the effective understanding of process[97] and also its manipulation[98].

This view is correct, but it addresses merely the widely known aspect of the Lancaster systems management strategy, underlined by the image of the 'helping' practitioner as an effective 'gate-keeper'. Nevertheless, the emphasis of the loose Lancaster group on 'process' concealed at the same time the very issue of the efficient integration of the 'helping classes' within the local processes; merely dominated by the 'punishing classes'. Hence, the idea that the pro-youth social worker carrier of a distinctive professional ethos[99] would effectively integrate with the 'punishing classes' of

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[96] This emphasis on the process was central in *Out of Care* where at some point Thorpe *et al.* clearly stated that "the integration of 'practice' integration and 'process' intervention, giving the main emphasis, perhaps, to the latter, still seems to us to have a better chance of success than a 'practice' strategy alone" (Thorpe *et al.*, 1980:131).
A decade later, Andrew Rutherford in his preliminary research on the decade of the 1980s would particularly highlight the 'focus on process' reminding that "it was not until the early 1980s that process issues became widely recognised" indicating at the same time the relevant "publications by members of the Lancaster group"(1992:23,4).

[97] In a brief description of the meaning of the 'focus on process', Rutherford stated that **"practitioners took account of the inter-connections of decisions made at the various stages"** (1992:23).

[98] This is actually what, in other words, an interviewee, a former leading practitioner, and strong admirer of the systems management, has also supported in relation to systems management and the process issue: **"the systems approach showed that you could actually play with the system, you could work the system"**.

[99] Thorpe *et al.* described the new professional ethos in the end pages of the book: "Social workers [...] who are capable of sustained research and committed, honest and intelligent practice, who are aware, but not cripplingly so, of the ambiguities of their social function, and whose capacity for disciplined helping has not been eroded by bureaucratic constraints or careerist aspirations. [...] Good social work practice with juvenile offenders does not mean meeting children's needs in a loose, unstructured and undisciplined way. It means taking delinquency itself seriously and developing carefully researched strategies with both communities and individuals with very specific objectives and practical actions" (Thorpe *et al.*, 1980: 177,178,179).

the local process actually constituted the very agenda behind the predominant importance of the diversionary manipulation of the juvenile justice process.

It is true that the deep integration with the local systems was not clearly stated as an agenda in the pages of *Out of Care*. Indeed, clarity and coherence of ideas cannot be regarded as one of the strengths of *Out of Care*.[100] Still, it is possible to argue that Thorpe *et al.*, and the loose Lancaster group in general, had certainly elaborated on the practice elements of an integration agenda of the 'helping classes' within the local juvenile justice settings. Whilst, as already noted, all this happened on the background of their different interpretation about the position of the practitioner within his/her working environment. Indeed, analysis of its ideas can show that the Lancaster school responded to the very issues of poor practice performance, lack of sense of belonging, and magisterial distrust.

Interestingly, the historical memory of the 1980s shows the existence of a significant shift in the direction of practice activity, which took place during the 1980s.

*i) **Responding to the poor practice performance: Do-more-things-better***

Anderson and Parker *et al.* had extensively described the problem of poor practice performance either in relation to the poor preparation and presentation of the SERs, or in relation to the practice engagement with their clients, the young offenders and their families. The ideas of the loose Lancaster group demanded a shift in practice performance suggesting that the juvenile justice practitioner should do more things and do them better[101]. From this point of view, Mike Nellis[102], in his article *The Myth of Up-Tariffing*

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[100] Clarity and coherence of ideas were instead a weakness of the book reflecting the actual lack of coherence among the members of the loose group from Lancaster. As an interviewee, a former member of the group has indicated, "there was quite a bit work to do in editing between the chapters or across the chapters, in such a way as to conceal the fact that there were some contradictions in the book" (for further discussion on the coherence of the group see earlier, in chapter three).
Moreover, it must be taken into account that in *Out of Care,* Thorpe *et al.* attempted to address in one book all the policy and practice problems surrounding the juvenile justice practice of the 'helping classes', at the expense however of clarity and coherence.

[101] Norman Tutt highlighted **the need of more and of better quality** alternative services when he stressed in the *Foreword* of *Out of Care* that "social services must also provide a range of highly specific services aimed at helping the juvenile offender in the community" (1980:vii).

[102] Nellis observed the 1980s course of juvenile justice practice. Also see his later (1991) paper.

in I.T, published in *AJJUST* in 1987, rightly employed the term **'better systems management'**[103] in order to capture the relevant spirit of the 'largely' Lancaster derived agenda which was then 'widespread in juvenile justice'[104].

The 'better systems management' suggested the enrichment of social work practice through the introduction of entirely new professional tasks, such as research[105] information collection[106] and monitoring,[107] therefore deepening the professional understanding of the juvenile justice practitioner about the content of his/her profession. Remarkably, in the historical memory of the 1980s, the development of monitoring has emerged as an

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[103] Nellis emphatically employed the words *'more'* and *'better'* in order to describe systems management: "preparation of better SERs, more careful explanation to magistrates of what preventive and statutory work each involve, and more rigorous monitoring of the recommendation process – in short better systems management" (Nellis, 1987:7).

[104] "Such measures, in varying degree, are now widespread in juvenile justice, again due largely to the efforts of Thorpe and his colleagues" (Nellis, 1987:9).

[105] Thorpe *et al.* suggested an enrichment of social work practice when they said that "the social work practitioner must, in effect, be a research worker too" (1980:116); or, when they indicated that "the social worker should be able to systematically to collect information on the local workings of the juvenile criminal justice system" (1980:25); and, that "local data must be collected and analysed" (1980:128).
Apart from the idea of the 'research worker' (Thorpe *et al.*, 1980:116 & fn.34), also read the characteristic passage in *Out of Care*: "Research methodology is not always as esoteric as it is sometimes assumed to be and if research-like activity represents so large a proportion of the professional task, there is no reason why the appropriate skills should not be part of social work training" (Thorpe *et al.*, 1980:116).

[106] "The social worker should be able systematically to collect information on the local workings of the juvenile criminal justice system which can be used to develop appropriate policies by the police, magistrates and social services managers [...] – the numbers of children who commit delinquent acts, the nature of those acts and where they occurred, the decisions made by police to caution or prosecute, the response to police referrals by the local authority, the recommendations contained in both probation and social services social enquiry reports to juvenile courts and the magistrates response to those recommendations" (Thorpe *et al.*1980:25).

[107] An interviewee, former leading practitioner, remembers that, "there was good monitoring systems which Henry Giller and Norman Tutt were behind the social information systems we had" Similarly, another interviewee, former leading practitioner, remembers that, "with the growth of monitoring in the mid 1980s, we were encouraged to monitor what we were doing and certainly it was from the likes of Thorpe and Tutt who produced the tools we used."
It was in the middle of the 1980s, when Burney also indicated that "many social service departments and probation services had already devised their own monitoring systems [...] organised by Professor Norman Tutt and his colleagues" (1985:5).

important practice task in the various accounts[108], and, as an interviewee considered, **"the monitoring was an essential part"** of the 1980s practice.

Moreover, the accounts of the practice context show that through to the 1980s the employment of computerised monitoring implicitly appeared as synonymous with good performance, whilst manual monitoring was subjected to criticism[109]. The idea was that computerised monitoring would provide a deeper and more detailed analysis of the local sentencing patterns[110]. It was an idea which had been supported, as early as 1981, by David Thorpe in his two successive articles in *Community Care*; where, he suggested that the use of 'the most recent developments in computer technology and programming' facilitated the 'in depth and detail' monitoring of performance issues in local juvenile justice systems[111].

Nevertheless, regardless of the use of computing facilities, the point is that within the practice policy context of the 1980s, monitoring certainly conflated with a practice philosophy for 'detailed' research of the steps of juvenile justice process, so that neglected areas would be identified[112]. Actually, by the end of the decade it was the development of

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[108] Indicatively, as a former leading practitioner remembers, "a fifth of all Juvenile Offending Teams, as they were then called, they had all their monitoring systems, so, then we had a good idea of what was going on in the system." Beyond the interviews, also Lyon in the fieldwork study of a 1985 IT scheme indicated that: "Monitoring forms an important part of the project's work: the staff produce annual digests of statistics on juvenile offenders" (1991:191).

[109] "We were keeping our own statistics, there was no research, the mainstream research the data analysis units, the agencies were not interested in, so we did our own. One of the criticisms of us was that we didn't have a very good computerised system, it was all pretty manual" (passage from the interview of a former leading practitioner).
Also, in the very late 1980s, through the pages of *Community Care*, Chris Stanley, a policy development officer in NACRO's Juvenile Crime Section and a practitioner himself, indicated that "computerised monitoring has meant quick effective information systems have been developed" (1989:vii).

[110] An interviewee, a former leading practitioner, has recalled the detailed use of computerised monitoring: "I got all the returns from all the courts and I with a computer, which was not very sophisticated those days, could analyse minute changes in sentencing".

[111] In particular, Thorpe expressed his admiration of the use of computerised analysis in Lancaster indicating that "[t]he results, arrived at in a matter of days, were amazing. We suddenly had information on SER recommendations and results on different types of offences committed before and after were made, and we were able to cross-tabulate these with different types of placement, the lengths of time spent in the placements and whether or not the delinquents were absconding at the time the offences were committed" (1981b:13).

[112] An interviewee, a former leading practitioner, has recalled their area monitoring research in the second half of the 1980s: "We would sit down every three months and look at how we were doing

the practice philosophy for detailed research that caused monitoring to be regarded as panacea in practice policy[113].

Beyond the monitoring philosophy, the Lancaster 'better systems management' agenda pointed to the improvement of the preparation of social enquiry reports;[114] a stage in courtroom process which highlighted the poor practice performance in the late 1970s.

In the historical memory of the 1980s the accounts about the development of practice at the SERs stage of the courtroom process are certainly rich. First research findings reported the systematic build up of consultation process in SIR preparation [115]. Secondly, was the systematic construction of the argument contained in the reports. Hence, the careful 'construction' of non-custodial recommendations has emerged as an

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and what we needed to pay attention to because they were not going quite right and then we looked at how we were going to do it. If it was a remand issue, we would want some work done with children's homes because we needed good access to decent children homes and fostering. We might need some work on the courts, or the court clerks and maybe on the defence solicitors. [...] We analysed custody rates, prosecution rates and remand rates". It must be noted that it was a mainly manual monitoring research!".
Another interviewee, a former leading practitioner, has recalled the computerised monitoring research in their area: "I got all the returns from all the courts and I with a computer could analyse minute changes in sentencing."

[113] "Monitoring was an absolute necessity and areas that do not have an adequate monitoring system should be bombarded with regular circulars pointing out the serious discrepancies between different areas within the same region" (Barry Anderson from NACRO, quoted in an AJJUST report covering a 1989 practice policy conference on the developments of the decade) (AJJUST , May 1989:18).

[114] Rob Allen has certainly suggested the influence of the Lancaster systems management on SIRs: "the gradual recognition and acceptance amongst welfare agencies of a 'systems approach' to justice, stimulated by work at Lancaster University and its offspring Social Information Systems, resulted in important changes in both the way SIRs were produced and in what was included in them" (1991:40).
An interviewee, a former member of the loose Lancaster group, has also seen a Lancaster influence in SER preparation: "I think one thing we did have a bit of influence on, actually was thinking about the content of the social enquiry report [...] There was actually a second book to follow 'Out of Care', but never got finished – that should have come out in 1982. [...] One of the chapters in that, was one I wrote about social enquiry report, which was critical of what you would call the medical model. Instead they should be used arguing for diversion from custody and where appropriate to follow the provision of some very specific kind of help [...] although it never had published, it actually did have quite a large circulation because I gave it to people".

[115] In the brief paper *Information Received by the Court: School Court Reports and Social Inquiry Reports*, Yolande Burgin indicated with respect the 'Consultation' process that "SIR are seldom prepared without consulting the subject, and that parents are also consulted by at least 95% of the social services respondents" (NACRO, 1988:21&Table 6). The finding was based on a questionnaire sent to all 117 social services departments in England and Wales - response rate for the SIR questionnaire: 76%, (NACRO, 1988:19).

important practice memory[116]; while, the careful construction of a SER could become the subject of a 'practice guide' developed by practitioners themselves[117]. Moreover, in the second part of the 1980s the development of practice at the SERs stage became part of the key phrase 'quality work' indicating therefore the shift away from the loose reactive SER practice indicated by Anderson in the late 1970s. Hence, accounts and sources which relive the 1980s historical memory has shown that 'quality work' captured both practice activity[118] and practice ideology[119] in the development of successful non-custodial SERs.

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[116] A leading practitioner, strongly influenced by the Lancaster loose group, has recalled the preparation process of SERs in the first part of the 1980s: "[We] are both very good social workers and I think that made a difference, because we were able to say let's put together a construction for a social enquiry report, that deals with the severity of the crime, but then doesn't go into overdose onto the social and economic and emotional factors. It is very succinct about the child's position, the family position, but what we do, is we offer the community a constructive way forward for sentencing. So we put a lot into 'this is what we think would help' and previous social enquiry reports had never done that. They've just said 'attendance center, custody'".

[117] Rob Eagle and Lorna Holland, I.T. Officers with Nottinghamshire SSD, presented in AJJUST (Issue No.13) "some research into the content of Social Inquiry Reports". Under the title *SER Recommendations – A Guide to Practice*, Eagle and Holland addressed those questions which 'recur with monotonous regularity': "What areas do we need to concentrate on at the interview stage, how do we write about the information obtained, how do we decide what to recommend, and how do we support our recommendation with reasoned, logical argument" (Eagle & Holland, 1987:11).

[118] An interviewee, a former senior manager in probation, has argued that, in the 1980s, the quality of the SERs was linked to the decline of custody: "[R]esearchers [...] kept on showing that where you have high incarceration rates of the juvenile offenders you also have poor quality of SERs by social services and probation groups and staff. And where we had low custody rates, you had specialized interdisciplinary services, high quality reports in the courts".
Similarly, Denis W. Jones in his article *The Need for Credibility* indicated the "emphasis on the submission of high quality, offence-focused reports to the Court by project staff" at the Rainer Foundation's Well Hall Project in Greenwich (Jones, 1985:1).

[119] Wade, a leading practitioner herself in the 1980s, in her MPhil thesis on *"The Development of Juvenile Justice in Hampshire, 1987-1991"* provided a subchapter titled *Quality Issues* with reference to the introduction of 'quality control procedures' in 1987. Quality work therefore appeared as practice credo, a practice ideology, at least in Hampshire. Interestingly, quality as practice credo was strongly linked to the development of SERs, in Hampshire. Wade therefore mentioned that: "SERs began to be scrutinised by the team leaders in draft form as well as the recommendations being discussed at team meetings" (1996:50). It must be noted that the term 'work quality' reappears in a rather generic sense, in the subchapter *From Theory to Practice*. Still it appears that it was also concerned with the recommendation stage of practice activity (1996:84).
Also, Lyon in the fieldwork study of a 1985 IT scheme indicated that the project staff monitored the Social Inquiry Report recommendations, a process which sounds similar to the Wade's 'quality procedures'.

By the end of the decade, the improved 'quality' driven SERs constituted a historical fact. Rob Allen in his 1989 article *'From Juveniles to Young Adults: Time for Change?'* highlighted "the making of disciplined recommendations in social enquiry reports"[120] (1989:21); while the same year, at the DHSS Conference, *Projects as catalysts for local development*, in a seminar presentation it was confirmed that, indeed, projects' **"objectives [...] included improvements in the standard of social inquiry reports"** (NACRO, 1990:33).

Moreover, the historical memory of the 1980s has shown that the integration credo doing-more-things-better appeared to feature further on the courtroom activity of practitioners, especially of those termed as 'SIR authors'. Hence, against the late 1970s practice background of 'passivity' and 'infrequency in court attendance', the 1980s were characterised by the systematic build up of a culture of court 'accountability' marked by the increase in court attendance by practitioners[121]. Even more, the development of active attendance through the better and stronger physical appearance of practitioners at court has emerged from an interview account as part of a developing courtroom practice[122].

Furthermore, the doing-more-things-better has been reflected in memories linked to activities in extrajudicial settings such as cautioning panels. The loose Lancaster group had particularly endorsed the idea that practitioners should participate in cautioning panels, those called juvenile liaison bureaux; while, the Northampton Juvenile Liaison Bureau (JLB) set up in the early 1980s certainly constituted the most well known case of such 'hybrid' organisations.

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[120] In this part of his paper Allen discussed briefly the 'major characteristics' of the Initiative's 'success', namely the success of schemes established under the LAC83(3) IT Initiative. The 'disciplined recommendations' were part of these characteristics.

[121] In the piece of work *'Information Received by the Court: School Court Reports and Social Inquiry Reports'* and under the term *Accountability*, Yolande Burgin indicated that "[t]he social services department survey showed that SIR authors normally attend the court hearing. When asked about the frequency of attendance by SIR authors to court hearings, 93% of social services department respondents replied either ALWAYS or USUALLY. None responded RARELY or NEVER" (NACRO, 1988:21).

[122] "Instead of one person in court we decided in my unit that there had to be two of us. I only had ten staff but I wanted two in court at the same time because if we only had one it is very difficult for them to stand up and still say the bits we want them to say and they keep themselves committed to what we want. So in difficulty, when the prosecutor is saying something totally unrealistic, the two of them had more strength together than one person" (from the interview of a former leading practitioner).

Nevertheless, the memories of a former leading practitioner about the construction from scratch of a multi-agency cautioning scheme unearthed a picture of a continuing effort to produce a reliable scheme. The interviewee has recalled how the introduction of a cautioning scheme was based on previous planning about the scheme's power effect[123]; while, at the same time, the interviewee described how at subsequent stages, the incremental introduction of managerial structures and training sustained the rapid development of the scheme[124].

Beyond the deepening and the enrichment of practitioners' representation at court, the loose Lancaster group had also touched the other 1970s hot issue of poor practice performance, the development of reliable program practice. They therefore suggested improvements in the design of community programmes, suggesting as 'a start'[125] the 'learning paradigm', the 'role plays', and the 'cartoons' idea[126].

Within the policy context of the LAC83(3), marked by the rapid development of schemes which offered alternative-to-custody programs, the do-more-things-better credo was evident in the wide employment by practitioners of 'variations and combinations' of the Lancaster 'Correctional Curriculum', of the 'Community Service', and of 'Tracking'[127].

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[123] "I started the cautioning scheme in [X]shire. I went over to Lincolnshire to see their scheme and they had a panel that looked at police trials and was a basic grade officer, police officer, social worker, probation officer. I sat down and thought about this and thought this is going to have to be a decision maker. So I am going to have people on it who can make decisions" (interview - a leading practitioner's account about the introduction of a cautioning scheme).

[124] "Initially there was me and an administration assistant [...] then I got another clerk because of the amount of work. Then we set the volunteer side of the number. I got a co-ordinator for the volunteers and we were managing as many as 50 volunteers at the time on the books. We were training them and supporting them" (interview - a leading practitioner's account about the development of a cautioning scheme).

[125] Very consciously Thorpe *et al.* indicated about their programme suggestions: "We are conscious of being in the position of mediaeval map-makers: our instruments are crude, and unknown territory surrounds us. But it is at least a start" (Thorpe *et al.*, 1980:162).

[126] See the last two chapters of *Out of Care*.

[127] In the 1991 NACRO final report on the IT Initiative, titled *Seizing the Initiative*, it was indicated that "the kinds of programmes that evolved tended to use variations and combinations" of these three approaches. The first approach was "work on offending behaviour"; the CS involved "unpaid work for the benefit of the community"; while tracking, a program adapted from work in the United States, "aimed at monitoring on a regular basis the activities and whereabouts of young people [while] Regular contact on a daily basis, frequent reporting and checks by telephone were features of this approach"" (NACRO, 1991:43).

It must be noted however that the practice shift away from the 'unhappy engagement' between client and practitioner can be better translated from the 1980s historical memory mainly through the concept of 'constructive engagement'[128]. Indeed, working closely and constructively with young persons has appeared as a core value on the program side of practice activity[129]. 'Constructive engagement' would be strongly associated with and reflected upon the employment of the 'role plays' and the 'cartoon' ideas[130]. At the same time, 'constructive engagement' seems to be a driving idea behind

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[128] An interviewee, a former leading practitioner, through a negative example actually defined the meaning of constructive engagement: "There might be a youngster having real problems, not going to school, running away from home, being really difficult, and the social worker would go and see the parents and wouldn't actually see themselves as the young persons social worker but would see themselves as the family social worker and would get into quite patronising conversations and behaviour with the youngsters, for example, "your Dad tells me that..." which is hardly how you are going to engage constructively with fourteen and fifteen year olds".
Also, John Blackmore, Principal IT Officer at Hounslow Council, in his 1987 'selling' article indicated that "I.T. is a much more constructive [...] approach" (:3) (emphasis added). Similarly, in several accounts, community programs were considered to offer a **constructive** option for young offenders.

[129] An interviewee, a former senior manager in probation services, indicated the findings of the Cambridge University report about the relationship of IT worker and offender: "I think in fact one of the things the report does show and that report, the scandalously late of the 7 years overdue before was finally published in the 1990s, did show something about the quality of the relationship of the IT worker and the offender was essential."
Also in an individual account, an interiviewee, a former leading practitioner remembers how the practice of a French juvenile justice judge strongly attracted his interest: "we looked at what the Children's Judge does there...and it was very interesting [...] He said 'you keep out of trouble, and you'll be alright, but if you offend, then you go into custody' and he followed them around. He was more like a social worker-type judge, so he worked closely with them."
Constructive engagement also emerged as a feature of 'tracking', a programme mainly aimed at monitoring the movements of the young person. Hence, John Errington from the Hilltop Project in Ilkley reported that "'tracking' is a client-centred supervision", while he stressed that the "overall goal of a tracker is to help his or her client to develop an awareness of the factors that have led to offending and to establish a planned approach to the use of time [...] encourage a non-delinquent life style, encourage school attendance, develop the youngster's survival skills" (1984:3,4).

[130] Even Errington from the Hilltop Project in Ilkley strongly associated his engaging 'tracking' programme with cognitive techniques: "[A tracker is a] worker who must be prepared to go into new situations and use a variety of techniques such as listing techniques, questionnaires and exercises, drama, and video" (1984:4).
Also, an interviewee, a former leading practitioner, has recalled a very **engaging** practice activity centred around the ideas of 'role plays' and 'cartoon':
"They could help and be a part of how other people were going through the program. We developed a program that went something like this, an introduction that was built around what had happened, who'd done what, and the pressures each of the children, each of the young people were facing; it might be friends, it may be mum and dad. [...] We then had begun to experiment with something called 'the cartoons'. [...]. There are key things, there are key trigger points that when kids make decisions, that's the moment in time that they think 'yes, I am up for it'... and part of that is about peer pressure. So, we developed the program that had the cartoons, explaining

the further tailoring of programs towards addressing the complex deeper needs of young offenders[131]. As a result, program 'flexibility' has emerged from historical memory as a further practice principal, which satisfied the demand of meeting individual needs[132].

Hence, by the end of the decade the Kent representatives in the *Reducing Custody and Re-offending* seminar presentation[133] would proudly talk of their alternative community programmes as 'client-centred' and 'highly effective products' (NACRO, 1990:34).

ii) Responding to the problems of the lack of sense of belonging & the magistracy distrust: Get the Confidence of the Magistrates (and of the Police) - Appreciate their role and culture

The second condition for successful integration was concerned with the relationship of the social worker to the working environment of the local juvenile justice settings. Anderson and Parker *et al.* had extensively indicated the practitioners' "sense of discomfort, anxiety and reluctance to assert themselves in the criminal court"; also the practitioners' lack of a "sense of 'belonging' in the court setting" (Parker *et al.*, 1981:143); and furthermore, the existence of a working climate of hostility, magistracy distrust, and disrespect particularly towards the social work profession (Anderson, 1978:22, 26-7).

In the opinion of the loose Lancaster group, (as a kind of response to this situation) the practitioner had to "**learn to work closely with the courts, education services, the police**"

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where the trigger points were, we knew that we had to be entertaining, so we video-ed them" (emphasis added).

[131] In a characteristic passage of the interview a former leading practitioner remembers: "As we gained some experience - firstly we'd run groups of working with young people – [then] we said 'we really need to work individually with kids'. What we did was we designed individually-tailored plans for each of the young people that we worked with".
The need to meet individual needs of young offenders through the programs can be traced from a wide number of sources from the historical memory of the 1980s.

[132] John Blackmore, Principal IT Officer at Hounslow Council suggested that "one of the great strengths of I.T. is its flexibility" both in responding to individual circumstances and varying in the days-length (1987:3).
Similarly, Errington from the Hilltop Project in Ilkley referred to flexibility with respect to tracking: "Tracking offers the flexibility and responsiveness of individualised programmes" (1984:4).

[133] 1989 DHSS Conference 3.2.1989.

(Tutt in Thorpe *et al.*, 1980:vii)[134]. In particular, improvement of relations with magistrates (and the police) constituted a strategic priority which put magistrates (and the police) at the forefront of the day-to-day job. The umbrella-word was 'confidence'[135].

The strategy demanded, the employment of 'entirely' new 'tactics' of engagement despite the differences in the criminological background between the 'helping classes' and the 'punishing classes'[136]. New tactics would particularly include the 'demonstration of clean models of good practice'[137] through the development of 'marketing' attitudes, in order for practitioners to infiltrate their ideas into the juvenile justice process, and into magistracy level in particular[138].

In addition to 'marketing' attitudes, appreciation of the role of the participants who belonged to the law and order front was seen as important. In particular, appreciation of the professional language employed within the relevant settings was a crucial issue if

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[134] In the 1981 report *'The Brothers Tutt'*, Peter Walker reported that 'Norman Tutt is an enthusiastic supporter of [juvenile bureau] attachments and would like to see social workers doing similar placements as part of their training. This he believes could lay the basis for future inter-agency co-operation" (1981:14).

[135] A former member of the Lancaster group remembers what his advice was: "You don't want to worry about the young people, what you need to do is get the confidence of the magistrates".

[136] The account of an interviewee, a former member of the Lancaster group, is revealing: "we said to practitioners, [s]tep outside of the concepts of criminology, [...] use different tactics. [D]on't worry in a sense, understand the criminology of it but address the problems in an entirely different way [...] Set up meetings with magistrates, talk to them about schemes that they might have confidence to use as an alternative to custody, bring them into the management of those schemes so that they felt that they managed and owned it in some way, and that would change their decision-making".

[137] The authoritative words of Norman Tutt about the importance of 'demonstration of clean models of good practice' would echo across the pages of *Out of Care*: "[i]nevitably change at local levels and the demonstration of clean models of good practice will eventually have a profound influence on national policy" (Tutt in Thorpe *et al.*, 1980:vii).

[138] The account of an interviewee, a former member of the Lancaster group, on the marketing of alternative to custody schemes is revealing: "we said to practitioners, say well this is a system, just like any other system, like a retailing system, what do you do if you want to sell more goods? You market 'em, don't you? And we could show there were clear illustrations where custody was being marketed. So, if the Home Office opened a new detention centre the warden in charge of the detention centre would meet with the magistrates, show them round this new facility, say we're going to have education, training, we'll have individual custody officers, all these things. The magistrates would go away, the next young person who came in, they'd say, 'ooh, I've just seen that wonderful scheme, we'll send him there'. And this is just a straight market exercise. So you could do exactly the same".

practitioners wanted to 'get listened'[139]. Even more, according to the Lancaster group it was seen as 'important' that practitioners understood that their activity, however different in orientations, was taking place within the norms of the 'rule of law'[140].

Hence, a number of issues discussed in *Out of Care*, such as the **"clear need for social workers to be better informed about, and pay more attention to what the law says"** (Thorpe *et al.*, 1980:49); or, the idea for 'intensive programmes', spread widely across the pages of the final chapters of *Out of Care*, should be seen within the framework of the development of close working relations (formally and informally) through the appreciation of legality and of the cultural and linguistic context of the juvenile justice settings[141].

In the historical memory of the 1980s practice, this dimension of practice integration, namely, get-involved-with-the-participants-get-their-confidence-appreciate-their-role has emerged as an important issue, which clearly reflected the significant turn in direction from the relevant disappointing observations of Anderson and Parker *et al.*

Hence, formal or informal modes of contact with the court room magistrates and clerks (the key word was 'meetings') appeared to be 'critical' in the management of local juvenile justice settings[142]. The police, through the cautioning panels, constituted a further

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[139] The account of another interviewee, a former member of the Lancaster group, is equally revealing: "It was probably '84. I spoke to a big conference [of practitioners]. In fact I was trying to say to them then was that you should be conscious of what you are doing [...]. I remember I had a quotation actually from Arthur Skargill, the miners leader, and he said "my father reads the dictionary every day; he says your life depends on your power to master words" and I was trying to say, you need not just to find a voice, but actually realise that you have a voice, you can articulate what you are doing, you do get listened to".

[140] "It is important to be clear at this point that our argument is about different kinds of legal system, not about the rule of law itself" (Thorpe *et al.,* 1980:170).

[141] At a symbolic, linguistic level, the term 'intensive supervision programme' addressed the public protection culture of the magistracy and the police. From this point of view the following passage from *Out of Care* speaks for itself: "The point of the high-intensity programmes is that if we are serious about decarceration and diversion from custody we must offer a serious alternative – one which is very clearly and specifically focused on the reason the children are there in the first place: that they commit offences" (Thorpe *et al.*, 1980:166).

[142] Chris Clode, a practitioner, in the 1988 brief research paper, titled *Relationships with Magistrates and Clerks – A snap shot from the North West and North Wales*, mentioned that from the 23 schemes that returned the research-questionnaire only two schemes did not 'have meetings with clerks or magistrates in <u>any</u> setting' (1988:8). The fact that the 2 schemes had no contact in '<u>any</u>' setting was seen to be a rather important problem (note that the word 'any' was underlined in the original). Furthermore, Clode particularly elaborated on the "[significant] lack of meetings outside court settings" (1988:8), which is and indication that increasing any form of contact with court people was considered an important issue.

important contact-target for a number of practitioners[143]. In some areas, efficient modes of contact would be extended even to solicitors[144]. In some cases, even the newly established crown prosecution service was considered a 'critical' and actually possible target for contact[145]. Furthermore, it can certainly be argued that a multi-agency approach had gained ground within juvenile justice practice. An interviewee, a former leading practitioner, has provided a particularly confident account about the 'multi-agency approach'. Based on the 1980s experience, the interviewee suggested that the 'multi-

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Similarly, Wade in her MPhil thesis strongly stressed that "Magistrates Court Clerks were invited to regular meetings with the juvenile justice unit's management team" in Hampshire (1996:69) (emphasis added).

[143] From the questionnaire analysis of Chris Clode, we can learn that the 'formal' mode of meetings was concerned also with **'Liaison Committees'** and with **'Juvenile Development Panels'** (1988). Nevertheless, the 1984 created Northampton Juvenile Liaison Bureau (JLB) constitutes the most well known case of those 'hybrid' organisations working with the police on the basis of a strong diversion agenda. The predecessor of the Northampton JLB was the Northampton Juvenile Consultation Meeting, known as JCM, established in the very early 1980s, and 'resulting' from the recommendations of the then clerk to justices, Julian Bowden and the then SSD court liaison officer, Malcolm Stevens. The JCM 'improved' the consultation process between **the police** and the SSD and the probation through 'weekly face-to-face meetings' (Bowden & Stevens, 1986:326,7).
Also, developing professional contact **with the police** appeared to be a strong and good memory of the 1980s for one of the interviewees, former leading practitioner, who has particularly emphasised that: "I started the cautioning scheme [with the police on board in my area] [...] and it was very-very successful".

[144] Wade has reported an **'unpublicised'** policy developed "to encourage about ten local solicitors from a range of firms to have more contact with the [juvenile justice] unit. [...] Most of this core of solicitors had extensive contact with the unit both to discuss sentencing options during social inquiry report preparations, and to assist the persistent juvenile offenders of the unit's caseload in their day to day problems. Some of these solicitors used the unit's offices to see their clients as they found the atmosphere more informal than their own offices and the juveniles were thus more likely to keep the appointment" (1996:69).
Also Hart, an I.T. Senior Social Worker, informed his readers through the pages of the AJJUST about his 'regular contacts' with the solicitor" of a remanded young offender in order to lodge a successful appeal: "I was in regular contact with the solicitor, almost weekly, exchanging letters and telephone calls and preparing case summaries and reports detailing the reasons for the appeal" (1987:31).

[145] Charles Bell, in his 1988 brief article *Opportunities to Develop Effective Working Relationships with the Crown Prosecution Service* published in *AJJUST* informed the readers that: "It is clear that having an open channel of communication with the Crown Prosecution Service [in Cambridgeshire] has played a critical role in the efficient management of juvenile crime over the past two years" (Bell, 1988:14).

agency' approach was a very 'productive way' of dealing with, what they called, 'persistent offenders'[146].

Furthermore, the increased contact with the local systems and processes went along with an appreciation of the role of all the systems participants[147]. In the historical memory of the 1980s, practitioners' **"willingness to learn from other agencies"** reflected the right (but not always dominant) attitude in dealing with the participants of an interdependent process. At the same time, the opposite attitude was stigmatised as evidence of practitioners' 'arrogance'[148].

The tendency of practice to increase contact or even to integrate with the system was certainly combined with developing 'marketing' attitudes and a further tendency to adapt to cultural and linguistic context of local settings.

In the historical memory of the 1980s, the 'projects credibility in the eyes of magistrates'[149] has been combined with practitioners' marketing attitudes[150]. Marketing

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[146] "My look at persistent offenders was just a multi agency approach to it. You heard teachers say 'this five year old he's got to be one of yours, I can see him coming your way', they were probably right, these were people who had worked with children for five days a week, forty weeks a year and they know and have seen the indicators. [...]. I would not want to be involved in intervening in that child's life at that stage but once they do start to step over the line then that's the point when a multi agency group could be brought together to ask - youth workers, police, teachers, social workers, what's happening in this young person's or even their family's mind which is causing this'. This is a much more productive way of doing it than just labelling kids" (interview – former leading practitioner).

[147] The appreciation of the systems' participants from practitioners was very well captured in Wade's piece of work where it was stated that: "[c]lerks, crown prosecutors, defence solicitors and magistrates were all seen as essential and interdependent components within the court part of the criminal justice machine" (1996:67).
Similarly, an interview passage of a former leading practitioner reveals a similar attitude: "I knew that in order to get the police on board, I had to demonstrate to them that it would save them police time because as of now police officers were over stretched."

[148] Under the subheading 'Integration' Dixon and Gosling indicated the need for "a willingness to learn from other agencies" (1985:4).
From a different angle Clode criticised what he called practitioners' '**arrogance**' through the pages of AJJUST: "Only one scheme involved magistrates in training their own (sessional) workers, evidence it was felt of juvenile justice worker's arrogance that "we have to teach them and they have nothing to teach us" (Clode, 1988:9).

[149] The phrase 'projects' credibility' was widely used, particularly in the period of the middle 1980s.

[150] Jones, project director at the Rainer Foundation's Well Hall Project in Greenwich, reported the 'marketing' considerations of his team: "We decided that credibility with magistrates would be gained by showing the relevance of work with young people to their offending, in contrast to the lack or relevance of the custodial experience [...] It was also considered necessary for young

practice therefore would be encouraged in the pages of AJJUST[151]; while, marketing practices would include 'presentations' of alternative schemes to magistrates, or, 'visit' invitations at the alternatives centre[152], or, even, the advertisement of projects 'strengths' through the pages of criminal justice journals.

At the same time, the employment of the 'intensive programme' language as a linguistic tactic certainly covered the symbolic (marketing) needs of the alternative schemes towards the 'punishing classes'[153]. The 'intensive' language would also include further labels of similar symbolism, such as the label 'structured' programme[154].

Marketing needs, such as programme flexibility, which assured the magistracy that the programmes were instantly available for your offenders, would prevail over the mainly symbolic oriented priorities of the 'structured programme'. Program 'flexibility' was indeed a strategy which reflected practitioners' attitude to sustain the very concept of programme credibility 'in the eyes of magistrates'.[155]

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people to start at the project immediately after sentence" (1985:1). As he further stated, "the confidence of magistrates in the centre and in the facilities it provides is critical in determining success" (1985:1).

[151] "If you want the judiciary to be better informed about your local community based schemes for offenders (and you should) why not write to the regional office of the Lord Chancellor's Department". They even provided the addresses (AJJUST, April/May 1986:19).

[152] Practitioner Chirs Clode, in his 1988 brief research paper, *Relationships with Magistrates and Clerk–A snap shot from the North West and North Wales*, reported 'Presentation' meetings with magistrates, which among other things included 'presentation of schemes work at I.T. Centre' and 'scheme input to magistrate training' (1988:8,9).
Also Jones, project director at the Rainer Foundation's Well Hall Project in Greenwich, under the subheading *Public Relations with Magistrates* reported the existence of "a programme of visits to the centre by juvenile magistrates" stating that "over 70 magistrates have visited the centre so far" (1985:1).

[153] See Errington's exemplary description of the tracking programme of the *Save the Children's Hilltop Project in Ilkley*: "Tracking is a form of very intensive, client-centred supervision, undertaken to reduce the motivation and opportunity to re-offend" (1984:3,4).

[154] Hence, Paul Goggins enriched further the 'intensive programme' language by describing the Salford project as a 'structured programme', which 'requires the young people to attend from 9.30 am to 4.30 am, four days a week, over three months" indicating also that "we aim to develop a quite intense atmosphere which enables attitudes and behaviour to be looked at in detail and have adopted a style which is confrontational" (1985:3).

[155] "We maintained a structure on a group work program, but we brought young people in at various stages - the court wasn't prepared to wait a month for Joe Bloggs to start" (interview – former leading practioner).

At the same time, the 'intensive programme' language of the alternative 'curriculum' constituted an integral part of the social enquiry report language[156] aiming certainly to bridge the concept of alternatives with the linguistic and cultural needs of the law and order representatives[157].

Beyond the practice activity associated with the 'credibility' needs of the alternative projects, the term 'influence' further captures practice strategies towards the wider integration with the processes of the local juvenile justice systems. The 'influential' practitioner therefore appeared as the key actor in Wade's piece of work on the development of juvenile justice practice in Hampshire. In Wade's study, marketing attitudes and linguistic adaptations were covered under the local policy term of 'influence'.[158] Even more, Wade under the term influence would relate further micro-strategies towards the other participants of the system, such as 'dialogue', 'trust' and 'respect'[159].

Hence, beyond 'credibility', being 'influential' could be suggested as a further term which would indicate, or cover a number of practice activities which would sustain a 'break in' attitude. To be 'influential' could be therefore translated into 'deliberately designed social activities'[160]; or, it could be translated into a need to 'explain' to the bench

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[156] Certainly Northampton constitutes a characteristic case (but not the only): "[In Northampton], each curriculum is presented to the sentencing court as an addendum to the social inquiry report" (Bowden & Stevens, 1986:329). Northampton followed these kinds of curricula which would persuade for the better value of the alternative-to-custody sentencing modes.

[157] Harris correlated the early 1980s 'clear strategy' of social workers to 'win' consumers from the prisons' with the **injection** from them of "a note of punishment into their welfare activities" (1992:4).

[158] "The unit took advantage of a number of opportunities to change the nature of liaison links and decided to influence the way other court participants used the unit's services" (Wade, 1996:67).

[159] "In Hampshire, the police had decided against the bureau approach, and had located the key decision makers in the mainstream operational structure [...] The unit decided that the most effective strategy was to influence decisions by dialogue and the development of trust and respect" (Wade, 1996:65).

[160] "We deliberately designed social activities and targeted different things. For example at the magistrates evening they want to hear good presentations and talk to people about cases over cake and coffee. On the other hand, this is terribly generalising but a police officer usually wants and meat and vegetable dinner and a steamed pudding so that was the kind of things we were taking into account. So we would choose where we were having things, what time, what the content was and what the refreshments were depending on the people we were targeting - we targeted people deliberately selectively" (passage from the interview of a former leading practitioner).

the alternative to custody recommendation[161]; or, it could be translated into development of 'streetwise' wording which would bridge opposite philosophies[162].

In particular cases, to be 'influential' would involve the development of legality-sensitive communication projects to break legal-culture barriers so as to enable 'straightforward discussion' rather than simply 'sterile meetings'. In the case of such a project which aimed at the development of cross-agency communication , issues concerned with the professional culture of the punishing classes, such as therefore issues of **'protocol', 'judicial independence', 'not mentioning names', 'not antagonising the clerk'** were critical in practitioners mind on the way to **'get listened'**[163].

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[161] Note the exemplary case of Northampton, which was practiced actually in a number of local courts: "[In Northampton], the author [of the social inquiry report] or representative will always attend court as a matter of courtesy, to explain the philosophy of the recommendation" (Bowden & Stevens, 1986:329).

[162] "The management of the police were keen; the police officers on the street were not that keen. They felt that they caught them and we let them go, that was their impression of what was going on. I used to go along and give talks to probationary police officers and that was what I used to start with "let's get it out on the table you catch them we let them go". It used to take the steam out of them. Basically what I was saying to them was "I don't want to see my work going down the drain by these youngsters re-offending any more than you do, you keep catching the same youngsters, as far as that's concerned we are in the same boat'"; (interview of a former leading practitioner).

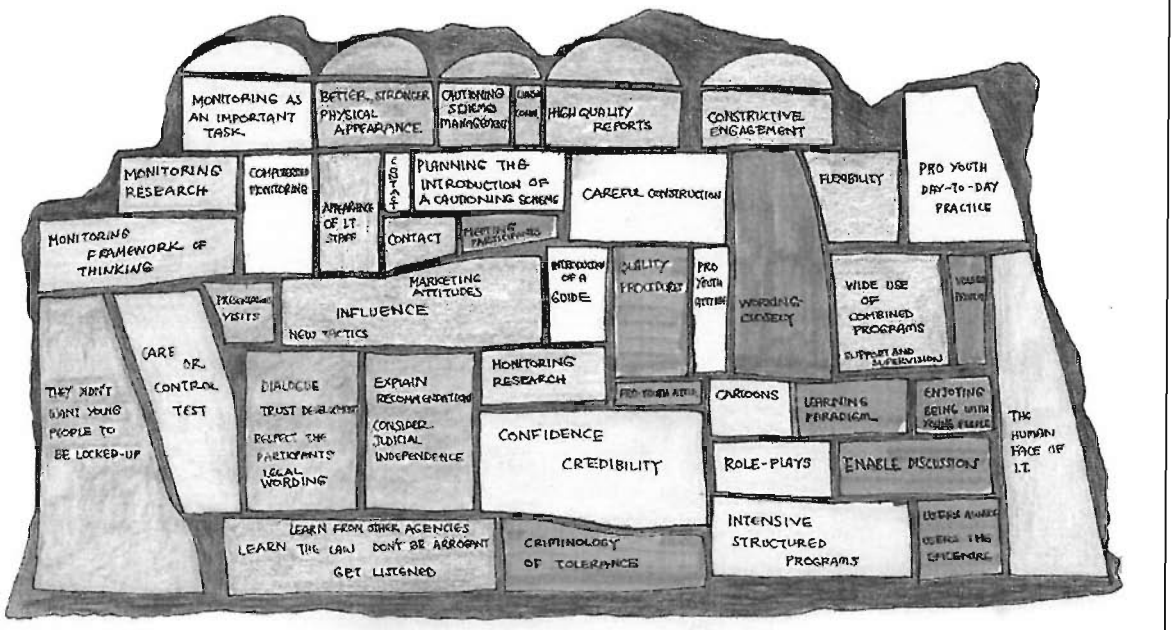
[163] "We had a very difficult juvenile bench. We then got a change of magistrate, a woman, intelligent, traditional but interested in trying out new things and we got her and her Vice Chair up to a meeting. We had to do all sorts of careful things to make sure we weren't breaking any protocols because clerks hate you talking to magistrates on their own, in case you step over that edge and start talking about individual cases and encroaching on their judicial independence. We had to do a lot of work to reassure the clerk and those magistrates that we were not going to do any of that. [We] thought about where to have it, what time was convenient and stressed that it should be after court and didn't talk about issues to start off with talked about the rules of engagement [...] So we did a lot of protocol clearing and listened to what they said. They said they really wanted to be able to talk to us about things rather than have sterile meetings so we cleared the air and got some agreement about what we could discuss. We then go talking about the numbers of adjournments, the numbers of people that were coming that didn't have parents with them, the solicitors that wouldn't get on with their work. We used examples so it wasn't too general but did not use names and we were straightforward with them. We wanted to talk to them about the fact that the solicitors were not doing their jobs very well and that is very tricky for magistrates because they are not supposed to criticise. So we started off carefully and said that we had a few concerns that not all of the adjournments were necessary and what we could do to help and we listened to what they had to say [...] So it was about trust and that we had had the conversation about being careful and not antagonising the court clerks, so they knew we knew their problems that if they went too far or said something out of turn then they would not be able to do it again. All of this was clear and then we had a relatively gentle conversation to start off with, gradually getting into a straightforward discussion [...] and we talked about what we'd like to do" (from the interview of a former leading practitioner).

e) The mosaic of the efficient 'helping' practice integration

The unearthing from the historical memory of the 1980s of the shift in the content of the 'helping' practices which occurred during the course of the 1980s has certainly provided a new picture about the transformation of both the depth and the scope of the profession of the juvenile justice worker of the 'helping classes'. Hence, on the one hand, 'research', 'monitoring', 'information collection', 'courtroom quality work' and 'constructive engagement' with young people all reflected the occurrence of a deepening of the 'helping' juvenile justice profession, a kind of 'helping' specialisation, which took place during the period in question, within the local juvenile justice settings. On the other hand, marketing practices, inter-agency meetings, use of intensive language, a tendency to understand and use legal terms, and the tendency to be influential on the components of local settings, all constituted issues, which marked the occurrence of a significant widening of the professional task of the 1980s juvenile justice practitioner, within the local settings.

Hence, the unearthing of the 1980s 'helping' practices from the historical memory of the 1980s juvenile justice in conjunction with the ideas of the loose Lancaster group has provided us with a rich picture of new practice policies concerned with the depth and the scope of the 'helping' juvenile justice practice during the 1980s. It can certainly be argued that the present research has uncovered (and recovered) a significant part of the practice policy mosaic of the 1980s – the mosaic of the 'helping' practice integration.

The recovered 1980s mosaic
of the efficient 'helping' practice integration



Indeed, all these practice policies were concerned with the significant improvement of the efficiency of both the content and the scope of the 'helping' practice, ensuring therefore that 'helping' practitioners constituted an efficiently integrated part of the decision making process of the local juvenile justice settings.

The impending question is <u>how</u> efficient integration became the working ideology of the practitioners of the 'helping classes'. In order to approach this question first the role of both the Lancaster group and the 'national network' will be examined – the issue of the next chapter.

CHAPTER FIVE

THE ROLE OF THE LOOSE LANCASTER GROUP AND OF THE 'NATIONAL NETWORK' IN THE ADMINISTRATION OF THE DISCOURSE OF THE EFFICIENT PRACTICE INTEGRATION

a) 'A debt of gratitude to Lancaster University' BUT 'we were doing it, week in and week out'

In 1987, a fierce argument erupted through the pages of *AJJUST* between Mike Nellis, a researcher of the history of Intermediate Treatment and some members of the AJJ, among them Sue Ross, a practitioner from the 1970s 'Juvenile Justice movement'[164]. The area of disagreement concerned the validity of the Lancaster 'tariff hoist theory'[165]; a highly relevant issue in the evolving in the 1980s discourse which underpinned the crusade for a strategy of diversion from the juvenile justice system. According to Nellis, for some reasons the 'tariff host theory' had been overstated. Sue Ross' response was fierce:

> "Those of us in the Juvenile Justice movement in the '70s, were not just researching and writing about Intermediate Treatment, we were doing it, week in and week out. The 'tariff hoist theory' was not some isolated academic idea from research, it was, and is a fundamental part of our understanding about the nature of Social Work. IT owes a debt of gratitude to Lancaster University which the rest of Social Work has to learn from" (AJJUST, September 1987:6).

Actually, by way of an argument on the validity of the 'tariff hoist theory', Sue Ross, then a leading practitioner, provided us with an inside view about the nature of the bond between the loose Lancaster group ideas and the practice innovations of the 1980s. Certainly, in the passage of her letter, Sue Ross was talking mainly about the ownership of the 'tariff hoist theory'; but, undoubtedly, an analogy can also be drawn on the ownership of the related strategic discourse of the efficient practice integration. Hence, here, the idea is that in relation to the evolution of the efficient practice integration, which took place

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[164] In her letter published in the *AJJUST* column *Verdict*, Sue Ross referred to herself as member of the movement: "Those of us in the Juvenile Justice movement in the 1970s" (AJJUST, September 1987:6).

[165] Regarding the 'tariff hoist theory' see the discussion later, in chapter eight.

during the 1980s, we should bear in mind that it was the 'week-in-and- week-out' practice, which was mainly 'doing it'. Nevertheless, as some leading practitioners might argue, a debt of gratitude is also owed to Lancaster people, since they also held an important contributory role.

The way that the bottom end practitioners developed themselves the ideas of efficient integration is a subject to be discussed in the next chapter. In this chapter, in particular in the first half of this chapter, the role of the loose Lancaster group or, otherwise, the grounds of the 'gratitude owed' to Lancaster will be examined, by clarifying the academic dimension of a complex ownership; namely, the ownership of the discourse of efficient practice integration.

b) The contribution of the loose Lancaster group: Not an issue of an innovative agenda coming from the 'ivory towers' of the academic context

During the second part of the 1970s and continuing through most of the 1980s, the members of the loose Lancaster group, more or less, (more in the first years of the 1980s less during the subsequent years) actively contributed to the emergence or development of specific ideas of efficient practice integration. This can be supported by passages of various sources from the historical memory of the 1980s.

Hence, until the late 1980s, Norman Tutt (and Henri Giller), through the Social Information Systems consultancy company, provided assistance in the implementation of monitoring policy[166], a flagship policy theme of the 1980s mosaic of efficient practice integration. Importantly, the consultancy activity, which aimed at the improvement of aspects of the decision making in juvenile justice process, had started in the late 1970s at the 'Centre of Youth, Crime and Community', Lancaster University[167]. Indeed, in 1981, Thorpe himself informed the readers of *Community Care* about the innovations of the Lancaster Centre in the computerised collection-and-analysis of information, which they

[166] According to Burney "a number of local authorities were involved in computerised court of analysis organised by Professor Norman Tutt and his colleagues" (1985:5).

[167] "The more sophisticated work in this field was undertaken initially at Lancaster University and latterly has been undertaken by such private companies as Social Information Systems" (Pratt, 1989a:77).

had tested on the planning system of the Wakefield Social Services[168]. Also, Thorpe informed the readers about further planned improvements of computer analytical programs for other social services departments[169]; and, finally, he presented another new device, the effective recording 'forms' YORF 1, which facilitated efficient collection of large data on juvenile offenders[170]. In other words, from the pages of *Community Care*, we can learn of almost clinical activity in the Lancaster group, which connected primarily to the development of the later, particularly celebrated within the practice microcosm, idea of monitoring.

Monitoring was not the only theme where the Lancaster group devoted their research effort. With respect to the program side of the strategic discourse, it is evident that the cognitive behavioural approach to youth offending was partly associated with early research conducted within the Lancaster environment[171]. It must be also mentioned that,

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[168] "In 1977, Chris Green, a research officer at Lancaster, placed a section 7(7) care order study on computer file and subjected it to analysis by using the frequency and cross tabulation facilities offered by the Statistical Package for Social Scientists, a programme designed to interrogate social data. The results, arrived at in a matters of days, were amazing [...] At the same time, as Wakefield social services department began to develop its intermediate treatment project, we helped them set up an information system which could evaluate the impact of the project on the whole juvenile criminal justice system [...] The recording system (in Wakefield's Court Section) represents the first attempt in this country at continuing (as opposed to retrospective) data collection" (Thorpe, 1981b:13).
It must be remembered that Chris Green, then research officer at Lancaster, was also one of the authors of *Out of Care*, while in the first part of the 1980s he served as director of the successful Basingstoke alternative-to-custody project.

[169] "At Lancaster, David Redmond-Pyle, one of the Centre of Youth, Crime and Community's research officers, is developing a suite of programmes which [...] should enable any local authority to use the recording format, computer programmes and analytical methods, developed at Lancaster, to plan its services and monitor their performance" (Thorpe, 1981b:13).

[170] "By the end of 1979, Chris Green had devised a recording form (the Young Offenders Referral Form 1) which, in conjunction with a manual of instructions for clerical staff, actually condenses all the relevant facts of a youngster's delinquent career on one sheet of paper" (Thorpe, 1981b:13).

[171] Indeed, in the NACRO publication *Seizing the Initiative*, which was NACRO's final report on the progress of the 1983 DHSS I.T. Initiative, in chapter 7 titled *The Changing Context of Juvenile Justice 1983-1989*, it was stated: "The kinds of programmes that evolved tended to use variations and combinations of three basic approaches. Firstly, and perhaps most significantly, was work on offending behaviour. Two publications greatly influenced this approach. In 1982, Lancaster University published 'The Correctional Curriculum' by Gary Denman and in 1983, 'Working with Offenders' by Priestley and Maguire appeared. Both these publications outlined an approach, based on behavioural psychology, for a planned programme of work with offenders" (NACRO, 1991:43).
Also an interviewee, former member of the loose Lancaster group, has mentioned that: "Someone who had actually worked [in Lancaster] for a short time as a research officer, was one of the first

later, during the course of the 1980s, David Smith, a long-term academic at Lancaster University, appeared to be particularly concerned with the further development of the program side of the 'helping' practice, therefore implying a research focus in this subject area[172].

It appears therefore that the loose Lancaster group had devoted their research effort to specific subjects, of which some (such as the monitoring idea) appear to have been mentioned as strategic issues for the course of the juvenile justice of the 1980s. It must nevertheless be pointed out that this aspect of the contribution by the loose Lancaster to the emergence (or even simply development) of strategic ideas of efficient integration should be seen as segmental, and certainly not critical.

Indeed, the major contribution of the loose Lancaster group to the strategic discourse of efficient practice integration (and to integration itself) cannot really be associated with the idea of a clinical introduction of a particular number of novel themes (such as research, monitoring, program development), which, supposedly, and suddenly captured the imagination of successive generations of juvenile justice practitioners and led them in a new professional direction. It is worth mentioning that most, if not all of their ideas, were not necessarily novel, and were certainly not conceived within the isolated 'ivory towers' of an academic research context. Instead, several issues and ideas of the loose Lancaster group which are contained in the suggested credos in the previous chapter (do-more-things-better and participate-and-appreciate-the-role-of- the-system-participants) seem to be the very issues and ideas of a growing environment of juvenile justice practice policy.

Indeed, a number of examples suggest that within the practice field of juvenile justice the existence of innovation pockets was evident as early as in the 1970s. Hence,

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people to produce a book – very long title – something like 'Assessment and Group Work in Intensive Supervision', which was in some ways a pioneering thing in that it advocated a type of cognitive behaviour approach to working with young people on issues of offending".
It must be mentioned that the actual title of Denman's piece of work was *Intensive Intermediate Treatment with Juvenile Offenders* Centre of Youth, Crime and Community, University of Lancaster.

[172] This is something that has arouse from the interviews, but also it can be implied in the letter of David Smith *Crime Prevention: An Attempt at Mediation* published in *AJJUST*, (December 1987:23-25). The letter appeared as mediation in the earlier mentioned argument between Mike Nellis and Sue Ross. In this letter David Smith supported the need to consider the content of social work, namely the program side, recognising certainly that they must be always aware of the net-widening and labelling risks.

the issue of the participation of the 'helping classes' within justice settings such as the Juvenile Liaison Bureaux, (where social workers were also advised by the loose Lancaster group to participate[173]), seems to have been an old practice policy innovation. Indeed, such schemes had already been in operation within the 1970s practice policy context, starting first as single agency cautioning schemes (police juvenile panels) and evolving to multi agency cautioning schemes, the juvenile liaison bureaux[174]. In other words, a discourse which supported inter-agency developments in juvenile justice had already been evolving in different parts of the country.

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[173] Tutt was an open supporter of such views, see as a tupical example his related 1981 interview in *Community Care* titled *The Brothers Tutt* (1981, June 18:14-15). Also, Thorpe *et al.* strongly suggested the involvement of social workers in juvenile bureaux schemes: "Cooperation with the police or access to police decision-making is therefore essential. [...] Why not, then, social worker secondments from one service to the juvenile bureaux – a sort of 'juvenile liaison'?" (Thorpe *et al.*, 1980:129,130).

[174] In the NACRO sponsored study, *Juvenile Justice in the United Kingdom: Comparisons and Suggestions for Change*, McCabe & Treitel provided relevant information about the growth of police juvenile panels: "Since the implementation of the 1969 Act, most forces have set up juvenile bureaux which handle the documentation of juvenile offenders. Juvenile bureaux officers are also responsible for interviewing the juveniles suspected of having committed offences and their parents. It is on the basis of these interviews that a recommendation for a caution is made" (1983:5).
They also provided information about the since middle-late 1970s development of those panels which would be later called **Juvenile Liaison Bureaux**:
"Within divisions or sub-divisions, committees have been set up with a membership drawn from the social services, the probation service and police officers. These committees meet each week to consider the appropriate action to be taken in regard to juveniles reported for offending or for need of care" (McCabe & Treitel, 1983:5).
Earlier, in 1977, in *Justice for Juveniles,* Priestley *et al.* provided similar information which highlighted the growing practice environment in the decades prior to 1980s: "During the 1950s and 1960s a number of forces, more of them in the north than the south, had set up juvenile liaison schemes which had extended the procedure of cautioning into a form of supervision for selected children. With the advent of the 1969 Act most, but not all of these schemes, were wound up, clearly on the premise that social services departments would be able to handle the cases thus released. In many places, including Bristol, the accumulated experience and interest of the juvenile liaison officers were transferred to the newly formed juvenile bureaux" (Priestley *et al*, 1977:41).
An interesting personal account about early experimentations in joint juvenile justice policies comes also from one interviewee:
"In 1976, I began to talk to the Police Local Authorities Social Services about the possibility of setting an integrated model of Police Social Workers Probation working together in relation to juvenile justice. [...] It is not much recorded or written about but we particularly used the caution and we used a reparative component within the cautioning itself. So the victims can have the possibility if they wished to, to meet their young offenders, and some directing them to reparation took part as a result of this. But the interest thing is that we seconded Probation staff Social Services staff and Police to work together as a triad part group in relation to juvenile justice [...]we had set up this model [...] in 1976".

Beyond the particular example of the evolving innovations in the setting of interdisciplinary juvenile justice cautioning panels, the existence of an early agenda for the integration of the 'helping practice' within the structures of the local justice systems constitutes an exemplary example of a coherent set of ideas developed primarily within the practice sphere. Indeed, specific practice policies concerned with information-gathering-and-supply; or, with the problem of magisterial confidence; or, with the aims of the community programs, can already be found in the very interesting 1974 published work, *Community Service by Offenders-The Nottinghamshire Experiment*, edited by John Harding, then member of the area probation service and later, in the mid-1980s, chief probation officer of Hampshire[175].

Typical passages from the 23 page booklet addressed several issues. These concerned the efficient integration of the 'helping' practice, such as the need for informal meetings with the court participants[176]; the need to monitor and to collect-and-supply information so as to maintain 'confidence' growth[177]; the need for case-study research[178]; or, the issue that 'helping' practice will be seen as an alternative to custody option[179]. Finally, in the concluding pages, Harding noted in particular the staff directly administering the community service should be given expert training in order to acquire a

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[175] The content of this piece of work was based on experience from the 'Community Service by Offenders experiment' in Nottinghamshire which had begun on the 1.1.1973; while, in *Introduction*, it was mentioned that six in total probation areas had been involved in similar projects sponsored by the Home Office in the summer of 1972.

[176] He referred to "a background of meetings and informal discussions with those who would administer the new measure – the judges, magistrates and courts clerks [while] early meetings were concentrated on the law relating to Community Service and building in some guidelines for court practice" (Harding, 1974:6).

[177] "On the whole, magistrates lent their support and enthusiasm to the Community Service scheme, but support could have faded quickly if one was not prepared to supply magistrates with a flow of information about the progress of the scheme. Information sheets were sent to each magistrate at the outset [...] Quarterly reports were also presented to the Community Service Committee [...] these reports were later circulated in full to the magistrates in the city and county" (Harding, 1974:8).

[178] "Vitally important that staff investigates what factors led to a person failing to keep an appointment" (Harding, 1974:14,15).

[179] "Community service needs to be seen by the courts and probation service as one of the many alternatives to custody for an offender" (Harding, 1974:16).

wide number of skills. According to Harding a variety of expert skills would help them to become more established, both in practice and on the program side[180].

In other words, as early as in 1974, John Harding had presented an early agenda about the 'helping classes' efficient integration (actually strong evidence of the existence of an early discourse on efficient integration) through consideration on the depth of the content and the scope of the practitioner's intervention. We assume rightly that he probably wasn't the only active practitioner to have considered such a coherent agenda, and certainly not the only one to have considered several of the elements of this agenda.

Hence, an examination of the nature of the bond between the Lancaster group and practice or, otherwise, an examination of the contribution of the Lancaster group to practice integration should necessarily consider the *de facto* existence of a serious tendency of innovation within the practice context of justice dating back at least to the mid-1970s.

The point that naturally derives from this consideration is that the many segmental innovations of the loose Lancaster group (such as monitoring development) naturally constituted an only complementary contribution to a growing (though fragmented) environment of experimentation concerned with the efficient integration of 'helping' practice. From this point of view, the segmental clinical innovations of the Lancaster group's contribution were not the critical aspect of the Lancaster group to the development of an agenda for the 'helping practice' innovation.

Instead, the examination of the contribution by the Lancaster group to efficient practice integration should focus on their communicative relationship with this growing body of practice innovation. In particular the study of the contribution made by the Lancaster group should focus on their common political message towards the growing body of practice innovation. This should be seen as the group's primary contribution.

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[180] "As an organiser one is called upon to exercise certain community work skills such as negotiation, bargaining, understanding community networks on the street, neighbourhood and district level [...] still require social work skills in assessment and diagnosis but in addition there are many aspects of the work which are new to probation officers [...] One [must] feel confident in understanding community resources and ways of applying them to immediate demands of the scheme. In preparing staff for such a role there are a number of short community work courses available which could serve as an adequate introduction to the job of the community service organiser" (Harding, 1974:17).

c) Sending a message to the practice world: The case of the *Community Care* two-articles-and-an-interview with David Thorpe and Norman Tutt

In 1981, in two successive issues of the *Community Care*, David Thorpe published articles dealing with practice policy directions in the juvenile justice system of a county. In the pages after the first article by Thorpe, an article-interview of Norman Tutt was accommodated. The importance of the three successive publications is that taken together they exemplify the policy attitudes of the two Lancaster academics; namely, to send a message in the strongest possible way.

Thorpe's first article was titled *Juvenile Justice and the computer*, and in the long subtitle it was indicated that:

> "David Thorpe, director of the Centre of Youth, Crime and Community and lecturer in social work at the University of Lancaster, describes how the centre's criminal justice system planning in relation to juveniles has been tailored to Essex SSD's needs" (1981a:12).

In this article, David Thorpe informed readers about the integrationist agenda of a local social work setting; namely, the Essex social services department, for which they provided consultancy.

> "A committee minute says attention will be paid to six aspects of the work:
> Methods of improving liaison with the police; developing a system which will aid staff in making consistent and appropriate sentencing recommendations to courts; assisting the development of implementation of new programmes and procedures; examining the content of programmes designed to reduce custodial sentences and recidivism; liaising with the education department on issues relevant to that department's work in the juvenile criminal justice system" (Thorpe, 1981a:12).

Thorpe described the innovations of the Lancaster University researchers, ('Centre of Youth, Crime and Community'), towards the development of computerised analysis of large amount of data on juvenile offenders, what Thorpe called 'huge quantities of information from different sources' (1981a:12,3). It was an extensive presentation of an efficient planning method, which would contribute to the development of 'effective' fieldwork services, namely the effective development of intermediate treatment services, the community based services.

Indeed, the first article emphasised the irrational spending of the social services residential sector:

> "It is a fact that social services departments spend a lot of money on their contributions to local juvenile criminal justice systems. It is now widely acknowledged that the bulk of their resources, those invested in the residential sector, actually promote rather than prevent delinquent careers" (1981a:12).

Furthermore, Thorpe pointed to the operational situation of the 'fieldwork services', the so-called preventive treatment, therefore strongly questioning the status they enjoyed:

> "The effectiveness of fieldwork services has however never been challenged [...] Money put into 'preventive' intermediate treatment with youngsters who have never been in trouble has rarely been scrutinised in terms of cost-effectiveness [...] It should still be possible to see whether or not preventive programmes reduce local long-term delinquency rates when compared with adjacent local areas which do not have such programmes" (1981a:12).

The article greatly elaborated on the need for an efficient planning system as a condition of operational effectiveness indicating that 'now' efficient planning can contribute to a rational understanding of juvenile crime:

> "It is now however becoming increasingly clear that [the] blind decision-making and enlightened guesswork can be replaced by judgements based on very precise knowledge of system performance and levels of demand for services" (1981a:13).

The second single-page-article, published a week later, had the title *Diverting Delinquents* and the subtitle information simply indicated that:

> "In his second article David Thorpe, director of the University of Lancaster's Centre of Youth, Crime and Community, reports on developments in Essex SSD" (1981b:21).

In this article, David Thorpe informed *Community Care* readers about the successful diverting experiment in Basildon and the concurrent closure of the Essex Homes School 'a CHE of long standing in Chelmsford', indicating further that "[w]e have a lot of evidence to show that only 10-20 per cent of CHE inmates actually require residential care" (1981b:21). Therefore, in this article, Thorpe exclusively pointed to the minimal need for institutions; or, in other words, he emphasised that diversion to community was an achievable aim for the social services dealing with juvenile justice. In other words, intermediate treatment was an important instrument for the social services dealing with juvenile justice, but only

under the efficient planning condition which was an issue posed particularly in the first article.

Considering the two articles together, it can be suggested that David Thorpe raised the operational efficiency of the 'helping classes' as a 'core issue' for the success of a liberal anti-institutional community based strategy. In these articles, Thorpe connected the operational or, otherwise professional efficiency with the liberal anti-institutional strategy. And he did that mainly by focusing on the issues of operational efficiency and effectiveness, as the articles were primarily written from the perspective that there was need for planning efficiency by the social services dealing with juvenile crime and justice.

Indeed, Thorpe connected the operational efficiency and socio-liberal aims firstly by placing a strong focus on the presentation of the immediate and tangible benefits of the operational efficiency, underlining the utilitarian importance of efficient planning. The wording of a relevant passage in the first article *Juvenile Justice and the computer* characteristically indicated how modern and efficient planning, the computerised planning, 'suddenly' enabled a deeper understanding:

> "[Through computer analysis] we suddenly had information on SER recommendations and results on different types of offences committed before and after the care orders were made, and we were able to cross-tabulate these with different types of placement, the lengths of time spent in the placements and whether or not the delinquents were absconding at the time the offences were committed. We were able to observe the differential effectiveness of social workers and probation officers and in a very short time, to give concrete advice to authority on how its service could be better planned" (1981a:13).

Thorpe, in this passage, certainly expressed the rationale that operational efficiency 'solved the technical problems' of the incarceration of juveniles; in other words, computerised planning provided tangible benefits to social work practice.

Furthermore, in his second article *Diverting delinquents,* Thorpe continuously emphasised the importance of efficient organisational methods by suggesting that although they did not solve the 'ethical and political' problems of incarceration alone, these methods nevertheless may potentially contribute to an anti-custodial strategy. In particular, in this article Thorpe insisted that efficient planning is not only a tangible technical advancement but also a potential political instrument:

> "So far, Home Office prison department establishments – borstals and detention centres – have remained relatively immune. The advent of computerised system monitoring and evaluation will change that, since the effects of local social inquiry reports recommendations and juvenile court sentencing practices will become freely available for discussion and interpretation. [...] Monitoring and evaluation [will] provide evidence that alternatives work for those delinquents for whom they are designed. [...] The Lancaster system even allows planners to know which schools generate the most delinquency and what contributions school reports make to sentencing practice" (Thorpe, 1981b:21).

Therefore in this passage, Thorpe further extended his efficiency and effectiveness rationale by suggesting that the tangible organisational benefits of planning research could also have a tangible value towards the construction of concrete well-informed anti-custodial arguments. In short, planning research could tangibly empower the anti-custodial anti-institutional principle.

Finally, it is important to mention that in both articles Thorpe strongly endorsed the managerial argument at the symbolic level. In other words he employed a symbolic arsenal, which highlighted his message for efficiency and effectiveness. He adopted a techno-political language, more typically employed in the language of the 'punishing classes' and of the *three E's* of the Thatcher administration:

> "Not only does YORF 1 allow for a child to be referred by the police on up to 20 separate occasions, it also permits up to 999 separate charges to be recorded, the whole liaison process and outcomes, as well as the recommendations to the juvenile courts and the results, are allowed for, including detailed information derived from school reports and family background factors" (Thorpe, 1981a:13).

Also, in relation to Thorpe's symbolic language, it is worth mentioning that a picture of a robot-computer illuminated the inside pages of the article *Juvenile Justice and the computer*:

A very similar full-page robot image also posed on the front page of the *June 18* issue of *Community Care*:

In summary, it can be argued that at the technical level, at the political level and certainly at the symbolic level, Thorpe endorsed the message that the 1980s modernisation,

and the need of managerial rationality was actually a political opportunity and not a threat for social workers dealing with juvenile justice:

> "There is here an opportunity for social workers and their managers to get away from the generally *ad hoc* planning decisions of the 1970s and use the new technology not to replace case files and administrative registers, but to provide a detailed analysis of local policy and practice which will enable the broadest discussion of policy objectives and more rational and economic deployment of resources to meet those objectives" (Thorpe, 1981b:21).

Therefore, against the 'startled' reactions of the social work context[181], David Thorpe conveyed the strong political message that the apparent contradiction of the efficiency and effectiveness issues with a pro-youth practice of the 'helping classes' was a mere phenomenon. In other words, managerial values were compatible with the humanistic social work values.

In this respect, David Thorpe's perspective strongly mirrored the academic support by the Lancaster group for the idea of systematic managerial practice, such as the practice developed within the Essex social work services, and he wanted to place this kind of practice at the forefront of the 'helping classes' thinking, by suggesting the existence of an opportunity for practitioners to be both efficient and pro-youth. Actually, in his interview, Norman Tutt was perhaps even more explicit about what did and what did not constitute a threat for the 'helping classes' in the beginning of the 1980s.

In the same issue of *Community Care*, immediately following the article by David Thorpe *Juvenile Justice and the computer*, Norman Tutt also sent a stronger political message to the 'helping classes', in the strongest possible symbolic way. Hence, under a family picture and the telling title *The Brothers Tutt* (picture 3), an interview-summary[182] indicated in bolded letters the Norman Tutt recipe:

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[181] David Thorpe was aware of the phenomenal contradiction of the efficiency and effectiveness issues into the eyes of the 'helping classes' and he addressed the anticipated reactions of his audience by indicating in the very first paragraph of the *Juvenile Justice and the computer* article that:
"Social Workers and probation officers [...] may have been somewhat startled to read a recent advertisement for a research officer in the Centre of Youth, Crime and Community at the University of Lancaster. The surprise [...] more likely will it have been in respect of the job description [...] The post will be at the headquarters of Essex social services department in Chelmsford and the research officer will be required to have a knowledge of computing as well as of juvenile criminal justice systems" (1981a:12).

[182] The interview had been conducted by Peter Walker.

"Two brothers, one a social worker, one a policeman – a recipe, one might think, for family conflict. But, as Peter Walker discovered, Norman and Geoffrey Tutt find plenty of common ground between them" (Walker, 1981:14).

Left to right: Peter Walker talks to Norman and Geoffrey Tutt.

The Brothers Tutt

Two brothers, one a social worker, one a policeman — a recipe, one might think, for family conflict. But, as Peter Walker discovered, Norman and Geoffrey Tutt find plenty of common ground between them

UNTIL RECENTLY, a professional Geoffrey Tutt explained. Co-operation According to Norman Tutt this fear is

The bold introductory comment spelt out the article's political message; namely, that there is 'plenty of common ground between' the 'helping' and the 'punishing classes'. The introductory paragraph was even more firm and politically explicit. In the first part of the introductory paragraph the established ideology about the conflict oriented relation between the 'helping classes' and the 'punishing classes' was re-stated:

"UNTIL RECENTLY, a professional discussion between Norman Tutt, professor of applied social studies and founder of the Centre of Youth, Crime and Community at Lancaster University and his brother Geoffrey would have seemed completely out of the question. With over 15 years service with Scotland Yard's special branch Geoffrey Tutt could not have been more distant from his academic-social worker brother. 'We are miles apart', Norman Tutt declared" (Walker, 1981:14).

However, the second part of the introductory paragraph suggested a different potential for the future of the two classes:

> "But all that changed a year ago when Geoffrey Tutt took over as head of the Metropolitan Police's P District juvenile bureau [...] But what has drawn the brothers together is not just a common interest – juvenile crime – but an agreement on many fundamental ways of both tackling and preventing delinquency. And they both claim that they arrived at their consensus independently" (Walker, 1981:14).

The meaning was obvious. The practice experience as opposed to blind ideologies can actually have an independent effect on the thinking of the practitioners of the two classes. In other words, the reality of the day-to-day routine needs brought practitioners of different agencies closer.

Under the symbolic metaphor, which effectively translated a family story into a firm political thesis on the position of the juvenile justice practitioners, Norman Tutt indicated his enthusiasm for co-operation[183]; the 'groundless' of any 'anxiety' or 'fear' because of the rapprochement of the two classes[184]; and, finally the demand for the 'helping classes' to move towards a structured approach in supervision[185], namely the need for them to adopt an efficiency oriented supervision practice.

Therefore, in these articles Norman Tutt and David Thorpe did not introduce a clinical product to the *Community Care* readers. Instead they were trying to market their philosophy of an already existing practice. They therefore sent a message about the compatibility of the operational efficiency with the de-escalating principle of diversion, and about the compatibility between the 'helping classes' and 'punishing classes'; and, in

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[183] "Norman Tutt is an enthusiastic supporter of such attachments and would like to see social workers doing similar placements as part of their training, This he believes could lay the basis for future inter-agency co-operation"(Walker, 1981:14).

[184] "But the brothers appreciate the anxiety shared by both social workers and the police that, if they are seen to co-operate too much, they are in danger of being accused of compromising themselves. According to Norman Tutt this fear is groundless because there are enough differences between the two agencies to keep them firmly separate" (Walker, 1981:14).

[185] "Norman Tutt [believes] that for most social workers the personal relationship they build up with a young offender is the key to their work with them. But he says he would be closer to his brother's point of view if, rather than talking in terms of 'discipline', social workers were criticised for having an 'unstructured' approach to juvenile offenders. 'Social workers in the past have tended not to think out what they are doing with a juvenile offender. This has been reflected in the drop in the use of supervision orders by magistrates because they do not have confidence in social workers anymore' Norman Tutt says" (Walker, 1981:15).

the-two-articles-and-one-interview example they sent this message in the strongest possible way by adopting a techno-political rationale and by clearly using a relevant symbolic arsenal.

The two-articles-and-an-interview case is therefore very characteristic about the policy attitudes of the loose Lancaster group, namely to communicate effectively the integrationist message rather than to create it.

d) The Lancaster communicative support to integrationist best practices and ideas

In the very early 1980s, the communicative activity of the Lancaster group provided academic support to a 'cultural resource', and to a 'tool kit'[186], which contained the evolving and innovative then 'week-in-and-week-out' practice policy. Through their communicative activity, the academic loose Lancaster group undertook the project to market the best-practice-policy attitudes of a loose practice policy ring, the existence of which was known to them[187]. Indeed as a former member of the group has recalled, the 'Centre of Youth, Crime and Community', at Lancaster University, mounted a communication policy, which brought into the wider practice light several local innovations:

> "The centre at Lancaster published various papers but probably more importantly we mounted a whole series of conferences which were just involving practitioners and presenting the research of other practitioners back to them. So some of our first work was in places like Stockport and Rochdale – there we would show the evidence that things could change to other practitioners."

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[186] In *'Political Culture Wars 1960s Style: Equal Employment Opportunity-Affirmative Action Law and the Philadelphia Plan'*, Pedriana & Stryker, (:638-642), elaborated on treating culture as a resource for political action; meaning that political and legal culture provides **"a tool kit of symbols, stories, rituals and world-views, which people may use in varying configurations to solve different kinds of problems"**(1997:639). An analogy can be therefore drawn to conceive of the growth of the fragments of 1970s policy practices (inter-agency panels growth, the pervasive question of magisterial confidence, the collection-analysis-and-presentation of information, the practitioners training and so on) as a cultural resource as a 'tool kit' of all those elements described above.

[187] The relationship between the Lancaster group and the practice environment has been discussed in chapter three.

In particular, within the context of the 'helping classes', the firm communicative stance of the Lancaster group therefore disseminated and supported the evolving juvenile interagency-panel models that emerged in fragments of the country. This was typical of passages in *Out of Care*, seen in the following passage concerning developments in Exeter:

> "Why not, then, social worker secondments from one service to the juvenile bureaux – a sort of 'juvenile liaison'? A scheme of this kind, the Police – Social Work Bureaux, has actually started in Exeter" (Thorpe *et al.*, 1980:129).

Hence, through the question 'why not then?', they clearly supported the strategic logic of the Exeter model that social workers and probation officers could and should be an active component of those decision making panels[188]. Also, they supported strategic arguments and 'world-views' such as the practice integrating reasoning of John Harding in the earlier mentioned piece of work *'Community Service by Offenders - The Nottinghamshire Experiment'*[189].

It is therefore through the communicative activity supporting best integrationist practices that accounts about the role of the Lancaster group can be satisfactorily interpreted. Hence, the account of an interviewee, a former leading practitioner, about the contribution of a member of the Lancaster group through the introduction of innovations in a local alternative project is an account which must be interpreted carefully. According to the interviewee:

> "Chris [Green] had come up with an idea that [they] should have a short-term project and a long-term project. I think it was 60 days and 90 days. 60 days would reflect back on the alternative to detention centers and the 90 days would be an alternative

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[188] Actually, Exeter constituted a characteristic case of culture resource of practice policy innovations due to the practice developments taking place in the Devon area at that time. An interviewee for example has stressed that, **"Devon in those days was an extraordinary place to be, partly because of [the] Chief Constable called John Alderson, by most people recognizing to be the pioneer of community policing."**
Hence,it must be pointed out that aside from the Exeter bureaux practice policy, Thorpe *et al.* also discussed the community policing developments of John Alderson in *Out of Care* as a model of innovative and progressive practice policy (1980:107-8,131-2). John Alderson and Devon was indeed a cultural 'tool kit' for the loose Lancaster group.

[189] It should be mentioned that there is some evidence that John Harding knew David Thorpe while he was in Nottingham where community service experiments were taking place. However, the depth of the exchange of views at that time is not clear. However it should be recalled that John Harding in his agenda oriented booklet called with typical language "for close co-operation and **information sharing** between the sentencers, the clerks and the probation service so that fears and inconsistencies can be faced" suggesting also that "Community Service offers the Probation Service **a real opportunity** for partnership with community groups" (Harding, 1974:17,8).

> to Borstals. And [they] tried to build around what had been key things in *Out-of-Care*. And that was retribution, remission and being able to apologize. And they were brand new themes, nobody had ever tried to work with them, the book had been out for six months".

Intensive, flexibly structured '60 and 90 days' schemes and 'retribution-remission-apology' alternative sentencing practices were not really 'brand new themes' coming from *Out of Care*. These were actually widely discussed practice policy ideas which a member of the Lancaster group introduced in a particular area, Basingstoke. This activity mainly revealed the strong communicative attitudes of the Lancaster people towards the efficiency/integrationist agenda; namely, to further disseminate and actually impose streetwise alternative ideas within a particular local juvenile justice setting. The particular activity simply reflected the strong support (or even belief) held by the Lancaster group for efficient integrationist practice policies, such as alternative programs having to be efficient in order to be seen as an alternative-to-custody by the magistrates[190].

Therefore, in the very early 1980s it is conclusively argued, that through their wide and active involvement within the practice sphere, the Lancaster group communicated their active academic/research support towards the strategic compatibility of efficient integrationist practices with 'helping' values. Actually, it was an academic activity of critical importance as it carried a legitimacy that was crucial for the rhetorical dominance of the integrationist strategy.

e) The legitimacy effect: the transition to a dominant efficient integrationist language

In his 1989 book, *Evidence, Argument and Persuasion,* Giandomenico Majone considered the role of the analyst or policy adviser by considering the contribution of Keynes to the public debate on wartime finance of the late '30s. Majone's idea was that:

> **"In addition to searching for solutions within given constraints, the job of the analyst or policy adviser is to help push out the boundaries of the possible in public policy"** (1989:93).

[190] Just as Harding argued in 1974 that "community service needs to be seen by the courts and probation service as one of the many alternatives to custody for an offender" (1974:16).

From Majone's perspective, **"Keynes' contribution to the public debate on the problem of wartime finance in the late 1930s is an excellent example"** (1989:93). As Majone indicated:

> "From the outset, a recent bibliographer writes, "Keynes involved himself in the problems of war finance on two fronts – maximizing the possible under the existing constraints and easing the constraints themselves". His arguments created a climate of opinion that made war and cheap money seem compatible to the authorities. In order to get across the reasoning behind his plan and to find making it more generally acceptable, Keynes engaged in a massive effort of education and persuasion. In addition to producing a stream of memoranda, articles, broadcasts, and letters to the press, he held numerous meetings with officials, politicians, academics, students, and trade union leaders. [...] Thus, modified in a process of debate and mutual persuasion, Keynes' proposals gained wide acceptance and became the basis of wartime financial policy in Great Britain" (Majone, 1989:93,4).

Hence Majone, highlighted the communicative dimension (namely, argumentation, education, persuasion and exchange of views with a variety of people) as a particularly important aspect of the work of an economist such as Keynes, therefore concluding that:

> **"President Roosevelt did not have to learn about government spending from Keynes. However, as Keynes' ideas came to dominate the thinking of economists and politicians, they helped to make expansionist fiscal policy the core idea of liberal economic policy for several decades"** (Majone, 1989:145).

From Majone perspective therefore, the communicative activity of Keynes was critical to transform a certain kind of fiscal policy to 'core idea' of the economic policy of a political group. In relation to the integrationist strategy, the example of the impact of the communicative support of the loose Lancaster group seems to be rather similar to that of Keynes as described and argued by Majone.

Indeed, the efficient integration of the 'helping classes' practitioners within the local juvenile justice settings became both a core aim of the 1980s practitioners, and a legitimate discourse within the context of the anti-institutional thinking, precisely because of the communicative and supportive stance of the Lancaster group. This was the contribution of the Lancaster group to the ideas/discourse of efficient practice integration. Arguably, it was an important contribution when considered within the historical context of the 'helping' rhetoric of the very early 1980s.

As Holt[191] indicated in his mid-1980s book[192], *No Holiday Camps–Custody, Juvenile Justice and the Politics of Law and Order*:

> "Since the late 1970s, **the debate over the most 'legitimate' style of 'I.T.'** has generated a succession of responses: articles in social work journals and youth work journals, occasional publications, and latterly a crisis of direction in regional and national I.T. practitioner organisations" (1987:17).

Therefore Holt informs us of the existence of a 'debate' about the 'legitimate style' of the late 1970s helping practice[193]. It was a debate that entered the 1980s and was characterised by ambivalence as regards the definition of legitimate practice.

Indeed, in the very early 1980s, some 'helping' practice thinkers would have had difficulty, actually a real problem, in describing with clarity what they would consider a legitimate 'helping' practice activity. On the one hand, in their eyes, integration with local juvenile justice settings seemed to be an anathema, as it implied a negation of the pro-youth social work values. On the other hand, they shared the agony about the apparently undervalued social work input into these juvenile justice local settings.

The wording in the quote below from Ray Jones'[194] *Justice, Social Work, and Statutory Supervision*[195] is a typical example of the weak and confusing rhetoric, which represented the professional moralism of the social work practice[196]. The wording of the passage that follows shows indeed the encrypted conflict and ambivalence about what was

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[191] Regarding Holt see earlier footnote in chapter three.

[192] His book was first published in 1985. It must be pointed out that an evaluation of the juvenile justice agendas of the time.

[193] The idea here is that part of the debate was certainly concerned not only with the question of the 'heavy end' but also with what constituted the legitimate operational style of the day to day 'helping' practice.

[194] Then area Team Leader with Wiltshire Social Services and a Visiting Fellow at the University of Bath.

[195] It was published in *Providing Criminal Justice for Children* (1983), edited by the Justice movement figures Morris and Giller.

[196] There are further papers which questioned the moral basis of the emerging social work practice within the context of juvenile justice throughout the 1980s. The paper of Hudson (1984), the papers of Pratt (1985,1986,1989b – but not the different 1989a) and the paper of King (1990) are typical examples of this sort of critique. The difference of Jones (1983) is that he attempted to provide (in the view of the present work unsuccessfully) a modernisation agenda which would satisfy the professional morality of social work practice. The paper of Harris (1985) seems to belong to the same family.

and what was not legitimate and therefore permissible in relation to the operational aims and values of the 'helping' practice.

Therefore Jones accepted that punishment as an element of an alternative program is 'likely' to be required:

> "A credible programme of supervision is likely to require a framework of punishment" (Jones 1983:100-102).

The importance of this requirement was that:

> "Punishment should be seen as an integral part of the framework of statutory supervision, not as an essential part of its content" (Jones 1983:100-102).

His consideration was obviously complex if not nebulous. Jones played with the words more than he provided a clear direction. He failed to explain why what was integral was not actually essential. The truth is that Jones was not clear himself about this distinction, as he recognised that punishment was actually essential for the culture of the local courts, but, at the same time, he still could not detach his rhetoric from the concept of 'help':

> "Although social workers are unlikely to have credibility within a system of juvenile justice if they do not accept the demand for punishment, social workers should not be involved with such systems if they fail to stress their role as social workers to assist and to help" (Jones 1983:100-102).

The concluding sentence about the actual role of the 'helping classes' clearly reflected the prevalence of ideological concerns, namely the concerns about the survival of the ideology of the social justice values:

> "The responsibility of social workers should be to temper a concern for natural justice with a continuing concern for social justice" (Jones 1983:100-102).

Jones' rhetoric was certainly ambivalent. He wanted to move towards a modernisation of the role of the 'helping' practice, but at the same he felt bound by ideological constraints. His communicative argumentation, (in other words his rhetoric), did not address modernisation and social work as compatible concepts within the context of juvenile justice.

It was exactly this sort of ambivalence that articles such as *Juvenile Justice and the computer* and *The Brothers Tutt* had managed to sidestep. Since, these articles indicated to the 'startled'[197] readers of the *Community Care* that the 'until recently' 'completely out of

[197] Term used by Thorpe in relation to the advertisement of a research post which combined computers with juvenile justice see earlier above.

the question'[198] discussion between the 'helping classes' and the 'punishing classes' should be regarded as a legitimate aim within a pro-youth practice[199]. Furthermore, the firm legitimacy, granted by the wider communicative activity of the Lancaster group to the attitudes and ideas of the innovative best integrationist practice, enabled the transition to a certain rhetoric, which became apparent and dominant in the practice speech of the second part of the1980s.

What characterised practice discourse of the second part of the 1980s is particularly that practitioners of an anti-institutional orientation talked confidently of the only (now) legitimate model of practice. In his article *In Consideration of Youth Crime–An Anti-Custody Strategy for Young People*, published in *AJJUST*, Tom White was crystal clear about the legitimate 'need' of the efficiency oriented integrationist agenda, namely, about its compatibility with pro-youth values:

> "Programmes need to be acceptable to the court and to offer constructive options to many, often disadvantaged young people who were and are in trouble and have committed serious offences. Bridges need to be made between magistrates, social services, police and voluntary organizations" (White, 1987:12)[200].

The firm rhetoric of Tom White was only one of many examples. Mention might also be made of the editor of the *AJJUST* who did not hesitate to express his clear support for the acceptable role of the 'punishing classes', therefore reflecting a certainty of mind about what is and what is not legitimate for a pro-youth practice. The editor was responding to a practitioner's letter which raised the theoretical question about the 'informed critique of Police theory':

> **[Letter from practitioner to *AJJUST*]**
>
> "Dear Editor

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[198] From the *The Brothers Tutt* article, see earlier above.

[199] "Thorpe et al (1980) have strongly suggested that a major responsibility for this state of affairs rests squarely on the shoulders of the social work profession" (Holt, 1987:17).

[200] Tom White was Director of Social Work with National Children Homes and a long standing member of the Association. His article, *'In Consideration of Youth Crime – An Anti-Custody Strategy for Young People'*, was published in *AJJUST*.

[...] There are real dangers here for juvenile justice in the absence of an informed critique of Police theory and a strategy to break hegemony over definitions of crime and social welfare.

Nottingham"

[The response of the *AJJUST* Editors]

'Comment'

"Crime Prevention or indeed any other collaborative process does have to be dependent upon Police interpretation of 'the problem' [...] Policemen catch criminals – they have only limited interest in improving the lot of impoverished communities."

(AJJUST, December 1987:10).

This firm rhetoric was not present and certainly not dominant in the late 1970s and early 1980s. In contrast, the new dominant rhetoric through to the 1980s reflected the existence of an important transition in the rhetoric of the 'helping classes' people.

The point emphasised here is that the transition to the clear integrationist rhetoric of the 'helping classes' encrypted the academic legitimacy, which the communicative activity of the Lancaster group offered to the fragmented practice innovations and ideas in the early 1980s. In other words, the communicative activity of the Lancaster group closed the thinking gap within a context of leading practitioners who were searching for a 'legitimate style' of work, and a legitimate practice policy discourse. In other words it made explicit the speech of those who believed in efficient integrationist practice. The leading practitioners could therefore firmly suggest and propagate what they believed in based on the academic legitimacy: that to be efficient and part of the system was compatible with the pro-youth values of the 'helping classes'. It was an important transition in practice policy rhetoric, which encapsulated the importance of the contribution of the Lancaster school of thought.

Here, nevertheless, we turn naturally to those who, under the label 'leading practitioners' held a strong belief in the need of a new practice within the microcosm of juvenile justice. From many respects these leading practitioners were the carriers of a countrywide communicative process which strategically endorsed the ideas of integrationist practice within the local juvenile justice settings.

Before discussing the importance of this process during the 1980s it is nevertheless imperative to clarify the historical meaning of the term 'leading practitioner'. Who were they? Where did they come from?

f) The discourse of efficient practice integration and the different generations of leading practitioners

In 1986, in the 10th issue of *AJJUST*, a letter from a practitioner was published under the title *'An Exemplary Conference?'*. In this letter, the practitioner who had attended a practitioners' conference in a 'little known small shire town', expressed his anger towards the mid-1980's practitioners who regarded themselves as the pioneers of 'new principles', whilst 'others wrote the melody years ago':

> "I 'heard' eloquent practitioners prattle on about 'specificity, aims and objectives and standards of excellence' to the eminent audience [...] as this was new information [...] But [...] others wrote the melody years ago and these words are photocopied and distributed for consumption by some of the original authors [...] What these practitioners failed to realise about their ideas is that many of us have applied their 'new principles' across entire Counties against the tide and without the drinking binges, golfing and 'friendship' with key actors in the system" (AJJUST, July/August 1986:11-12).

Undoubtedly influenced by the internal politics of the 1980s practice microcosm, the letter titled *'An Exemplary Conference?'*, constitutes an exemplary source, which suggests the early existence of leading practitioners (the 'original authors', the 'many of us' according to the letter writer), who prescribed an agenda concerned with issues of practice development (such as 'standards of excellence'); in fact, a practice policy agenda for efficient practice integration within the local juvenile justice settings. Moreover, the letter's correspondent suggested the continuing effect of the same early agenda (in his own words, 'the melody') up until the 1980s, through the reproduction of the same 'melody'. This is true, but only partly.

Indeed, the development of the discourse of efficient practice integration, which embodied a number of practice policies, was strongly linked to a number of juvenile justice practitioners coming from the very late 1970s. There is some evidence to show the

existence of early 'generations' of practitioners seeking the development of a practice agenda within the context of regional or national *fora*.

As mentioned earlier, John Holt, in his 1985 book *No Holiday Camps*, emphasised the existence of a strong practice 'debate' on what he interestingly called 'the most legitimate style of I.T.'[201] The debate about the 'most legitimate style of I.T.' certainly encapsulated the tantalising question about the professional integration of the 'helping classes'. As, already noted, in the late 1970s, Anderson in his *'Representation in the Juvenile Court'* pointed out the fact that social workers were aware of a number of problems associated with the question of practice integration.[202]

Actually, in the late 1970s practitioners were not simply aware of these issues, but the evidence shows further that a number of them were looking for answers. An interviewee (a former leading practitioner) remembers that, as early as in the mid-1970s, those 'doing the same job', who were also interested in training events, decided to 'set up' a regional Intermediate Treatment scheme called 'Forum for Intermediate Treatment in the East Midlands, or FITEM'.[203] According to the interviewee account, NITFED, the National Intermediate Treatment Federation grew out of that sphere, with an emphasis on running 'courses for practitioners', organising 'training events, conferences' and producing 'various papers'.[204] And indeed, in 1984, along with the launch of the DHSS IT Initiative,

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[201] It must be remembered the relevant passage where it was indicated that:
"Since the late 197s, the debate over the most 'legitimate' style of 'I.T.' has generated a succession of responses: articles in social work journals and youth work journals, occasional publications, and latterly a crisis of direction in regional and national I.T. practitioner organisations" (Holt, 1987:17).

[202] It must be remembered the very characteristic passage in the book of Anderson where it was indicated:
"[A]mbiguity over their role in the court, insufficient knowledge of the law, leading to an inability to intervene in the court process, and the importation into the court setting of social work attitudes which mark the elision of individual interest with a professional judgment made in the absence of the client [...] Social workers themselves are not unaware of these issues" (Anderson, 1978:57).

[203] "I met with [a] senior probation officer and we decided that we were going to do something and we were meeting with other people doing the same job to create these regional planning committee schemes, training events etc. and the next step was that we set up a Regional Intermediate Treatment scheme called Forum for Intermediate Treatment in the East Midlands or FITEM" (from the interview).

[204] "From that the National Intermediate Treatment Federation grew because we were meeting on a national basis, this was just past the middle of the 70s no later than 1976. 1974 was when Intermediate Treatment really started. So that's were NITFED came in. To the rest of the 70s NITFED ran courses for practitioners, training events, conferences, produced various papers" (from the interview).

NITFED would be funded to run 'staff development' programmes[205]. Nevertheless, according to the interviewee's account, as early as in 1983, some of the regions were thirsty to 'fight policy battles' and so 'opted out' and started the AJJ, the Association for Juvenile Justice,[206] a national practitioners' organisation. Until the end of the 1980s, the *AJJUST*, the journal of the AJJ, accommodated and strongly supported most of the elements of the strategic discourse for practice integration. In the late 1980s, a senior officer of the DHSS, in correspondence with members of AJJ, addressed AJJ as a practice organisation **"prominent in the field of juvenile justice"** adding further that he would **"welcome a chance to discuss"** about the **'concerns'** of the AJJ people (AJJUST, September 1987:16).

It can be argued that the account of the interviewee (former leading practitioner) has provided a picture of the existence of 1970s practitioners, or more precisely, about the existence of the 'original authors' of the 'melody'. According to this picture, the 'original authors' through successive organisations (FITEM, NITFED, AJJ) 'photocopied and distributed' the 'words' of the 'melody'; an idea, which the above mentioned author of the 1986 angry letter, *An Exemplary Conference?*, supported.

Nevertheless, it must be noted in particular that the developing organisations of the FITEM to NITFED and later AJJ should not be seen as the only practice policy *fora*, which accommodated the practice development agenda of an early group of leading practitioners. Indeed, the CAYO (Community Alternatives for Young Offenders) team, sponsored by NACRO[207], constituted an early opportunity for practice policy people, called development

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[205] "Staff Development Project: The Department of Health and Social Security has provided the National IT Federation with £25,000 to be spent on regionally organised schemes for staff development. These schemes are to involve those directly concerned with the operation of intensive IT projects [...] The NITFed steering committee is hoping to encourage innovation and experimentation in training and development methods" (INITIATIVES, Summer 1984:2).

[206] "And then, in the early 80s from about '81,'82 some of the regions opted out because really some of us wanted an individual organisation not a federation of very loose regional groups and they were all into training and practice and we wanted to get out and fight battles about policy and legislation and this sort of things. So, in 83 and into 84 the steering group started the AJJ, the Association of Juvenile Justice" (from the interview).

[207] "In 1978 NACRO approached the Department of Health and Social Security (DHSS) to fund a small experimental team of consultants to work with statutory and voluntary agencies within local authority areas to encourage and help the development of community based alternatives to care and custody for juvenile offenders. In January 1979 the Community Alternatives for Young Offenders (CAYO) team was established and completed its three year project in December 1981" (CAYO, 1982b:1).

officers (consultants), who were seeking for the construction of a 'melody' of local strategies of practice integration. In June 1980, in the Howard League *Day Conference* on *Juvenile Offenders*, Andrew Rutherford referred in particular to the **"innovative action-research consultancy service to several local authorities"** provided by CAYO[208]. The CAYO team had 'worked in twelve different local authorities'[209] and importantly, in 1982, produced a *Final Report* and a *Development Kit*, which included many of the 'words' of the 'melody'. In particular, it can reasonably be supported that the *Development Kit* actually provided a guide for successful integration **"for people wishing to plan and set up community provision for those juvenile offenders who would otherwise be placed in custody or residential care"** (CAYO, 1982a:1)[210].

Indeed, the pages of the *Development Kit* covered issues of inter-agency development groups and working groups, of practice research, referral procedures and monitoring and finally issues of programming and program resources such as staffing, management and premises. Moreover, the issue of magisterial confidence appeared paramount in the pages of the *Development Kit*. Hence, with respect to the projects and programmes, the *Development Kit* emphasized that **"[t]he relationship between a project and the court is particularly important"**; or, in other words, that "the court is fully aware - the court should be fully informed [...] – the court should be assured [...] – the project should be in a position to act immediately when the court makes an order – ideally the juvenile would start in the programme on the same day as the court order is made" (CAYO, 1982a:16,7).

In the very early 1980s, the *Development Kit*, reflected the existence of a team of practice consultants weaving a practice agenda, which combined issues of policy, such as alternatives to custody, with issues of process integration, what Tutt and Giller would subsequently call as 'organisational philosophy', in their excellent paper *Police Cautioning*

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[208] It must be remembered that Rutherford along with Norman Tutt were members of the 'CAYO Steering Committee' which provided 'assistance' to the CAYO team. The steering committee was chaired by Joan Cooper and comprised 21 members in total.

[209] Barking, Croydon, Derbyshire-Derby, Dudley, Essex-Uttlesford, Hampshire-Basingstoke and Southampton, Kensington and Chelsea, Sandwell, Tower Hamlets, Wandsworth, Wiltshire-North Wiltshire, Wolverhampton.

[210] The *Development Kit, Community Alternatives for Juvenile Offenders,* is an important document for the research of the 1980s and more precisely for the opening years of the decade of the 1980s. The *Development Kit* had been prepared during the years 1981/82, and published in 1982 certainly before the Criminal Justice Act 1982, and well before the launch of the LAC83(3).

of Juveniles: The Practice of Diversity (1985:21). Hence, important elements of the 1980s mosaic can be traced in documents produced by the CAYO team, alongside the practice policy productions of the other organisations relating to a pool of early leading practitioners, especially NITFED and AJJ.

A question arises about the degree of relevance of these early groups on the development of the mosaic within the local juvenile justice settings. In other words, did the writer of the letter titled *'An Exemplary Conference?'* hold a correct view about the origins and the continuing life of the 'melody'; in concluding that throughout the 1980s efficient practice integration was actually a full time job for some of the early original authors of that 'melody'? One way to address this question is to consider the career paths of those persons who were to be known as leading practitioners.

It is true that the principal CAYO development officer of the very early 1980s appeared later in 1984 to lead the important policy posts of the NACRO Juvenile Offending Team (JOT)[211], which was established through the provision of the DHSS I.T. Initiative LAC83(3)[212]. Nevertheless, the point is that this is merely one example, and of limited importance, since the staffing process of the JOT appears to have been more complicated than simple linear development of the late 1970s officers of the CAYO team. Certainly a number of JOT members, who had progressed within the early NACRO/JOT-JCS context under the leadership of the former CAYO principal officer, moved to the administration of a number of alternative projects[213], or they took forward the task of the propagation of the practice policy 'melody'[214]. At the same time, however, in the mid-

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[211] Graham Robinson, Co-ordinator of the CAYO team of NACRO in the very early 1980s (CAYO, 1982a) then 'headed up NACRO's both JOT and the Juvenile Crime Unit' (INITIATIVES, Summer 1985).

[212] JOT was certainly important for the policy microcosm of the England and Wales juvenile justice policy as from the 1983 onwards it gradually 'monitored' the activity of the 110 projects funded by the I.T. Initiative LAC83(3) (NACRO, 1991).

[213] When later in the mid-1980s, Robinson left to become Development Officer (Child Care) with Norfolk Social Services Department, he **was replaced** by Helen Edwards, previously one of JOT's Development Officers. At the same time, Graham Hill, another of JOT's Development Officers, **moved** as director to Save the Children Fund's Hilltop Project in Ilkley (INITIATIVES, Summer 1985).

[214] Trevor Locke **joined** JOT in September 1983. **Previously** he worked in the Youth Social Work Unit at the National Youth Bureau. **Later** became Development Officer with NACRO's Juvenile Crime Section (JCS). As Development Officer, Locke **reviewed** Andrew Rutherford's *Growing Out of Crime* (INITIATIVES, Summer 1986). **Later** as a Development Officer of NACRO's JCS

1980s, the alternative schemes themselves became suppliers of development officers to the NACRO-JOT, or to the NACRO-JCS[215]. Furthermore, in the middle of the 1980s, people associated with alternative schemes supplied NACRO-JOT with articles propagating important issues and dimensions of the strategic discourse.[216]

Similarly, AJJ could hardly be seen as the policy stage, which only allowed the late 1970s leading practitioners to 'copy' and 'distribute' the 'words' of the 'melody'. Instead, indicative examples show that it was younger practitioners who started their juvenile justice career in the early 1980s who managed to dominate the late 1980s AJJ[217].

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he presented a paper in the two day seminar in Newcastle upon Tyne in July 1987 on 'Policy and Information in Juvenile Justice Systems'. The seminar addressed the 'key role of systems management' and the 'purpose was to stimulate debate among senior managers and researchers who have responsibility for the formulation of juvenile justice policy' (BRITTON *et al.*, 1988:vii).

[215] Indicative examples from NACRO/JOT documents show that Theo Sowa, Deputy Director of the Lambeth Junction Project, joined the JOT in August 1985, while, Frances Gosling from the Surrey Juvenile Offenders Resource Centre joined the JOT in September 1985" (INITIATIVES, Summer 1986).
The case of **Rob Allen**, head of NACRO's JOC in the second part of the 1980s, was similar as well, as according to research information he was previously employed by a London located alternative scheme.

[216] The winter 1985 *Editorial* of the *Initiatives* indicated to the readers that: "This special issue of *Initiatives* presents a collection of articles **written by people who attended the JOT conference 'Developing the Initiative'**" (INITIATIVES, Winter 1985:1). The articles were concerned with issues of 'credibility', 'strategies for refunding', 'the establishment of Juvenile Resource Centre', 'interagency management' 'public relations with Magistrates', 'integration', 'publicity and co-operation' (emphasis added) (INITIATIVES, Winter 1985).

[217] The case of **Pauline Owen** is a very characteristic of the development of a 1980s generation of leading practitioners within the context of AJJ. In 1981, Pauline Owen, as a very new social worker, started her career as an employee of the Woodlands alternative scheme in Basingstoke, under the directorship of Chris Green, one of the authors of *Out of Care* (Rutherford, 1986). Later, when Chris Green moved to another organisation, Pauline Owen became the director of the scheme. While Green remained the director of the project Pauline Owen joined the AJJ. The evidence shows that it was Chris Green who informed her about the establishment of the AJJ and **she had not any previous contacts with older members of the I.T. 'movement'**.
In 1986, Pauline Owen was Membership Secretary (AJJUST, July/August1986:23), and a year later she became the Chairperson of the AJJ committee (AJJUST, April 1987:6). During this period, she presided over the organisation of the two particularly successful AJJ conferences (the 1987 and the 1988 conference). In the welcome of the 1988 conference Owen was in the position to declare **"the concern of the practitioners and academics from the field of social work and the Law as well as the Magistracy at the excessive use of custody in this country"** (AJJUST, June 1988:1).
Also, **Frances Gosling**, who from the Surrey Juvenile Offenders Resource Centre joined the JOT in September 1985, also appeared as member of the AJJ committee, in 1986 (AJJUST, July/August1986:23).

Furthermore, the existence of a third generation of policy ambitious practitioners within the wider context of the AJJ became particularly evident in the latter 1980s; exemplified by the development of the AJJ *Local Forums*, which emerged in London, in the North and South of the country, and in Wales. Indeed, these *Local Forums* presented a considerable degree of practice policy activity.[218]

The indicative cases have therefore provided a picture which would hardly support a 1970s practice conspiracy argument in relation to the development of the strategic discourse for practice integration; and actually in the development of the practice integration itself. The spectrum of leading practitioners was certainly broader than a mere core of late 70s 'original authors' who uniquely 'wrote the melody'. Instead, during the 1980s, the different generations of leading practitioners managed to mix easily and

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Also, **Chris Clode**, author of the study *'Relationships with Magistrates and Clerks-A snap shot from the North West and North Wales'*, published in the 17th issue of *AJJUST*, (Clode, 1988), became new member of the AJJ only in 1986 (AJJUST, July/August 1986:24).

[218] In the 15th issue of *AJJUST*, the activity of members from local areas was indicated first: "At the 1986 AJJ Conference, delegates were invited to meet and share some time with AJJ members from their local areas. Resulting from this (and other initiatives) a number of members are expressing an interest in forming local interest/campaign groups" (AJJUST, December 1987:29).
In the 17th issue of *AJJUST*, the committee of the AJJ (chairperson Pauline Owen) announced the *AJJ Strategy for the Future Development of Local Forums*. The strategy reflected more the concern of the AJJ committee for the control of the rather fast growing local groups rather than the existence of a policy of development: "A year on and we have three groups meeting regularly: - the Northwest and North Wales, members in London, and members in South Wales. The committee lost for a title for these groups, was supportive of their development and growth but worried that a membership organisation would create a rod for its own back by not being explicitly clear about how these 'groups' related to the National Committee of the Association" (AJJUST, June 1988:6).
From that year, 1988, onwards the news from the AJJ *Local Forums* would be frequently accommodated in the pages of *AJJUST*. Hence:
"The local forum has now being in existence since August 1987. It was formed following the 1987 Conference where it was felt that there was a need for local groups to campaign throughout the country [...] The group aims to respond to National Issues and to concentrate on local issues and practice [...] In response to local practice in West Glamorgan an article was released on police cautioning and this resulted in an interview on local radio which was undertaken by a member of the group. Also during 1988 a response to the Green Paper was formulated and sent, letters were sent to all Welsh MPs in relation to specific proposals in the 1988 Criminal Justice Bill" (AJJUST, May 1989a:5).
"Local Forums already exist in some parts of the country. London, Wales and the North West have been particularly active and there are moves afoot in the South West [...] The main value of these groups is to share and support local issues and needs with other members" (AJJUST, June 1990:1).
"The Wales AJJ Forum meets monthly [...] There is a core group of 8 AJJ members who attend regularly with others contributing to the various activities. We are a busy active group [...] At present we are working on a paper on secure, unrulies and remands which sets out action plans and areas of good practice for managers" (AJJUST, June 1990:2).

continued their integration without difficulty. Hence, earlier successful paradigms were incorporated smoothly and new paradigms of successful integration were developed.[219] From this point of view, while leading practitioners of the late 1970s were important, they cannot be regarded as comprising the only group through which one can understand the development of the 'melody' for efficient practice integration. The spectrum of leading practitioners was broader, and successive generations were actively involved with the development of juvenile justice practice policy through significant participation in a number of juvenile justice practice policy organisations such as NACRO and AJJ.

Did these practice policy organisations constitute a hierarchical communicative mechanism, which constructed and imposed a discourse of practice integration?

g) The role of the 'national network'

The 1980s practice policy organisations such as the NITFED, and especially AJJ and the NACRO juvenile sections (the early CAYO and the later JOT/JCS) were instrumental in the development of the anti-institutional juvenile justice policy. These organisations, manned by people with a practice background (including the late 70's generation, 1980s bred leading practitioners, the NACRO practitioner/consultants), were very close to the practice developments. It can be suggested that these organisations (and especially the AJJ and NACRO JOT/JCS), importantly, provided a safe and supportive space for practitioners;[220] they also influenced the route of the anti-institutional developments; and, undoubtedly, carried the discourse for efficient practice integration through to the 1980s.[221]

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[219] In 1984, in the NACRO JOT journal *Initiatives*, Steve Johnson, of the CAYO in Sandwell Project in the West Midlands, indicated that "Our [new from scratch] project is called 'Community Alternatives for Young Offenders in Sandwell', the 'CAYO' bit having been lifted from a NACRO project which ran in this local authority from 1979-81" (Johnson, 1984).
Also, in relation to the early 1980s Woodlands project, Sue Wade indicated that "The impact of Rainer and Woodlands on Hampshire was significant in several ways. It produced a core of knowledge about providing alternative to custody programmes and the experienced staff that would reduce the learning curves for the rest of the county" (1996:28).

[220] Practitioners involved with AJJ either as leading members, or, simply as participants of the AJJ events, indicated that AJJ provided them with a safe supportive space which represented their views.
According to one interviewee, "AJJ was so important in giving people a sense of confidence, a sense of 'we weren't alone'". Another interviewee similarly indicated that "AJJ fed on the need for peer support gathered together with like minded people because it's a difficult job working with these juveniles." A third interviewee also indicated that "[AJJ] did a conference each year which

With respect to practice integration, the precise question concerns the contribution of those practice policy organisations to the development of the relevant discourse. In particular, the question relates to the content of the policy activity of persons referred to as leading practitioners, (part of the late '70s generation, 1980s bred leading practitioners, the NACRO practitioner/consultants), who were running juvenile justice policy organisations.[222]

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people went to and came back re-energized because it is quite tough work working with young people, you don't get many successes".
Also, Anne Crowley, a Wales AJJ member, in the AJJUST published article *'Lest we Forget'* (related to the suicide of a 15 year old boy whilst on remand in Swansea prison) indicated that:
"I, like many others I suspect, joined the AJJ because it represented a campaigning force that stood for something I believed in, i.e. the decarceration and the decriminalisation of young people. My membership has given me the opportunity to be part of a local campaigning group as well as the wider organisation" (Crowley, 1990:1).
Similarly, NACRO, first through the CAYO team, but more so after 1984 through the activity of the JOT and JCS, provided a similar policy space for practitioners. After the first JOT national event in September 1984, (a seminar on the organization and management of projects for those involved in the DHSS initiative), it was reported in *Initiatives* that: "Many exchange addresses and telephone numbers and found that they had common problems or approaches which they could share, both during the conference and afterwards [...] The fifty participants came from all parts of England [...] and included staff of voluntary projects and local authority officers (Initiatives, Autumn 1984:1).
Also later, after the 1985 conference, the *Initiatives* reported the concerns of the delegates over the future of the IT schemes under the three years DHSS Initiative and encouragingly sent a message of a united practice group: "This year's conference began with a feeling of doom and gloom for many of us. But the camaraderie and collective concern for young people won through very quickly" (Initiatives, Winter 1985:7).

[221] Actually, the pages of the *AJJUST* or those of the NACRO-JOT *Initiatives* constitute an important part of the historical memory of the 1980s precisely because they accommodated a number of ideas and issues surrounding the strategic discourse for practice agenda. Moreover, it is through the pages of those journals that the existence of a 1980s discourse on practice integration can become particularly evident. With respect to NITFed, a former leading practitioner has provided a very interesting account about the role of the NITFed which it supports the idea that NITFed was certainly not instrumental in the construction of a safe environment, **however**, in terms of **practice integration**, NITFed was important because of their key involvement in training events. As the practitioner supported: "The National Intermediate Treatment Federation was around, you must not forget them because they were very much a talk to practitioners providing training for practitioners, getting money from the government to do things which the AJJ would never do [...] My impression, mentioning all those names takes me back, is that NITFED doesn't feature so highly in this thing because it was more training based, skills and that sort of stuff, whereas AJJ was very much campaigning".

[222] It is important thing to mention that not all the 1980s leading practitioners were necessarily active members of these practice organisations. Indicative examples show that leading practitioners coming from the 1980s era did necessarily participate neither as members of the AJJ committee nor as development officers of the JOT.
The example of Susan Wade is typical. Wade's activity in Hampshire was recorded in her MPhil thesis *The Development of the Juvenile Justice Service in Hampshire (1987 to 1991), the Effect on*

Under the auspices of their organisations, groups of leading practitioners actually led the 1980s juvenile justice 'national network' of communication, especially in the latter part of the 1980s[223]. In particular, up until the 1980s, the AJJ people were involved in numerous communicative activities. Therefore, leading members of AJJ ran conferences and produced documents[224], monitored press and magazines[225], and, even, attempted to venture into the new territory of lobbying[226]. Since 1984, the NACRO/JOT-JCS ran

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the Criminal Justice Process, and the Implications for Establishing Radical Practice in Statutory Organisations (in particular see pages 1-11). Nevertheless, Wade never served as a member of the AJJ committee and she did not appear even to be a member of the AJJ. She first appeared as speaker in the November 1991 AJJ conference, while she was already assistant chief probation officer. Also, she never occupied any of the NACRO JOT or JCS policy posts.
However, the point is that leading groups of practitioners did run these juvenile justice policy organisations, and consequently their impact through these organisations should be considered.

[223] The term 'national network' comes from an interview with a former leading practitioner who under this term defined the activity of the juvenile justice policy organisations. According to the interviewee, "The national network had become very active by the late 1980's. So you had the Association of Juvenile Justice which had been around a bit earlier (mid 1980's) [...] NACRO's briefing sheets were every couple of months and this was when Rob Allen had become quite important."

[224] All the interviewees of practice background suggested that "The AJJ did a conference each year which people went to". Actually, important AJJ conferences such as the 1987 and 1988 ones survived in the pages of the AJJUST and in the pages of another relevant publication, *Towards a Custody Free Community: A Collection of Papers from Two AJJ National Conferences.* Moreover, in relation to the conferences and documents production, see picture 4, which is a copy of a 1986 AJJUST page informing the AJJ members **"what the AJJ has done since it was formed in June 1984"**. Similar updated advertisements appeared regularly in later years issues, until the end of the 1980s decade.

[225] In an *AJJUST* issues it was mentioned: "In order to obtain a more consistent approach to the media it has been agreed by the AJJ Committee that relevant newspapers and magazines should be monitored and members' attention drawn to important articles [...] The following list is the initial coverage we would like to achieve" (AJJUST, April/May 1986:8). The list included 15 journals from the *Social Work Today* and *Community Care* to the *Observer* and the *Sunday Times.*

[226] "An advertisement appeared in a November issue of a New Society about a conference, ***'How to Lobby Effectively'*** organised by Business Research International. My immediate response was to phone up for details and tentatively book two places so that the Committee could decide whether it was appropriate to send delegates [...] The debate about young offenders was short lived as the majority of representatives in the audience were from commerce and industry. At this stage my concentration lapsed as discussion moved beyond my sphere of knowledge and interest [...] Overall the day was **very profitable**, giving me the opportunity to talk about the Association with other professions" (Johnson, 1986:20,22).

similar activities[227]; meanwhile, the CAYO *Development Kit* created an early NACRO based communicative activity on juvenile justice policy.

Therefore a process of policy communication was taking place at the 'national network' level. At the same time, at the lower day-to-day practice level, communication was also taking place between leading practitioners[228]; especially, in local areas[229] where higher management was supportive of the integration of the 'helping classes' practice[230]. The contribution of juvenile justice policy organisations, (actually the contribution of the leading practitioners running these organisations) was that they constructed, in the form of

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[227] With respect to the JOT, important series were published on Project Development (NACRO, 1991:46). Typically, it should be mentioned the JOT Newsletter INITIATIVES, the two conferences...
Interestingly, at the end of the *Intiatives* report about the funding of the NITFed for training, the will of the NACRO JOT to run similar events was indicated: "Recognising that training in project management and development is a high priority in many new schemes, the Juvenile Offenders Team will be running regional seminars on these themes later this year, in tandem with the Federation's initiative". It was certainly an indicative case of taking the practice integration discourse further into the course of the 1980s.

[228] The account of a former leading practitioner has provided an interesting insight about the low level practice communication. According to the interviewee: "the practice in terms of getting your local system working the way that all the theories were saying was probably only successful because the practitioners talked to each other in a similar sort of way in 5,6,7 different areas, so its actually quite small and because of that we all knew each other so could quite regularly phone each other and ask whether they had had a certain problem and how they had dealt with it, or we would meet at conferences".

[229] From the perspective of one interviewee some of these areas were Northamptonshire, Surrey Hampshire, Kent and later Solihull. However, this list should be seen only as a limited and indicative example.

[230] A former leading practitioner has recalled th edegree of communication between 'like minded people' in both the early 1980s and the late 1980s. In the first part of the 1980s, in this area, the way that 'like minded people' would come together was rather accidental:
"So you would meet like minded people and connect with them, and a sort of antennae would tell you partly by age and partly by the way they asked questions and by their facial expressions when someone had said something very traditional." At the same time, the modes of communications that were developed between these people at that time were limited to a 'cup of coffee': "There would be tiny groups of us having a cup of coffee, [...] Every couple of weeks or so, not regular but we could ring them up and say I'm really fed up in my office do you fancy getting a cup of coffee and you could go and meet somewhere. We were mostly comparing how awful things were."
However, the local landscape of communication in this area would change gradually, in the second part of the 1980s. The change coincided with the arrival of a senior manager who was supportive of new ideas in juvenile justice practice policy, and provided a safer and more open space for these practitioners to communicate. Since then the form of communication became consistent: "In the late 1980's there was a small group of people who were meeting regularly who were going to conferences together, ringing each other and were a support group really and that was about ten of us."

a 'national network', a virtual space of communication which brought together nationwide information on best practice. Hence, the communication process that was taking place at the lower level was provided with an additional, higher and broader virtual forum, which facilitated wider dissemination and exchange of information; it facilitated discussion about 'practice'; and actually, through exchange, it facilitated the development of a common 'technical language'[231]. Importantly, the 'national network' brought together not only those practitioners coming from areas which supported innovation, but also those operating within local settings where there was a hostile climate towards the 'helping classes'[232]. Therefore, the virtual national space facilitated the unified shaping a discourse on efficient integration among all the practitioners – a clearing process. Providing a common national forum which brought all information together was therefore an important policy activity. Nevertheless, what made the 'national network' instrumental towards the development of the discourse for efficient practice integration was this strategic intervention in the direction of the communicative clearing process.

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[231] A former leading practitioner has recalled the nature of the communicative process which was taking place through the 'national network', and in particular within the conference context, which was one dimension of the 'national network'. According to the interviewee: "[When] we went into conferences it wasn't as if we were meeting new people and having to sit and listen to get to know them before we could discuss things. It was straight into very practical things like; how are your police working? how are your courts working? and have you started to have to do appeals?. It was a very technical language which developed very quickly and I think this was mostly because people knew each other [...] Most of our conversations were about practice, like 'how do we stop the courts doing this?', 'how do we influence the Court Duty Officers to be less conservative and less collusive than they are?', 'how do we influence our colleagues so they understand how to work with juveniles?' It was that sort of conversation rather than whether they had heard the latest thing from such and such. So it was a much more practical conversation".
See also Wade who indicated the participation of practitioners in the 'national network' indicating that "practitioners have been active in presenting papers at conferences and workshops" (1996:7).

[232] Both AJJ and NACRO-JOT were related to a growing number of practitioners. Already in the early period of the IT Initiative, NACRO-JOT informed about a wide number of projects: "By the end of March 1984, grants had been given to voluntary bodies in 32 local authority areas to fund a total of 56 projects" (INITIATIVES, Summer 1984:1). "By the end of September 1984 funding had been approved for 78 projects based in 42 local authorities" (INITIATIVES, Autumn 1984:4).
In the middle of 1980s, AJJ informed the members that "[m]embership still continues to rise" indicating that "this is an exciting time in the life of our Association which has grown in size and stature far more quickly than was ever envisaged" (AJJUST, April/May 1986:16-17).
The number of members of the 'national network' was therefore greater of the number of practitioners who were employed in supportive local environments. Indeed, Lyon, in her study on an alternative scheme operating within a hostile context, indicated that the practitioners were "**members of the Association for Juvenile Justice, often playing key roles in their local branch**" (1991:191).

Indeed, the baseline of the communicative policy of the 'national network' was the co-ordination of the information composing the content of the discourse, a particular 'need' in the first part of the 1980s, but also a natural everyday need of the workings of the 'national network'[233]. The existence of a process of communicative co-ordination was actually implied by John Blackmore in relation to utility of the numerous publications of best practice paradigms and ideas[234]:

> "Most information on I.T. [...] systems and policies is written by and for professionals and published in professional journals [...] this has been very necessary in clarifying I.T. policy and practice" (1987:3).

The basic function of the 'co-ordination', otherwise 'clarification' process of information was to emphasise, or, de-emphasise what respectively was regarded as important or non-important in relation to practice integration; what's in, what's out. The emphasis/de-emphasis process could be related to the constant supply of a particular mode of

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[233] Interestingly the need of a co-ordinating policy had been recognised in the very early stages of the AJJ. In the very first issue of *AJJUST*, dated March 1984 and under the title *'Why Should I Join the AJJ?'* the editors indicated that: "There is especially a need to co-ordinate the views of all practitioners who are struggling to provide community alternatives in a hostile environment' (AJJUST, March 1984). Who in particular out of the AJJ founders was behind this idea is a question worth considering.
Nevertheless, it must be remembered that the context of the late '70s very early '80s was dominated by a general sense of systemic mess within the juvenile justice process, an issue discussed in an earlier chapter. Hence, Parker *et al.* certainly addressed the problem of co-ordination when they indicated that, "[t]he overall picture [in the Countyside court] is of a disparate group of probation officers spread across the three district teams [...] who, in the absence of any clear leadership or overall strategy, merely react pragmatically and individually to an unfortunate working environment" (Parker *et al.*, 1981:130).
Similarly, one interviewee, a former leading practitioner of the younger generations, has highlighted the problem of co-ordination as an issue of the history of the early years of the 1980s with respect their area: "There was a history for 3,4,5 years in the early 1980's of a lot of dissatisfaction and people doing there own thing."
The need for co-ordination was a matter which however arose naturally in the every day business of the national network due to the accommodation of a wide spectrum of practice views. As a former leading practitioner and leading member of the national network has recalled: "There were ideas, while we had our ideas in [our area], other people had other ideas, how would we exchange views, how were we going to tackle some of the difficult policy issues at the time, should we write press releases when legislation was produced."
Therefore the intention to 'co-ordinate the views' of practitioners seems that it naturally emerged as a response to one of the problems of the late '70s practice of the 'helping classes'; but also due to the 1980s development of the 'national network'.

[234] In 1987, John Blackmore, Principal I.T. Officer at Hounslow Council, published the publicity-orientated article *'Intermediate Treatment-A Realistic Alternative to Custody'* as the main article of the November issue of the *Criminal Justice*, the magazine of the Howard League.

integrationist information[235]; or, it could be related to the reporting process, which pointed to the emergence of ideas on practice integration[236]. It could also be related to the advertisement of events on best practice paradigms[237]. Moreover, advertisements of conference events, especially those of AJJ in the years 1987 and '88, provide a striking example of how much the emphasis process affected the development of a common technical language for the strategic discourse[238]. Furthermore, the wording of editorial

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[235] An interviewee a former leading practitioner recalled the systematic supply of legal information: "We also got lots of good legal briefings because NACRO and AJJ were the only people giving us up to date stuff about case law, [...] we did have NACRO and AJJ telling us through monthly briefing fact sheets what the latest case law was" (here, NACRO means the NACRO-JCS).
Actually, the emphasis on the supply of legal information also de-emphasised the practice concerns about a formerly no-go area for the 'helping classes'

[236] The NACRO-JOT Newsletter *Initiatives* under the title *'Practitioners Split on the Issue'* reported to the readers about a split on a sentencing matter. The split had taken place in a conference organised by the NACRO JOT and it was between those pointing to the 'aiding' nature of sentencing and those pointing to the 'unethical' overuse of sentencing.
In the end of the report the editor skilfully de-emphasised the importance of the split by pointing out the existence of a third view: "Some practitioners commented that the establishment of credibility with the courts rested more on the quality of good project work, than on there being powers of sanction against breach" (Initiatives, Summer 1985:5). It was indeed an interesting case of 'co-ordination' or otherwise 'clarification of information' which introduced in the practice policy arena of the juvenile justice practitioners the third view on integration.

[237] The *AJJUST* of the years 1986-1987 accommodated an important number of advertisements of such events, such as the advertisement of a conference on the Northampton paradigm which itself emphasised the importance of integration (note the word 'successful'): *"The Management of Juvenile Crime - A report on the successful 'total strategy' in Northampton"* (AJJUST, April/May 1986:10).

[238] Prior to the very successful 1987 AJJ conference, the content of the workshops had been pre-published in the pages of *AJJUST*. A number of them was concerned with the importance of the practice integration process.
Hence, in the advertisement of the workshop, titled *'Managing Changes that Could Result in the Eventual Abolition of Custody'*, the management of the 'human-political processes' within the local settings was emphasised as an important integrated theme 'rather than' as a pool of loose ideas:
"Rather than seeing change as a dose of 'gate-keeping, computer monitoring and alternative-to-custody programmes, served with a dash of consultancy; the workshop will be concerned to look at the human-political processes which need to be managed [...] One source of information is organisation theory, and the more pragmatic activities involved in developing the capacity of organisations" (AJJUST, June 1987:22).
Also, under the strong title *'Monitoring Matters!'* particular issues were emphasised "what information is useful, who can collect it, how [...] the collation, presentation and promotion of results [...] the role computers can play [...] the links between monitoring and research [...] the politics of monitoring" (AJJUST, June 1987:21).
In workshop titled *Strategies for Practice: How to Individualise Court Recommendations and Alternative to Custody Programmes*, the emphasis was on the mode of '**rapid decision making**' '**when argument alone is not enough**'; while it was indicated that "**[e]very practitioner**

comments would instructively set the aim of efficient integration as a non-negotiable target[239]; while, at the same time, relevant debates on the meaning of basic concepts of the practice integration discourse would be accommodated, again reassuring the basic principles of practice integration[240].

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recognises that part of the strategy for reducing the use of custody is to place credible alternatives before Courts" (AJJUST, June 1987:23,24).
In workshop *Systems Intervention – Changing A Local System, The Policies, Practice and Obstacles*, among other stated aims, it was emphasised that "the workshop will aim to explore the policies, practice and obstacles involved in implementing a systems intervention approach in juvenile justice [...] and workshop participants will be asked to explore the organisational structure needed to effect [...] a programme in a local system [...] and focus on relevant policies, interagency arrangements monitoring and resources"(emphasis added) (AJJUST, June 1987:26).
Also, a year later, the emphasis on good integrationist practices was embodied in the code word 'mechanisms' in the advertisement for the AJJ 1988 conference: "The conference will focus upon the realities of abolition and the policies and mechanisms necessary to realise it" (AJJUST December 1987:29).

[239] In some cases the instruction to co-operate with the 'punishing classes' was rather dictatorial: "Crime Prevention or indeed any other collaborative process does have to be dependent upon Police interpretation of 'the problem' (Editor AJJUST) (AJJUST, December 1987:10).
In other cases the wording on integration was skilfully directive: "If you wish to have a dialogue, a real relationship rather than a monologue, development of some insight into the daily concerns of the other agency oils the wheels of communication" (AJJUST, June 1990:11-12).
In both cases the need for practice co-operation was a non-negotiable matter.

[240] An interesting brief exchange of opinions through the *letters* pages of *AJJUST* took place between mid-1986 to mid-1987. The debate was triggered by an article published in *AJJUST* and authored by Andrew Sanders, Lecturer in the Faculty of Law, Birmingham University. In the article, *Juvenile Justice under the Crown Prosecution Service*, Andrew Sanders was considering the role of the newly established CPS within a developing juvenile justice context and indicated some relevant issues, among other things the contribution of CPS in the cautioning process (1986).
In the next *AJJUST* issue a senior social worker from the Derby *Community Alternatives for Young Offenders* considered it particularly important to reply to this academic article:

> "Dear Editor,
> Having just Andrew Sanders article on the Crown Prosecution Service, I felt I must reply. Either Derby City works completely differently to the rest of the Country or Mr Sanders has his facts wrong [...] [Prosecutors] job is basically to identify whether or not there is a valid legal case" (AJJUST, January 1987).

The following issue accommodated a letter from another practitioner from the Corby Juvenile Liaison Bureau who, confidently, held a different from the others about the size of the operational scope of the CPS in juvenile justice practice policy, favouring the greatest possible involvement. Hence, the second letter basically emphasised the need to accept and support the role of the other participants within the local juvenile justice settings:

> "Dear Editor,
> The article by Andrew Sanders, and the subsequent correspondence [...] raise a couple of issues, which perhaps need to be aired [...].
> The Crown Prosecution Service <u>is</u> entitled to consider 'non legal' aspects of cases; and there is an <u>expectation</u> that the service will involve itself in local arrangements for determining the 'appropriateness of prosecutions (emphasis in the original).

Practically, it was a process of control. It was a process, which co-ordinated but also controlled the direction of the clearing process of the discourse towards the original strategic aim; namely, bettering the position of the 'helping classes' through doing-more-things-better, and participating actively in the local processes in order to gain the confidence of the 'punishing classes'.

Hence, in addition to the powerful academic intervention on the legitimacy of practice integration, the 'national network' therefore exercised further considerable power on the day-to-day development of a discourse. Indeed, here, the point supported is that the communicative power of the 'national network' to co-ordinate and effectively control the information related to practice integration, throughout the 1980s, in fact, derived from the early 1980s academic legitimacy culminating in the development of a clear integrationist policy[241]. Nevertheless, the actual organisation of the discourse was carried forward and

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It is not true to say that 'prosecutors will continue to have no role in cautioning' (Andrew Sanders), or that the job of the CPS 'is basically to identify whether or not there is a valid legal case'. Practitioners are urged to search out the Code, read it carefully and use it" (AJJUST, April 1987:4).

[241] It is actually interesting that in the NACRO sponsored CAYO *Development Kit*, in *Section 2-Assessing Local Needs*, it was indicated that the approach provided "a starting point for the development of services in the community which is based on facts rather than on intuition or guesswork" (NACRO, 1982:5). Actually, "based on facts rather than on intuition or guesswork" was the catchphrase that David Thorpe employed in his 1981 article in *Community Care* titled *Computers and Juvenile Justice* in order to underline the importance of systematic computer based monitoring. It is a typical example, which shows the physical process of legitimacy - **slipping key phrases into documents**.
Indeed, while in the first paragraph of the *Development Kit*, it was mentioned that the *Kit* "is based on the experience of NACRO's Community Alternatives for Young Offenders (CAYO) team"; a few paragraphs later, the reader is reminded that "[t]hroughout its work CAYO [team] received valuable assistance from a steering committee chaired by Joan Cooper". In the list of the CAYO steering committee we can read the name of Norman Tutt, Professor of Applied Social Studies, Lancaster University (CAYO, 1982).
Interestingly, on the panel of the CAYO Steering Committee we can further read the names of Brian Morgan, Assistant Chief Constable, Devon and Cornwall and Michael Mylod, Chief Superintendent, Devon and Cornwall; also the name of Andrew Rutherford, then Senior Lecturer Adult Education, University of Southampton (CAYO, 1982).
The same must be the case for both the AJJ and NITFed, in the early years of the 1980s.
Indeed, AJJ ran a joint conference with Lancaster (probably) in 1985, and research data reflects the existence of some loose working relations between Lancaster and at least two members of the AJJ committee. In an interview a former leading practitioner suggests that: "It was a good conference, they were the sort of people who could attract good speakers and had the contacts and the workshops were really interesting". Furthermore, the practitioner has suggested that overall "[the Lancaster people] were very influential in those days because they were providing us with all the information we needed to do the campaigning"; while, rather excessively, the practitioner has concluded that "they were using us to spread their word". Despite the excessiveness, the account certainly provides a good picture of the power of legitimacy that the Lancaster group carried in the

performed by leading practitioners, key members of the practice policy organisations. Indeed, the policy animals of the 1980s juvenile justice practice, (part of the 70's generation, 1980s bred leading practitioners, the NACRO CAYO, JOT, JCS consultants) were important in providing practice views with a national supportive space for the development of a technical language, what the earlier mentioned letter-writer called the 'melody'. Furthermore it can be argued that they were instrumental in controlling the direction of the clearing course. Therefore undoubtedly the 'national network' played a critical role in the organisation of a discourse within the practice context[242].

However, in one respect, they were critical in establishing whether the discourse for practice integration was the strategic course for the juvenile justice microcosm. Much like as the Lancaster people, the leading practitioners of the few practice organisations were involved heavily in the communication dimension of the integrationist advancement

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eyes of practitioners who were involved with them in policy processes, in the first part of the 1980s.
With respect to NITFed, the Summer 1984 issue of the *Initiatives* informed readers of the DHSS £25,000 fund for training events organised by NITFed, indicating that NITFed "has formed a steering committee which includes representatives form NACRO's Juvenile Offenders Team, the National Youth Bureau's Youth Social Work Unit, the Centre for Youth Crime and Community, the Rainer Foundation, Save the Children Fund and from the DHSS, which is to send an observer". The Centre for Youth Crime and Community was the Lancaster one; while, the report further indicated that "the emphasis of training events sponsored under this scheme should, according to the Federation, be on topics related to local juvenile justice systems management, (e.g. monitoring court sentencing patterns, inter-agency co-operation, or establishing gatekeeping mechanisms) and on face-to-face practice with young people (e.g. aspects of programming, use of techniques such as video, working on offending behaviour or use of contracts)". The important point in this paragraph is not that the steering committee adopted the Lancaster agenda (e.g. as it was earlier argued inter-agency co-operation was not a Lancaster idea), but rather that the appearance of the Lancaster Centre itself granted the academic power of legitimacy on the issues that were mentioned as part of the 'systems management'.

[242] According to the account of an interviewee, a former chief probation officer, "the Association of Juvenile Justice had too many interests in it and when you try and please all your constituent members you end up with very bland result. I used to read their publications with a lot of interest and I used to steal their ideas whenever I could but I don't think AJJ had half as much impact as perhaps they would have liked to believe". The critique was probably concerned with the campaigning activity of the AJJ and it may be, partly, correct. Indeed, under the slogan *'We need a national voice'*, the first issue of *AJJUST*, dated March 1984, indicated the various intentions of the AJJ, among them lobbying:
"Their aim is to develop and promote the systematic provision of community alternatives to custody and care for young offenders, to lobby for legislative change and to publicise research findings on the practice and effects of sentencing" (AJJUST, March 1984).
The degree of the impact of the lobbying activity of the AJJ might be rather questioned. Nevertheless, the most important part of the activity of the AJJ was actually concerned with the construction of a unified space for the practitioners themselves, and AJJ was successful in this.

of the 1980s. The Lancaster people provided the much needed academic legitimacy. These practitioners organised the countrywide communication of the integrationist ideas. Neither however created these ideas.

In 1987 an *AJJUST* editorial indicated:

> "We are currently considering the value and implications of 'stand-down' reports (i.e. verbal reports given in Court without adjournment) in the Juvenile Court. If any member have experience of these reports we would be very pleased to hear from you" (AJJUST, December 1987:5).

Similarly, in the early 1990s, the editorial of *AJJUST* explicitly indicated that:

> "AJJUST survives on the contributions of the membership, so articles and news from Local Forums would be gratefully received by the Editor" (AJJUST, June 1990:1).

These brief editorial comments in *AJJUST* simply indicated the importance of practice experience for the communicative activity of the national network. In other words these comments revealed that the understanding of every day ideas was located elsewhere, at the level of practice itself - the true power base of the national network, and certainly of the strategic discourse. Indeed, that the efficiency oriented integrationist course was a strategic course was a matter that either academics or of leading practitioners could not prove.

The importance of the bottom level of 'week-in-week-out' practice in the making of efficient integration therefore will be discussed in the next chapter. Nevertheless, a deep consideration of the powerful potential of the bottom end level of practice will have to also take into account the great influence of the distant top. The practice potential and the critical relationship between the bottom end and the distant top will be discussed in the next chapter in order to consider the making of efficient practice integration and the existence of the mosaic of efficiency.

CHAPTER SIX

THE KEY AREAS: THE PRACTICE LEVEL PROCESS OF CRAFTING EFFICIENT INTEGRATION AND THE GOVERNMENT CONTROL STRATEGY

a) Intentions at the bottom level of those "staff working directly with young people": The existence of integrationist intentions

In 1982, under the subtitle *How the Information Gathering Process Changed*, the CAYO *Final Report*[243] indicated that:

> "it became clear that the successful implementation of [changes] depended not only on the agreement of senior officers in social services and other agencies but ultimately in the commitment and backing of those staff working directly with young people" (1982b).

This was a very strong indication of the critical role played by those positioned at the bottom end of the hierarchy of the juvenile justice services. In short, the conclusion was that practice intentions mattered. It was an issue which had also been addressed by John Harding,[244] a probation officer, in his book on the experimentation of community service in Nottinghamshire, though from a slightly different perspective, as early as in 1974. In the summary of conclusions, Harding admitted the strategic importance of the end-practitioners' 'own thinking' for the success of the community service projects, which had taken place in Nottinghamshire. According to John Harding:

> "[l]ike many situations in social work the more rewarding placements for offenders involved in social service tasks arose where a particular social worker or residential worker expressed a strong interest in the project since the philosophy behind the scheme mirrored his own thinking about client involvement" (1974:5).

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[243] The CAYO *Final Report* had been published earlier than the CAYO *Development Kit* and it contained the findings of the consultancy work of the CAYO team.

[244] On John Harding see earlier footnote.

In fact, both these early observations pointed remarkably to the strategic importance of the lower hierarchical level;[245] suggesting that the anonymous bottom-level was not necessarily an amorphous one. [246] Instead, different views, philosophies and significantly different intentions existed at this level; and actually they were considered to be critical for the success of any new practice policy.[247] During the 1980s, these observations proved to be particularly accurate, since the 1980's efficient integration of the 'helping practice' was certainly based on the intentions (and working philosophies) of those practitioners, who were 'dealing directly with young people'.

Indeed, it was crucial to the course of juvenile justice during the 1980s that the question of efficient practice integration was also addressed at the lower practice level. The efficient integration of the 'helping classes' within the local juvenile justice settings (which were run by the 'punishing classes') was considered to be an important issue by the anonymous but not amorphous bottom-level practitioners; though not by everyone, or in the same way.

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[245] By saying that the lower hierarchical level is of strategic importance, what is meant is that this level can be critical for a change from an existing 'state A' to a 'new state B'. The word 'state' refers to an organisational state, policy state and so on.

[246] Henry Mintzberg, Bronfman Professor of Management at McGill University, Canada, in his influential paper, *Crafting Strategy*, considered, in relation to strategy making, the question: **"who is the strategist anyway?"** In a passage of the paper, Mintzberg indicated that "[t]he traditional view of strategic management resolves these issues quite simply, by what organisational theorists call attribution. You see it all the time in the business press. When General Motors acts, it's because Roger Smith has made a strategy. Given realization, there must have been intention, and that is automatically attributed to the chief" (1987:68).
This passage points to the very real fact that there is a tendency to attribute major policy changes to individual persons sitting at the top of organisations, at the same time dismissing the existence of the other hierarchical levels. Moreover, the lower hierarchical organisational levels are constantly seen as an anonymous, amorphous concentration of employees, a maze. The result is that the internal complexity of these levels is disregarded.

[247] In particular, Harding's observation pointed to the individual thinking of the end-practitioner as a driving force of the development of a scheme. The CAYO team made the concrete observation that 'changes' or even 'creative responses' were dependent on a belief system ('commitment'/'backing') and the 'involvement' of end practitioners. According to specific findings contained in the *Final Report*, the 'greater' involvement of those 'working directly with young people' in the 'information gathering process' "contributed to the overall quality of information as well as raising general awareness about problems within and between departments and agencies and stimulating creative responses to these problems amongst staff" (CAYO, 1982b).

In the opinion of some active pro-youth practitioners the idea of practice integration could be an anathema. In 1984, Badham, Fleming, Perry and Ward' article[248], in *Community Care*, was characteristic of such an attitude. In *Chronicle of Confusion*, Badham, Fleming, Perry and Ward expressed their strong dissatisfaction with the idea of practice integration, embodied in the concept of 'advocate', which had been suggested as a professional option for pro-youth social workers:

> "When a worker becomes involved in [the penal] process, is his/her main objective to intervene in the court process, acting as an advocate, or to support the young people? We chose to *see* our main objective *at the hearing itself* as being to support the young people" (Badham *et al.*, 1984a:20).

The importance of Badham's *et al.* view was actually that it presented practice integration as a question of 'choice'. In their view, it was a choice of professional integrity[249], or, a 'choice' of different professional intentions[250], nevertheless a 'choice'.

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[248] Bill Badham was a social work student at Nottingham university, Jennie Fleming was an organiser for Nottingham Young Volunteers, Alan Perry was a social work training officer for Nottingham council for voluntary services and David Ward was a lecturer in social work at Nottingham University. Badham *et al.* was a group which had a good combination of multi-level practitioners with an academic person, all employed to implement a 'helping' project sponsored by the Nottingham Youth Action voluntary sector agency which engages with young people identified as at risk of exclusion from the community. In particular, in the article *Chronicle of Confusion*, Badham *et al.* informed the readers of the *Community Care* about the aims and origins of the project, the origins of their paper, and the aims of the article.
Aims and origins of the project: "Since April 1983 a worker team has been meeting on a weekly basis with a group of young people attending a secondary school in Nottingham. The group was for third and fourth year students identified as having difficulties at school or in the community and was to be a joint piece of work between Nottingham Youth Action and the school" (Badham *et al.* 1984:18).
Origins of the paper: "Three workers involved with the group recorded their experiences following the appearance in court of three members of the group. This was the first court appearance for offenders for all of them. What outlined here is not exceptional – it is a common experience for young people who appear in court" (Badham *et al.* 1984:18).
Aims of the article: "It is precisely for this reason that is important to spell out in detail this example of what appeared to the young people and their families as a confusing, frustrating and alienating experience" (Badham *et al.* 1984:18).

[249] Badham *et al.* regarded their 'support' role as a very positive experience for young people. They quoted one young person from the group as saying to them that **"it's good to have someone on your side"**. On the other hand, Badham *et al.* questioned the role of the other professionals, including social workers and probation officers. They said "What were the roles and the attitudes of the professionals? It was evident that although the seven young people had been involved in a series of joint offences, for which they are dealt with together, neither the court officials nor other professionals saw them as a group for anything other than administrative convenience" (Badham *et al.* 1984:19,20).

Badham *et al.* were right, the historical memory of the 1980s suggests that practice integration was a matter of 'choice' and different professional intentions existed at the very low practice level.

Indeed, in summer 1985, *INITIATIVES*, the newsletter of the NACRO-JOT, under the heading *'Practitioners Split on the Issue'*, recorded the existence of different practice views at the level of those 'working directly with young people'. The conference 'split' seemed to focus on sentencing use or overuse.[251] First, there was the traditional mechanistic view of 'administrative convenience', favouring powers of sanctions against breach. As it was reported in the *INITIATIVES*:

> "There are those who see stronger breach sanctions as aiding the work of establishing the 'Supervised Activities Order' as the main disposal offering an alternative to custody" (Summer 1985:5).

It can therefore be argued that those who supported the first view considered the 'stronger breach sanctions' as a method for the 'helping classes' to develop better relations with the courts.

Those of the second view raised professional ethics concerns about the use of sanctions in order to develop stronger relations with the courts. As mentioned in the *INITIATIVES*:

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[250] In a previous article by Badham *et al.*, *Justice V Welfare*, published in *Community Care* two weeks earlier, the justice school views were heavily criticised. In particular, Badham *et al.* pointed out t that: "A further question of practice that must be raised relates to the nature of the heavy-end units. Their approach tends to be highly intensive, involving short tem residential or, at the very least, day attendance, with a bias towards token economy, social skills, educational and community service programmes. The units are often redundant assessment centres or large children's homes. The cynic might ask – as do some residential staff who see their jobs in danger – whether the only difference is that treatment programmes are short and the young people go home sometimes each night. Is the difference between heavy-end units and CHEs more apparent than real – at least in matters other than cost? [...] As social workers we must find a better way of intervening" (Badham *et al.* 1984a:16).
It can be argued that the 'cynic's' question and the relevant answer indicated different professional intentions and also different concerns of the some residential staff who saw their jobs in danger.

[251] The 'breach of requirements' was being re-considered by the then Home Secretary. In the *INITIATIVES* it was reported that:
"It is clear, both from the discussion which took place at JOT's Stoke Rochford Conference and from feedback we have received from project staff, that those working in Initiative projects are divided over this issue" (Summer 1985:5).

> "[T]here are those who believe it to be unethical to impose a custodial sanction for offences which would not have been awarded custody in the first place. Stiffer breach sanctions could lead to more young people going into custody, it has been argued" (Summer 1985:5).

In the *INITIATIVES* report, it was not clear what those who supported the second view thought of the relations with the courts. The report documented only their disagreement as to punitive methods.

Finally, there was a third view about building up confidence relations not by subscribing to the ideology of the 'punishing classes', as the first view seemed to support, but rather through 'quality work'; namely, what in the present study is called the integrationist choice. Hence, as it was reported in *Initiatives*:

> "Some practitioners commented that the establishment of credibility with the courts rested more on the quality of good project work, than on there being powers of sanction against breach" (Summer 1985:5).

It can be argued that the plurality of views at Stoke Rochford Hall in Lincolnshire revealed a common anxiety among the juvenile justice practitioners about their professional relationship within the court context. In other words, the stronger-breach-sanctions idea became a hot issue mainly because the developing professional ties with courts was also an important concern in the collective mind of the conference participants. Professional relations with the courts and the professional position of the 'helping' practitioners were therefore very real issues for the microcosm of juvenile justice practitioners. Moreover, as it appears from the relevant debate a considerable number of practitioners did not see the option of improved relations within the court context as an anathema but instead as a priority choice.[252] It was the question of priority which reflected the pragmatic concern of professional success of those practitioners; **"the desire for power and concern for personal advancement"**.[253]

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[252] Undoubtedly, at least those supporting the first and the third view did not disagree on the need for stronger professional ties with the courts; but only on the method by which the stronger professional ties should be improved.

[253] Indeed, as Andrew Pettigrew stated in his 1973 book *The Politics of Organisational Decision-making*, Soelberg was right to suggest that **"desire for power and concern for personal advancement represent goals which are of central concern to an organisational theory of decision-making"** (Petigrew, 1973:10).

Therefore, it should be pointed out that both Badham' article *et al.* and the Stoke Rochford Hall debate revealed the existence of a debate amongst bottom end practitioners on choices about the shape of their professional relationships within the juvenile court context. This is undeniably a historical fact, which derives from the historical memory of the 1980s. The relevant debate also showed that relations within the juvenile court were not a simple matter of yes or no, but rather a more complex issue that depended on different working philosophies. Indeed, the Stoke Rochford Hall debate reveals the existence of an anonymous group of an indefinite number of practitioners. They, unlike other practitioners, considered that working efficiently within the justice environment (the courtroom context) was a pragmatic professional priority which answered their professional concerns. Groups with these concerns and intentions could be found in several settings in England and Wales throughout the 1980s. The historical memory of the 1980s reflect this – they were the efficiency oriented integrationist practitioners[254].

The point is that the integrationist practitioners were carrying a distinctive professional and working culture, which has been recorded in the historical memory of the 1980s. The professional/working culture of the integrationist practitioners will be discussed below.

b) The craft culture of the integrationist practitioners: commitment for active involvement within the whole spectrum of the juvenile justice process

In 1985, at the NACRO-JOT practitioners' conference *'Developing the Initiative'*[255], Dennis Jones, project director at the Rainer Foundation's Well Hall Project in Greenwich, under the heading *Credibility with Ourselves*, clearly suggested that efficient practice integration was a matter of 'faith'; namely a professional choice, which demanded a particular working philosophy:

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[254] From now on referred to simply integrationist practitioners, meaning efficiency oriented integrationist practitioners.

[255] The conference brought together 'over 65 people' in June 1985, 'at Stoke Rochford Hall in Lincolnshire (INITIATIVES, Winter 1985:1).
Jones' article under the main title *The Need for Credibility* was presented in a special issue of *Initiatives* (INITIATIVES, Winter 1985:1).

> "Credibility with ourselves was seen as being equally important. There is little point in doing something in which one has little faith. For the Project to adopt an advocative, high-profile role in court, time needed to be made available for the preparation and presentation of reports. [...] To provide an effective and efficient service, staff need time to communicate and meet without worrying about being late home or missing a train. It should be possible to go on training courses without feeling that you have left someone under intense pressure as a result of your absence" (INITIATIVES, Winter 1985:2).

Jones actually suggested that efficient practice integration, which set courtroom work as a professional priority, was actually a choice for an 'advocative, high-profile role in court'. Nevertheless, he clarified that this choice also engulfed a different set of working priorities, where court work required dedication and hard-work; in one word, commitment. His view was not that novel.

Indeed, a year earlier, in 1984, under the heading *Cash Flow and Toilet Rolls*, Steve Johnson member of the CAYO (Community Alternatives for Young Offenders) in Sandwell, in the West Middlands [256] shared his experience of his 'first task' in his project work **"to revise the budget which had formed part of the grant application"** with the readers of *Initiatives*. As Johnson confidently indicated:

> "To be a tool rather than just an irritating constraint, a budget needs to be set out in some detail; from planning major expenditure to suit grant income dates down to calculating the consumption of toilet rolls and cleaning materials" (Johnson, 1984:3).

The *Cash Flow and Toilet Rolls* paradigm suggested, rather as with Jones' 'faith'-oriented argument, the need for engagement and involvement. In particular, the *Cash Flow and Toilet Rolls* metaphor (which was not necessarily a metaphor[257]) conveyed the authors'

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[256] According to Steve Johnson, "[t]he CAYO bit had been lifted from a NACRO project which ran in this Local Authority form 1979-1981".

[257] The IT Initiative fund was there only for a period of three years and therefore projects' practitioners had to justify their work in order to secure refunding. An interesting account about this issue can be found in *Editorial* the Summer 1985 *Initiatives* where the relevant concerns, which arose during the JOT's second national conference,were reported:
"One of the workshops on offer at the conference was on the subject of refunding projects. Those attending were asked to report on the refunding situation as it affected their project. [...] Many Project Leaders mentioned local authorities having to face expenditure restrictions and there were obvious implications for refunding in this. Politicians are faced with difficult choices about their priorities in the social services and services for juvenile offenders may come fairly low down their

personal experience that getting engaged holistically with the operational 'detail' of the project-scheme was a 'worth while' choice. It was actually a metaphor which emphasised the need for a different professional culture; or as it is argued in the present study, the need to get involved and learn the 'craft' of the whole juvenile justice business.

It can be argued that during the 1980s, both, learning the 'craft' of the juvenile justice business and 'crafting' their profession, constituted the daily agenda of a number of practitioners, who intended to better their position (namely the position of the 'helping classes') within the local settings. In other words, it is suggested 'crafting' the improvement of their profession was the idea which can capture the 1980s 'week-in-and-week-out' working culture towards integration[258]. Indeed, the working culture of the 1980s practitioners involved all those cultural elements, which according to Henry Mintzberg comprise the concept of 'craft', or, 'crafting':

> "Craft evokes traditional skill, dedication, perfection through the mastery of detail. What springs to mind is not so much thinking and reason as involvement, a feeling of intimacy and harmony with the materials at hand, developed through experience and commitment" (Mintzberg, 1987:66).

Indeed, during the 1980s, much the same as Mintzberg's 'craftsman'[259], a number of integrationist practitioners pursued their integrationist intentions through a 'skilful' and 'dedicated' organisational practice. In particular this was through 'involvement' and 'commitment'; which were both working cultural features amalgamated in the historical memory of the 1980s.

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list. Saving made in residential care budgets may not find their way into IT but may go to supporting services for the elderly, for which there is currently more pressure"(:3).
From this point of view, the metaphor of *Cash Flows* and *Toilet Rolls* touched also the specific issue of the financial routine of the projects life.

[258] In his influential paper *Crafting Strategy*, published in the *Harvard Business Review* in 1987, Henry Mintzberg, Professor of Management, considered the idea of 'crafting strategy' as an engaging creative process that was different from the mainly mechanistic strategic planning process.
In the case of juvenile justice in the 1980s, the evolution of the strategy of practice integration can be seen as an example of strategy crafting which was taking place at the bottom practice level and which aimed at the development of the professional position of the helping classes within the juvenile justice settings.

[259] In developing his thesis, Mintzberg drew on "the experiences of a single craftsman, a 'potter' [...] free of all the paraphernalia of what has been called the strategy industry". According to Mintzberg, "[a]t work the potter sits before a lump of clay on the wheel [and] her mind is on the clay" (1987:66).

The first *Project Development Survey*[260] conducted by the NACRO-JOT showed that in local juvenile justice 'Management Committees' the **"32% of social services department representatives were intermediate treatment officers"**; namely, practitioners 'working directly with young people'. This 'important' finding[261] certainly indicated the existence of a working philosophy of those 'working directly with young people' to engage themselves within the decision-making environment of the local juvenile justice settings[262]. Further findings indicated the commitment of the projects' staff to **"invest considerable time and energy"** (namely hard work) in increasing their credibility, and therefore become integrated parts of the local juvenile justice settings.[263]

Similarly, Susan Wade provided us with numerous examples, which revealed the existence of a different working culture within the local juvenile justice context of Hampshire.[264] Hence, Wade wrote of the existence of a local distinctive working culture of **'active practitioners'** and of **'creativity'** and **'realistic risk taking'** (Wade, 1996:120). She identified a common working culture of **'committed practitioners'**, and of unit

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[260] "The Project Development Survey was the first investigation undertaken and was intended to discover the rate of projects development and some of their significant features over a period of 6 months from the date of their grant approval by the DHSS [...] The questionnaire was sent to the 82 projects approved for funding between the start of the Initiative in April 1983 and the end December 1984. The team received 57 returns, giving a response rate of 69.5% (NACRO, 1985:4-5).

[261] The report cautiously indicated that "[t]his involvement is obviously very important although in some areas these posts do not carry senior management responsibility and their capacity to influence agency policy can be limited" (NACRO, 1985:10).

[262] The tendency to engage themselves professionally within local settings was also apparent in the *Survey*'s findings on *'Problems Encountered'*, where it can be suggested that the projects staff certainly expressed a professional anxiety when they reported "problems with interpretation of the Criminal Justice Act and getting clarification about the difference between supervised activities and other orders" (NACRO, 1985:29).

[263] "A number of projects reported that courts were not accepting their recommendations and they felt that there was a lack of credibility in relation to alternatives for the most serious offenders. Projects reported that they had to invest considerable time and energy in 'selling' themselves to magistrates" (NACRO, 1985:29).

[264] The title of the thesis is particularly indicative of its content: *"The Development of the Juvenile Justice Service in Hampshire (1987 to 1991), the Effect on the Criminal Justice Process, and the Implications for Establishing Radical Practice in Statutory Organisations"*. Susan Wade has tellingly written that the aim of the MPhil thesis was to **"cover the detail of how practitioners achieved their objectives"**, namely **"the development of a local scheme"** as part of the local juvenile justice system (Wade, 1996:7)

managers **"committed to the ideal of complete sharing of tasks between all staff regardless of the agency of origin"**, namely committed to total involvement (Wade, 1996:43). She pointed out the commitment of the new practitioners to **"face [from the start] a number of [professional] challenges, both external and internal"** and to be heavily involved in the development of 'infrastructure' in order to undertake new professional tasks.[265] She also pointed out the from-the-beginning will of their unit to evolve a notably improved working style within the court context[266], and certainly to increase their **"commitment to court-work"**[267]. Overall, Wade's narration highlighted the 1980s culture of commitment and involvement, which other sources from the historical memory of the 1980s also confirm[268].

What Mitzberg calls the craft culture, (namely commitment and involvement) was therefore an existing dimension of the professional choices of the bottom level integrationist practitioners.

The point is that the craft culture was critical for the emergence of the new professionals of the 'helping classes'; the subject discussed below.

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[265] "Some tasks were clearly new to most staff, such as attendance as 'appropriate adults' at police interviews under Police and Criminal Evidence Act regulations. Other tasks were more familiar to particular agencies; Social Enquiry Report writing to probation officers, escorting juveniles 'remanded to care' to social services IT officers" (Wade, 1996:45).

[266] "Court work received a high priority and an early decision was made by the unit management team to double the amount of staff time allocated to court work (Wade, 1996:45).

[267] "The additional resource [double amount of staff time allocated to court work] enabled the unit to undertake detailed tasks within the courthouse (such as interviews for verbal reports to avoid the necessity for adjournments on relatively minor offences but high social need cases) without losing presence within the courtroom" (Wade, 1996:45).

[268] Hard work was a common experience at that time. Indeed, the practitioners at that time were involved in a 'time consuming' and 'complex' process of crafting integration. In the DHSS conference, *Reducing Custody for Juveniles – The DHSS IT*, Frances Gosling and Trevor Locke from the NACRO Juvenile Crime Section in their seminar presentation *Developing an Initiative* indicated the following: "The 'Project Development Survey' uncovered many problems in the early stages of the projects. The general effect of these difficulties was that many projects did not become operational until several months after authorisation of their grant. The survey revealed that the creation of such projects was a complex and time consuming process" (NACRO, 1990:21).
Perhaps, the empathy with a committed 'week-in-week-out' practice has been better indicated by one interviewee, a former leading practitioner, who emphasised the existence of a daily philosophy of hard work which was a source of... personal satisfaction: "Looking back, we run [the project] from 6 o'clock to 9 o'clock, four days a week, I don't think we did Fridays... and we worked all day long. I am an Area Director now, I've got a big job, I have never worked as hard as when I worked in [the project]. I don't do 6 o'clock to 9 o'clock now, and I don't think any of my senior manager colleagues do. But that's what we did. But we did it because we were obviously enjoying it as well".

c) The criticality of learning/understanding the juvenile justice business

i) The transition from the speechless practitioner to the eloquent professional – the importance of familiarity with the juvenile justice business

In the December issue of 1987, *AJJUST* accommodated the rather long letter of a juvenile justice officer titled *"A Case for Change on Roles within the Appeal Process"*. In this letter, a furious practitioner strongly criticised the way that 'a complex case' of a juvenile offender was handled through to the Appeal process:

> "I can assert that what transpired was a travesty of a fair hearing, leaving the youngster embittered and cynical, of us, other professionals, furious and frustrated at being ignored and dismissed. To my observation this resulted, primarily, from the inordinate power vested in the barrister; and the dependence upon him, as an avenue to the ear of the court"
>
> (AJJUST, December 1987:21).

Obviously, the practitioner considered the barrister as primarily responsible for the fact that 'the appeal was dismissed' seriously suggesting that **"change must be instituted"**, and further demanding - seriously again - that provisions should be made for **"some forum in which barristers and social workers can explore their different roles"** (AJJUST, December 1987:21,2).

It was less than five years earlier that Allison Morris had also seriously suggested that legal professionals, such as solicitors and barristers, should be in absolute control of the young person's case, taking over a considerable part of the social work business, such as dealing with the client and his family. This would leave social workers with one only task, the writing of the social enquiry report (Morris, 1983)[269]. This was a radical

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[269] In *Legal Representation and Justice*, published 1983, Allison Morris suggested that in juvenile justice **"[t]he lawyer's role would not be restricted to the courtroom"** if the legal profession "wishes to be more than a passive participant in the rhetoric of due process" (1983:137,8). Therefore, on the one hand, "it would be lawyer's task to represent his client "zealously within the bounds of the law'" (emphasis added) (Morris, 1983:136); while, "given the current age of criminal responsibility, lawyers would take direct instructions from their juvenile client", and the 'objective' "would be to achieve the least restrictive alternative for his client" (Morris, 1983:136,7). Moreover, "the lawyer would also play an active part in diversion procedures" (1983:137). Hence, in juvenile bureaus for alternatives, "lawyers could negotiate with the police [...] encouraging the

academic proposal associated with the late 1970s pessimism about the failure of social work practice to deal effectively with the magisterial power of the local juvenile justice settings. At the same time, the legal profession seemed to enjoy wide acceptance from the magisterial side[270].

In 1987, a juvenile justice officer suggested in a very serious and loud tone exactly the reverse; that practitioners, and not only legal professionals, should be in control of the case; most interestingly at the appeal level! While in the very early 1980s no practitioner would dare (or even think) to write such a letter, in the late 1980s, the Hampshire practitioner's two page long letter was published in a leading practice journal. Undoubtly this letter indicated the existence of a transition: from the speechless juvenile justice practitioner of the 'helping classes' to the eloquent juvenile justice professional.

In the case of the Hampshire practitioner the power source behind his speech was his deep understanding of the local juvenile justice business. This was the power source, which sustained his confident argument for a 'change in roles', or, at least for **"some forum in which barristers and social workers can explore their different roles"**. Indeed, the

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use of cautioning"; or, in court, "lawyers could actively challenge the strategies which benches adopt [by] confronting police witnesses, social service representatives, [and questioning] the interpretations and recommendations of the social enquiry reports" (1983:137,8). According to Morris, that would "create a truly representational role" for lawyers.
The importance of Morris' argumentation in favour on the attorney's 'truly representational role' was the fact that in her agenda for change, Morris did not allow much space for the juvenile justice practitioner, as the diversionary activity was seen to lie predominantly (if not solely) within the sphere of legal representation.
Furthermore, Morris regarded the juvenile justice practitioner, the 'helping class', as an enemy whose 'court-room interpretations' had to be 'confronted' and 'questioned' much like as those of the police, or, of the bench. Hence, in the single and austere reference to the juvenile justice practitioner, Morris limited the 'very different from now on' role of the social worker merely to the preparation of better social enquiry reports. Any reference to potential co-operation between legal representation and practitioners, in 'the children's best interest' was not even mentioned.

[270] "Since the writers of the reports are not there, defending solicitors, who are entitled to copies of the reports, may use them to make their own case or they may interpret them to magistrates. Thus the social enquiry report and the plea in mitigation become one. This practice was defended by some magistrates on the ground that solicitors know how to present the social workers' case. They are familiar with the court; they know what magistrates expect, so that the smooth running of the court's business is ensured. The subtle change in the status of the social enquiry report effected by the intervention of solicitors and the absence of the report writer should be a matter of some concern to magistrates, to social workers and probation officers and to defendants. We have not observed that any of the parties thought the practice to be untoward" (McCabe & Treitel, 1983:19,20).

powerful letter/speech, which was full of criticism[271], but also of practice-policy proposals[272], encompassed the practitioner's self-assurance that he had a strong understanding of the local processes; or in his own words, that he was 'familiar' with the local juvenile justice processes:

> "Having worked in an I.T. Centre, I am familiar with the critical role of solicitors within the court process" (AJJUST, December 1987:20).

This acquired 'familiarity' was indeed the power source of his powerful letter-speech[273]. His voice was loud because he was confident that his juvenile-justice-business-

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[271] The practitioner complained about and criticised the **"complacency"** of the barrister by describing his poor professional conduct during the appeal process. In the latter paragraphs of his letter the critique was even more explicit r the professional conduct of the barrister towards the other participating professionals, (namely him and the social worker who supervised the young offender in question (AJJUST, December 1987:20):

1. "We, who were familiar with the case, were not consulted".
2. "Two professionals, intimately involved in – vastly more knowledgeable about – the case, we rendered powerless by the weight of authority vested in the barrister's office.
3. "Effective devaluation and displacement of the views of other professionals results [...] to the detriment of a truly just and considered hearing".

[272] In his letter the practitioner indicated in particular the need for "professional planning" at the appeal level. Later, at the end of his letter he clarifyied his perception of 'professional planning' by making direct references to a multi-disciplinary approach:
"Of course, our reports were read, but mitigation, advocacy, are usually peripheral to our role; only through close liaison of all speaking of the defendant, and [if all views had been canvassed] can the picture emerge" (AJJUST, December 1987:20)

[273] A confident speech based on the existence of his knowledge of the juvenile justice business was apparent in several parts of the letter.
Indeed, in the phrase, **"It was a complex case"**, which referred to the case of the juvenile offender, the practitioner exhibited his deep understanding of the multiplicity of cases that appeared before the magistrates court. In his letter, the complexity of the case in detail and from all the angles.
The practitioner particularly exhibited a confident understanding of the juvenile justice business when he discussed the defence strategy at the appeal level!
He indicated with regret that the barrister "then proceeded to call none to speak and made only two points". His observations about the poor defence strategy of the 'only two points' was very typical. He therefore observed that the barrister argued from a point that he did not, whilst the barrister argued poorly for a point that he had to argue in length:
"He made only two points: 1. From the front of my report – that the youth had behaved during previous I.T. (precisely a point from which I was not arguing) and, 2. An observation made in our 'two minutes' that custody had also previously been tried" (AJJUST, December 1987:20).
According to the practitioner, the reports that they had prepared contained the proper defence strategy which had however been ignored:
"I prepared a report, arguing that the certainty that he was 'unable or unwilling to respond' thenceforth was markedly less than that, for this individual, incarceration could only be personally and socially deleterious. His Social Worker unearthed data on the turmoil of his life, from infancy-'good social-work arguments', both for how he had developed, and why he required supervision, guidance into responsibility" (AJJUST, December 1987:20).

understanding acquired within the local setting was deep. In other words, his empowered professional speech was the reflection of his own choice to pursue an integrated high-profile role within a local juvenile justice setting. This was through the craft credo of involvement and committed work. It can certainly be argued that this development was a widespread phenomenon within the microcosm of juvenile justice of the 1980s.

ii) The emergence of the 'specialist' practitioner through the learning/crafting process of crafting efficient integration

As it was suggested earlier, throughout the 1980s, integrationist practitioners were intentionally being involved in a number of challenging processes. These included the 'building up' of a new 'information base'[274], and even the 'from scratch' making of a juvenile justice unit[275]. They were therefore engaged with the crafting of integrationist projects. Significantly these provided them with experience, understanding and knowledge on a variety of issues, arising from the function of the local juvenile justice business. Through the learning process of crafting their integration, the integrationist practitioners **"undoubtedly built up their own wealth of experience"**[276]. This wealth of

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It was obvious indeed in the letter that the practitioner was furious that the expert knowledge of a duo of committed practitioners had been dismissed as a result of professional arrogance and not as a result of other better expert knowledge. His comment about the importance of expert knowledge with respect to the particular case was typical: **"There may be cases which some barrister could absorb in 30 minutes: but here was not one such"** (AJJUST, December 1987:20).

[274] In the successful 1989 conference organised by the Department of Health and NACRO *Reducing Custody for Juveniles - the DHSS IT*, Mark Feeny and Peter Wiggin in their seminar about the successful project *Kirklees Enterprises for Youth*, indicated that a further difficulty for the *KEY* projects had to deal with was the need **"to build up their own information base"** (NACRO, 1990:25).

[275] An interviewee, a former leading practitioner, has recalled the **'delightful'** challenge of establishing 'from scratch' organisational teams, administrative systems, and specialist practice: "We were literally starting. In 1987 we took over a children's home which had been closed down the year before, we set up completely new teams with new managers i.e. my two team leaders and I were completely new. So it was completely green field, we were allowed to do exactly what we wanted, there were no administration systems, there were no records and there was no way of actually doing things, we had to do everything from scratch, it was the most delightful first management job you could ever have. We wanted to do it by the management models and 'managing by excellence' which fitted with our philosophical view. [...] We were now specialising in juveniles, we were attracting people into the specialism"

[276] A view about the 1980s juvenile justice social workers and IT workers is found in Thomas's article *'Four Years of Pace'* which was concerned with the development of the concept of 'appropriated adults' (1989:3). According to Thomas the juvenile justice workers set a good example of practitioners who had learnt their business.

experience, the sole product of their committed involvement with the wide spectrum of the juvenile justice business, caused the development of an empowered professional identity, [277] which is referred to here as the efficient integrated practitioner of the 1980s; or in Wade's words the **'specialist'** juvenile justice practitioner[278].

The emergence of the specialist juvenile justice practitioners constitutes an important advancement; this occurred during the 1980s. The key point is that this development was the outcome of those practitioners' decision to engage themselves with the learning process of crafting their identity/position within the local juvenile justice settings. That this empowered professional identity was the result of the intentional engagement with the learning crafting process and was not granted to the bottom level practitioners by the dominant 'punishing' classes of the local settings is particularly exemplified in a case study by Kate Lyon.

iii) The independent character of the learning process of crafting efficient integration

The particularity of Lyon's work[279] was that it was conducted in a local environment which was not friendly to practice integration,[280] but rather unfriendly[281]. As Lyon

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It should be noted that according to Wade, in 1987, in Hampshire, 'appropriate adults' had become a new specialist role that practitioners had undertaken on the way to further integration (Wade, 1996:45).

[277] The significance of the output of the learning/crafting process was stated as early as in 1984, in the *Cash Flow and Toilet Rolls* metaphor used by Steve Johnson who indicated that:
"If you can afford the time, no exercise is more worth while. The resulting 'x-ray' gives you something to hang important features of the project on" (Johnson, 1984:3).
Undoubtly, this was very much a personal experience-based account, which highlighted the acquisition of understanding as the value of the learning/crafting process.
It must be remembered that the exercise that Johnson advocated was about the cultural change in practitioners towards full-scale professionalism: "from planning major expenditure to suit grant income dates down to calculating the consumption of toilet rolls and cleaning materials" (Johnson, 1984:3).

[278] Throughout her study Wade has constantly referred to the specialist Juvenile Justice Unit in Hampshire, or the specialist practitioner, or the specialist nature of work that was required. In particular, Wade has very clearly indicated, "[p]ractitioners located in the 'heavy end' IT Centres considered themselves to be specialists and were critical of the standards of work and policies developed by colleagues in Social Services local area offices" (1996:29).

[279] Lyon's study addressed the activity of staff involved in a project that was established in 1985. The project was "intended for 'heavy-end' offenders fourteen to seventeen". The aim of the project was "to reduce the numbers of young people entering custody or care by offering a community-

suggested, the problematic local setting the project staff "sometimes experience low morale and feelings of impotence" (1991:199). It is notable that the setting also impacted upon Lyon's thinking and strongly informed Lyon's especially reserved view about the future potential of that project scheme; this was amalgamated in her marginality thesis[282].

However, it is striking that despite her strong reservations about the future of the project within the particularly unfriendly local setting Lyon acknowledged the personal effort of the project staff. It can certainly be argued that the local juvenile justice

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based alternative [and] its objectives [...] to maintain young offenders in the community by use of individually tailored programmes of activities" (Lyon, 1991:190-1). The purpose of the research was **"to examine the working of a partnership between a voluntary agency and statutory services in a local juvenile justice system"** (Lyon, 1991:188).

[280] It can be argued that the growing specialisation was the outcome of the relatively friendly environments juvenile justice practitioners worked in such as the Hampshire setting. Apparently, this can be considered to be a logical argument.
An example was the development of the specialist juvenile justice unit within the relatively supportive Hampshire environment, during the second part of the 1980s, can be considered a typical case which would support this argument. Under the subheading *Chief Probation Officer,* Wade discussed the importance of the appointment of the new chief probation officer in Hampshire, John Harding.
As Wade indicated: "The new chief probation officer was committed to a joint partnership approach to other agencies and also had a background and interest in the development of Juvenile Justice schemes [...] Another characteristic of the new chief probation officer was his commitment to using specialists within probation work to implement policies" (1996:34,5). Furthermore, several subsequent passages in Wade's MPhil thesis described the catalytic impact of his professional personality on the introduction of the specialist countywide alternative scheme for juvenile offenders in the years following his appointment.
However, this apparently logical argument is not necessarily the right one. The influence of the friendly environments was certainly relevant to the spread of specialisation and integration (as we shall see later) but was not relevant to the creation of the empowered professional identity, as the examples of the unfriendly environments suggest.

[281] In her study Lyon clearly suggested the existence of an unfortunate working environment for the integration of the project staff. According to Lyon "[c]lear examples of conflict were provided in the two local Juvenile Liaison Panels. The occupational culture of the police, even those who work in the Juvenile Bureau, is often at variance with that of project staff. The language used by some police officers was sometimes deliberately provocative and two out of the four police officers I interviewed admitted to games-playing in the meetings which served to minimise the power of the non-police members. The meetings are held in the police station and are conducted in such way as to maximise police control over the proceedings [...] Similarly, ritual in the juvenile court particularly when used by the justices' clerks, emphasised that project staff attend with the consent of magistrates not by right" (Lyon, 1991:195).

[282] The marginality idea constituted Lyon's thesis about the future of the alternative project staff which was presented in pages 198-201 of her paper. The marginality thesis partly reflected the Lyon's disappointment regarding the integrating potential of this 'helping' scheme, a view deriving from her observations of the unfriendly local setting.

practitioners made an impression upon Lyon. Indeed, it must be pointed out that, in the paragraphs of her paper, Lyon also amalgamated the 'commitment' of the specific group to 'break in'[283] through a committed 'week-in-week-out' practice process[284]. Lyon was so impressed by the professional identities of the specialised practitioners that despite her reserved view (the marginality thesis), she observed with certainty that:

> "there is an advocacy role to be played which offers 'a shield' to the powerless users of schemes such as the project, which is bonus for those fortunate enough to have avoided the destructive experience of custody" (1991:199).

In other words, Lyon's paper has not only informed us about the existence of an unfriendly local environment. It has also informed us about the independent existence of a number of new professionals with impressive personalities, which she believed had the potential to contribute to this unfriendly setting.[285]

The point is that these impressive professional personalities were developed independently through the choices and the working philosophy of those individuals who were engaged in the learning/crafting process. They were the product of their choices and they were certainly not the product of the local juvenile justice environment.[286]

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[283] In several parts of her paper Lyon indicated that "staff are committed to bringing influence to bear on other parts of the juvenile justice system"; or, "[the project staff] have no wish to be incorporated into the culture of other parts of the juvenile justice system, but at the same time are aware of a need to break in"; or, finally, "there is a parallel and equally important objective of influencing other agencies in their work" (1991:190-1,198).

[284] Lyon referred to some key issues that were parts of the practice integration agenda: "They monitor Social Inquiry Report recommendations and set up meetings at the start with other welfare professionals, the police and magistrates. Monitoring forms an important part of the project's work: the staff produce annual digests of statistics on juvenile offenders and the project's Annual Report is widely disseminated" (1991:191). Also, in relation to the development of the alternative programmes, Lyon indicated that "projects are individually tailored to the perceived needs of the young person" (1991:191).

[285] In the final paragraph of her paper, Lyon concluded that: "The project itself cannot change the face of juvenile justice in the local system [...] But by maintaining a marginal position while continuing to work within the local juvenile justice system the project can 'carve out spaces' which will be of benefit to young people and keep alive the alternative discourse underpinning the principle of partnership" (Lyon, 1991:201). In other words, Lyon again believed in the potential of the scheme and this was primarily because of the impressive professional personalities of those 'helping' practitioners.

[286] An interviewee, a former leading practitioner has strongly stated the independent effort of the practitioners to take things forward in relation to their local integration:
"[our project] was built around a lot of good fortune and a lot of luck... but then, you have to believe that you make your own luck".

d) Celebrating the power-knowledge of practice level in the late years of the 1980s

In his 1990 paper *'Power and Ideology in the Juvenile Court'*, published in *AJJUST*, Hugh McLaughlin[287] was one of the many practitioners who in the very late 1980s indicated the importance of the practice world for the development of the juvenile justice business, and in particular the importance of practice knowledge. In McLaughlin's words:

> "It is unfortunate that the worlds of research and social work have seen themselves as alien to each other [...] Research techniques are not as dissimilar from good social work practice as is often suggested" (McLaughlin, 1990:17,8).

As McLaughlin further indicated, the bond between research and practice grew stronger when the researcher was concerned with policy development:

> "It must also be noted that the researcher [...] may wish to continue to examine the policy or policies under consideration. The study then moved towards a closer examination of those workers entrusted with the management of the local juvenile justice system: solicitors, social workers and probation officers, court clerks and magistrates" (McLaughlin, 1990:17).

According to McLaughlin the closer examination of those workers can place "the researcher within the research process", and then the researcher should be better "aware of the limitations that his/her own presence could have on the research data" (McLaughlin 1990:17) because:

> "The object of the social scientist can speak for itself and often has information and data that is worth both recording and assessing"[288] (McLaughlin 1990:17).

It can be argued that McLaughlin's strong point was not that he indicated the need to bridge the worlds of research and practice which, according to McLaughlin, had 'seen themselves as alien to each other'; but rather that he pointed out the existence of the

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[287] Hugh McLaughlin, an Area Manager for Social Services in Stockport, held degrees from the Universities of Lancaster and Manchester. The article was based on research undertaken in one Metropolitan Borough in the North West of England.
As McLaughlin indicated his "research examined how the juvenile justice operated and how it was experienced by those who service its operation" (McLaughlin, 1990:16).

[288] McLaughlin was discussing 'interpretivism' as a model of social inquiry **"suitable for a study of the juvenile justice system as it allows the system's actors to speak for themselves"** (1990:17).

empirical knowledge at the practice level. He stressed that this practice knowledge was the basis of policy development and of the development of a theoretical discourse. His view could be labelled as arrogant.

Written towards the end of the 1980s, when the emergence of specialised integrated oriented practitioners of the 'helping classes' had become particularly evident within various local juvenile justice settings, the McLaughlin view certainly celebrated a dimension of the practice arrogance of the late 1980s; namely, the practice arrogance about the development of their expertise within the juvenile justice microcosm. Indeed the pages of the *AJJUST* accommodated several articles where juvenile justice practitioners debated issues of juvenile justice policy from the perspective of knowledgeable practice. Characteristically, in 1987, in the article *'SER Recommendations–A Guide to Practice'* published in *AJJUST,* the language of a detailed passage under the sub-heading *Process* was very representative of a growing practice arrogance. The 'scientific' wording of the I.T. Officers Eagle and Holland certainly manifested the ability of practitioners to deal knowledgeably and systematically with practice policy development:

> "*Process*: We began by organising the format of the survey into a logical series of factors which we felt should be included in the Social Enquiry Report. These were divided into five sections to cover, Introduction, Family Background, Subject, Offences and Recommendation [...] Having drawn up this initial list of factors, we drafted these into a survey questionnaire to enable us to see whether or not factors were included, excluded, or irrelevant, and to what extent they were mentioned, sufficient, of detailed. A space of individual comments allowed for notes on over-statement, inappropriate amounts of material, use of jargon and so on" (Eagle & Holland, 1987:11).

Undoubtedly, the practitioners-researchers seemed to not only enjoy the various elements of the research project, but moreover their writing reflected their strong will to communicate a message of professional advancement. Indeed, the wording of this paragraph not only indicates that the practitioners were able to write as policy specialists; but furthermore, the particular language encompassed their feeling that they were treasurers of invaluable specialist knowledge, which was generated at the bottom practice level. Naturally, they wanted to communicate this feeling.

The point is that during the 1980s the bottom level practitioners of the helping classes celebrated the value of their specialism not simply because they understood that

through the development of specialism they became treasurers of bottom level expert knowledge; but furthermore because they understood the strategic power of their expert knowledge; an issue which is to be discussed below.

e) Wade's suggestion for the strategic value of specialist knowledge

The recognition of the strategic value of specialisation was a central issue in the thinking of Sue Wade. Wade suggested that it was mainly specialisation which enabled the organisational advancement of **"relatively junior managers within traditional agency structures"**. As Wade indicated, in the very beginning of her MPhil dissertation, the position of the members of the Juvenile Justice Unit within the structures of their agencies in Hampshire was comparatively different to those in other subject areas:

> "Probation and Social Services [...] for other subject areas, tended to use more senior managers or specialist policy advisers to produce policy briefs for their Headquarters officers and Committee members. [However] the juvenile justice service justice unit managers produced most of the policy papers and presented most agenda items at committee meetings [...]. They had direct access to the most senior figures within both agencies" (1996:10); while the overall situation was "a rare example of high level participation in strategy and policy development by persons still predominantly connected to practice issues" (1996:10).

According to Wade:

> "The reasons for this unusual and influential position for relatively junior managers (within traditional agency structures) may be connected to the very specialist nature of the new Service and the expert knowledge required [289]" (1996:10).

Essentially Wade's point was that the expert knowledge acquired by the local juvenile justice practitioners had a strategic impact upon their professional status; critically it helped them to move upwards their professional position.

The point is that Wade's perception about the strategic value of specialisation, or otherwise the strategic impact of learning/crafting efficient integration on their careers was becoming common among practitioners, during the 1980s.

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[289] At a secondary level of explanation Wade also referred to "the personalities of both the unit managers and their chief officers" (1996:10).

f) Linking professional advancement to the wealth of specialist knowledge acquired from learning/crafting the efficient practice integration

i) The drive behind the conferences course of the 1980s

In the aftermath of the AJJ June 1987 conference, in his commentary *'Malvern Revisited-A Personal View',* Richard Hester[290] notably indicated the collective 'positive view' of the participants[291] that:

> "There was a feeling about the Conference that we had moved on from the question 'should Custody be abolished or not' to the mechanisms by which this may come about" (Hester, 1987:16).

Hester's reference to the collective perception of the existence of 'mechanisms', which advanced the practice policy of the 'helping classes', represented an early collective recognition of the strategic importance of specialization towards achieving things. Indeed, the 1987 conference represented the first year of a glorious period of practice advancement,[292] during which practitioners linked their achievements to particular 'mechanisms'. Undeniably one of those 'mechanisms' (and probably the most important) was the development of the juvenile justice specialist; an outcome of the self-learning process of crafting efficient integration. Indeed, the AJJ 1987 conference, *Towards a Custody Free Community-Next Steps in Policy and Practice,* (one which the practitioners in their 'conference feedback' characterised as 'successful'), was also characterised by the empathy of the delegates with the workshops[293], most of them dealing with issues of the mosaic of efficient integration. This attitude was not actually new. It can also be found

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[290] Richard Hester was a delegate in the conference, the assistant director – Rainer Foundation. His commentary was published in the first *AJJUST* published after the conference.

[291] From the conference feedback from **sixty-six** participants, it was found that:
"Most delegates were aged between 25 and 45! Two thirds were male and one third female, and two thirds were [AJJ] members, one third non-members. [...] Most delegates were IT or related workers employed by local authorities" (AJJUST, September 1987:12).

[292] Norman Tutt and also Andrew Rutherford were present and Dr Douglas Acres ex-chair of the Magistrates' Association participated actively in the conference proceedings. Edward Bickam, the Home Secretary's special adviser also attended the proceedings (see September 1987:15-6).

[293] In the one page feedback report published in the following issue of *AJJUST*, it was indicated specifically that: **"[d]elegates wanted more time for workshops and less on speakers"** (September 1987:12).

in earlier sources of the historical memory of the 1980s, such as the update of the 1985 *Initiatives*; two years earlier.

In the article about the Stoke Rochford Conference, where the second JOT's second national conference *Developing the Initiative* had taken place in June 1985[294], the report about the workshop *Effective staff management* indicated that:

> "The success of projects depends heavily on the effectiveness of the staff team. The Stoke Rochford Conference included a three hour workshop on this topic, lead by Phil Hope, an independent management consultant and trainer" (INITIATIVES, Winter 1985:4).

Interestingly we then read that:

> "Those who attended this workshop asked JOT to organise a more substantial event and thus we mounted the Staff and Project Management course at Sheffield Polytechnic in November" (INITIATIVES, Winter 1985:4).

Hence, both the 'conference feedback' of 1987 and the 1985 report of the *Initiatives* clearly show that the integrationist practitioners[295] were strongly influencing the conferences' course in the 1980s towards issues related to specialization; otherwise efficient integration. The reason behind this was practitioners' realisation that they were achieving things,[296] and they linked their achievements to the specialist knowledge of efficient integration acquired. This is exemplified by a single page article published in *AJJUST*, in 1987.

ii) "First time in my experience"

The 1987 article *Co-operation Rules 'K.O'?*, by Ken Hunnybun, published in the first page of September *AJJUST*, constitutes an exemplary case of an efficiency oriented integrationist article. The article strongly reflects how practitioners linked together the

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[294] In an earlier *Initiatives* report it was noted that the conference had 'attracted Project Leaders from about two thirds of the projects currently operating within the Initiative' (Summer 1985:3).

[295] It can be suggested that all these practitioners were in fact all those **"hundreds of people [of that time] who were lining the walls and filling the auditorium"** of the training events organised around the country - (this is a passage from the interview of a former leading consultant engaged in the training business of that time.)

[296] As a former leading practitioner indicated: "Great kicks... We knew we were achieving some things".

development of specialization with the unexpected betterment of their professional position.

Ken Hunnybun, a practitioner and member of the *AJJUST* committee, had specialist knowledge on a key theme of the integrationist agenda - the inter-agency cautioning panels; as he was personally involved in setting up one in his local juvenile justice setting:

> "In Leicestershire the Police, Social Services, Probation and Education Department have combined to set up a pilot scheme in the Police South Division to divert young offenders from the courts."

In particular Hunnybun indicated in the same paragraph (the first paragraph of his article) that inter-agency schemes are not 'simple' projects:

> "A nice simple piece of inter-agency co-operation? – Wrong! There is nothing 'simple' about inter-agency co-operation".

Therefore in the beginning of the article, the author explicitly indicated that the success of the interagency schemes should not be taken as given. Furthermore, what he implicitly meant was that there was something important to discuss. Critically this stood behind the potential success of inter-agency schemes: the specialist knowledge acquired from the learning/crafting process of the making of an inter-agency scheme.

Indeed, in the subsequent paragraphs he demonstrated in detail the uniqueness of the crafting experience; namely the unique knowledge which he had acquired by dealing with the tantalising development of the scheme. Starting with the phrase **"To begin with..."** the practitioner presented briefly the local problems[297], the practice thinking about these problems[298] and then the progress that followed[299], which also brought about new

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[297] "[T]he Police did not respond to our overtures to assist them in improving their cautioning rate. Then a new Chief Constable was appointed. He had helped set up a Diversion Scheme in another County. We anticipated getting some co-operation. But, in the meantime, the Crown Prosecution Service was set up" (Hunnybun, 1987:1).

[298] "Now we were in a dilemma, would C.P.S. do the diverting? Would a Diversion Panel legitimise the Police Diversion? What would be the 'discontinuance' threshold of the C.P.S.? How quickly would the new Chief Constable want a scheme setting up?" (Hunnybun, 1987:1).

[299] "A Steering Group set up at the direction of the four Chief Officers recommended a Juvenile Review Panel consisting of a Police Inspector, Senior Social Worker, Senior Probation Officer and a Senior Education Welfare Officer should undertake a 'review and diversionary' role" (Hunnybun, 1987:1).

problems: **"The wheel having turned full circle was now presenting us with problems";** and of course new specialist experiences[300].

In the subsequent paragraph, the author continued to describe the development of specialization and indicated the development of working relations with components of the local system;[301] until, in a new paragraph, near the end of his article, he referred to the one concrete achievement, which impressed him most. This was concerned with the main pillar of the success of this inter-disciplinary scheme; the Police:

> "The Police [...] agreed to give the Panel a notice of each individual they deal with by way of N.F.A., Caution and Prosecution (serious offences). This gives the Panel the complete picture of the first stages in the Juvenile Justice system" (Hunnybun, 1987:1).

In the eyes of the practitioner this was a particularly important development as regards the level of co-operation between the 'punishing' and the 'helping classes':

> "The first time in my experience that this has been available in such an up to date and complete form rather than as a table in the Chief Constable's report" (Hunnybun, 1987:1).

It can be argued that in Hunnybun' mind the "first time in my experience" organisational improvement constituted the critical feedback, which assured him that this process of specialization, which generated invaluable experience towards efficient integration, was really worthwhile. Indeed, in his article Hunnybun presented a wealth of practice policy experiences of efficient integration. This was not only because the author felt the need to communicate his wealth of experience product of his choice to engage himself with the learning crafting process of making an inter-agency panel; but mostly because he was assured that the wealth of practice policy experience was linked with professional advancement. That was the crucial aspect of Hunnybun's article; namely that it

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[300] "We were having to hold back the other agencies while we struggled with the issues of 'net widening' and unintended consequences of getting more information on individuals than was necessary or having to become involved in working with cases just to secure the caution decision" (Hunnybun, 1987:1).

[301] "[T]he Panel was made a decision making body to carry out its own cautions [...] when a current Conditional Discharge exists the Magistrates asked that it be returned, but the Chief Officers' compromise was that the file sent to CPS indicating where appropriate that a caution would have been given and recommending the case be returned" (Hunnybun, 1987:1).

communicated the strategic link between the crafting experience and professional improvement that was happening gradually until the end of the 1980s.

g) The late 1980s sea-change of the perception of the position of the 'helping' juvenile justice practitioner

In the late 1970s the pessimistic findings of Anderson and Parker *et al.* embodied the negative climate aired by the then existing negative discourse about the low status of the 'helping classes' within the local juvenile justice settings. A further study by McCabe & Treitel, *Juvenile Justice in the United Kingdom: Comparisons and Suggestions for Change*, published in 1983, presented the familiar picture of an under-performing non-integrated juvenile justice practitioner[302]. Furthermore, a passage from McCabe & Treitel successfully captured the negative discourse of the 'punishing classes' on the back of the 'helping classes'(and of the social workers in particular). McCabe & Treitel mentioned rather extensively that:

> "Magistrates saw with regret the displacement (albeit only partial) of the probation officer. We heard this regret expressed many times. It was said that social workers were too young; they were often 'mere girls, straight out of training'; they did not know how to treat a court; their style of dress was inappropriate; it was sometimes 'hard to distinguish between the offender and the social worker'; they had no power of control over delinquents. These doubts of the magistracy were reinforced by judges and members of the legal profession" (1983:17).

It must be pointed out that this passage of McCabe & Treitel actually echoed not only the perceptions of the 'punishing classes' about the 'helping classes', but also the perceptions

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[302] In 1983, McCabe & Treitel's work, *Juvenile Justice in the United Kingdom: Comparisons and Suggestions for Change*, reconfirmed some of the issues addressed earlier in the studies by Anderson and Parker *et al.* about the lack of a 'sense of belonging in the court setting' and the poor relationship with magistrates. In particular, poor performance in relation to the presentation of the SERs in the courtroom was indicated by McCabe & Treitel who said that **"the writers of the reports are not there"** (1983:19).
In particular McCabe & Treitel observed of the court performance of the 'helping classes' that: "[T]he probation officer has won a slightly greater share of the work that emanates from the juvenile court, but both he and the social worker are increasingly absent from the court itself. In many urban courts, both services are frequently represented by liaison officers who have not written the reports that are produced, cannot answer for them and know little except from the records, of the juveniles with whom the reports are concerned" (1983:18).

of a number of practitioners about their own professional position during that same period.[303]

Nevertheless, in the late 1980s, in particular 1988, the introductory paragraph in Bryan Gibson's[304] article, *Social Workers in Court*, published in *AJJUST* presented a completely different picture about the status and the position of the social worker within the process of the juvenile justice, and within the courtroom process in particular:

> "The status of social workers has long been undervalued compared to that of other agents of the juvenile justice process – but there are signs of change. [There is] increasing acceptance that social workers are on par with other professionals and it is only via recognition of this that proper dialogues can occur with e.g. doctors, lawyers, police and magistrates. Already on the court side, the barriers have been dismantled in many parts of the country so that social workers are no longer mere onlookers at somebody else's legal ritual. They have become central to new ways of approaching juvenile justice problems, and have been relied on by courts to produce even more imaginative solutions [...] It is a far cry from only a few years ago" (Gibson, 1988:32).

It was undeniable a new perception and in particular a new, positive picture about the status of practitioners. However, it must be pointed out that Bryan Gibson was not alone in supporting this view about the position of the juvenile justice practitioners within the local juvenile justice settings. Pratt, though critical about this professional trend, nevertheless held a particularly similar view to Gibson's, indicating the advancement of specialisation in juvenile justice practice and, in particular the central role that they played within the local settings.[305] The fact that this perception was held by a number of non-

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[303] Indeed, as Anderson confirmed in his evaluative study social workers themselves were not unaware of their professional deficit: "ambiguity over their role in the court, insufficient knowledge of the law, leading to an inability to intervene in the court process, and the importation into the court setting of social work attitudes which mark the elision of individual interest with a professional judgement made in the absence of the client [...] Social workers themselves are not unaware of these issues" (1978:57).

[304] Bryan Gibson, Clerk to the Basingstoke Justices was an insider of the 1980s course of juvenile justice, strongly associated with the legendary Woodlands project and the Basingstoke 'Custody Free Area'.

[305] The emerging status of the juvenile justice practitioner as an integrated part of the juvenile justice system can be found in the otherwise critical paper by Pratt, *Corporatism: The third model of Juvenile Justice*'. According to Pratt: "social workers abandon their diagnostic heritage and instead become *quasi-advocates*, almost as if they are *de facto* lawyers [...] one of the best illustrations of this is the way in which juvenile justice specialists have with considerable success,

bottom level practitioners is evidenced in several sources of the historical memory of the 1980s.[306]

Moreover, the new positive perception of the position of the 'helping classes' practitioners constituted a transition, which was naturally becoming understood by the practitioners themselves;[307] supporting therefore their belief about the existence of a strategic link between the craft/learning experience and professional advancement which became evident within the hierarchical microcosm of juvenile justice gradually during the decade of the 1980s. In other words, the evolving positive perception about the importance of the juvenile justice specialists constituted the critical feedback which assured those practitioners that their commitment to engage themselves with the learning/crafting process was proving correct; as it satisfied their pragmatic concern of professional success; **"the desire for power and concern for personal advancement"**.

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become involved in appeals against sentence, particularly custodial sentences" (1989b:240). In later paragraphs of his paper Pratt had a more specific and certainly strong view about the position of the 'juvenile justice specialists': "The specialists are at the hub of the juvenile justice system itself; they have become the socio-technical experts of corporatism – instrumental in policy implementation within their own organizations, crucial figures in promoting inter-agency dialogue" (1989b:250).
Therefore, despite the critical direction of his paper, Pratt's view is not dissimilar from that expressed by Bryan Gibson.

[306] For example, in the 1988 published NACRO Report on school reports (SCRs) in the juvenile justice court the researchers Maggie Sumner, Graham Jarvis and Howard Parker in the chapter titled *'The Impact of School Reports on Sentencing'* indicated that in one of the four courts they researched "information about a young person's school performance was routinely included in social inquiry reports, a high proportion of which were prepared by a small specialist team of probation officers. This pattern did not seem to have been the result of any agreed policy decision by the agencies concerned, but magistrates in this court accepted the situation with apparent equanimity" (NACRO, 1988:8).
The court evidence by the Sumner *et al.* research therefore pointed to a picture where the juvenile justice practitioners *de facto* assumed the important role of the single information node in the court's decision making process. It must be mentioned that Sumner, Jarvis and Parker 's research was conducted between 1984-1986 (NACRO, 1988:8).
Also, an interviewee - not a practitioner - indicated to the 1980s practitioners that: "These were people that knew what they were doing [...] they won the confidence of the courts in most cases [...] they were getting on okay with the Police [...]. This was certainly not everywhere. I mean even in the early 90s there were areas, where that wasn't established; but I think on the whole that was what was happening".

[307] All interviewees, particularly the former leading practitioners have consistently indicated in their accounts the advancement in the status of their professional position. Hence, an interviewee, a former leading practitioner characteristically indicated the emergence of practitioners as the new 'essential' partner in decision making by saying that: **"They began to see it was essential to be in touch with us."**

Therefore the successful development of the mosaic of the new efficient and integrationist 'helping' practice was primarily the product of a day-to-day practice process. A process which was critically connected with the integrationist practitioners' concern to achieve professional advancement. During the 1980s, the appreciation of this self-empowering process from the distant top levels of the policy making hierarchy was equally important for the successful growth of the pragmatic strategic discourse for efficient practice integration. This is indeed an issue that takes us to the criticality of the organisational-control culture of the top of the policy making hierarchy.

h) "On the back of LAC '83 – the money": A need to examine the critical relationship between the government level and the practice level

The top management's appreciation for the work of the 'people down the hierarchy' is the primary issue in Mintzberg's *'Crafting Strategy'* in relation to the development of effective organisational strategies. Indeed, Mintzberg has considered that:

> **"organisations can be effective only if their implementers are allowed to be formulators"** (1987:71).

Therefore according to Mintzberg the question of organisational effectiveness[308] is very much a question of the way the powerful distant top relates to the bottom level with respect to the development of the organisational strategies. In his article Mintzberg invited readers to consider the quality of this important relationship.

The way that government level and practice level were related during the 1980s should be considered an important issue. In the opinion of an interviewee, a formerly influential consultant, the spectacular ascendance of the juvenile justice practitioners started 'on the back' of the policy decisions of the then government. His view essentially acknowledged the relationship between government level and practice level, but rather summarily:

> "There was a new wave of youth justice practitioners came in on the back of LAC '83 – the money. Can you imagine the situation where there were no intermediate treatment officers in different parts of the country at all – there was just nothing apart from a few areas [...] where they had gone ahead by the pressure that had been

[308] According to Mintzberg organisational effectiveness is synonymous to strategic effectiveness.

brought to bear on local social services and you look in other parts of the country there were none. Suddenly, nationally, there are these posts with this money, [...] and all of a sudden people are appointed – people who have never existed before – as IT officers, in social services departments. And these people came from nowhere. You know, they had certificates in social work or maybe in some cases degrees or maybe they were ex-probation officers or some of them would have been probation officers but they were suddenly finding themselves in this new role which had never existed before. And all those people, somehow they had to rationalise their own existence; and the first thing they did was start to talk to each other across the country and within a very short space of time you had this very large group of new professionals in a new field, trying to work out how they did this and that in itself drove it forward. They became very, very positive, very forward looking, very keen to deliver and also they had to justify their role".

The account of this interviewee emphasised the importance of the government's 1983 initiative as primarily a financial condition behind the emergence of the 'very large group of new professionals'. According to this interviewee, the initiative was instrumental as 'on the back' of the government's 1983 initiative -'the money'- the 'people from the nowhere' managed to significantly empower themselves as 'the new professionals' of juvenile justice.

It is right to emphasise the strategic importance of the 1983 initiative – and especially the 'money'-factor – as a mechanism which is instrumental in paving the way for the ground forces to proliferate. Nevertheless, it would certainly be a mistake to limit the understanding of the importance of the government level activity with respect to the proliferation of the integrationist practitioners to the launch of the LAC83(3)[309]. Indeed, regarding the launch of the initiative as merely financial support only constitutes a perspective which by itself cannot capture the dynamic dimension of the relationship between the distant top and the lower levels. An understanding of the proliferation of the integrationist practitioners should focus on the policy wisdom behind this policy decision as this allowed the proliferation of activity at the practice level.

[309] After all, the growth of integration was not solely supported by the LAC(83)3 'money'. Other schemes had been funded by other sources.

i) Poor planning or simply a different strategic philosophy about organisational control?

In *'Under New Orders: The Redefinition of Social Work with Young Offenders'*, Parker *et al.*, indicated the clear and steady direction of the government policy towards efficient modes of criminal practice, evident in the 'fast running stream' of the 1983/84 policy papers[310]. At the same time, however, Parker *et al.* detected that government level policy making lacked a cohesive implementation, especially in the area of juvenile justice practice policy.

Hence, in relation to juvenile justice, one the one hand, Parker *et al.* indeed recognised that in 1983 with the LAC83(3) the government sent a clear, 'potent' message about the integration of helping practice in the area of juvenile justice, concluding that within **a "general atmosphere of cost cutting [...] this initiative has been a significant boost"** (1987:23)[311].

On the other hand, however, Parker *et al.* diagnosed the existence of a serious implementation gap, as they considered that the whole LAC83(3) project was actually not closely controlled by the top level, and decision making was left to 'good fortune'[312]. With these perceptions in mind, the authors concluded that **"the thrust from above is real enough, but it is much less cohesive and rather more ambiguous than appears at first sight"** (Parker *et al.*, 1987:22-3,25). In other words, they found inconclusiveness between the strategic

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[310] Hence, Parker *et al.* mentioned that "[t]he Circulars, discussion papers and notes of guidance which trickle from government departments have been particularly important in the case of the 1982 because of its 'permissive' nature. It is through these instructions that the ethos of expectations from central government are articulated" (1987:22).
Moreover, Parker *et al* indicated that "[w]hat was particularly noticeable during the 1983/84 period was that the trickle became a fast running stream"; while stating at the same time that in early 1984, "the statement of National Objectives and Priorities for the Probation service did not mince words. The Service must be effective and relevant" (1987:22,3).

[311] In particular Parker *et al.* indicated that "[i]n the more general atmosphere of cost cutting, the allocation of £15 million by the DHSS (Circular 83(3)) to provide alternatives to custody for juveniles came as a surprise to most commentators. It thus carried a potent message: that the government really did mean what it said about supporting alternatives to custody for young offenders, this initiative has been a significant boost" (1987:23).

[312] Parker *et al.* indeed indicated that "The DHSS initiative was a lot less carefully planned financially than its £15 million value would suggest. It seems that whilst plans for such an initiative were well formed, the actual allocation of the funds was more a case of good fortune than carefully arranged priorities" (1987:22-3,25).

aims and actual planning practice at government level and to some extent a poor policy-implementation plan.

However it can be argued that the inconclusiveness detected by Parker *et al.* was essentially a misinterpretation of the true policy philosophy of that time. The perceived gap between explicit strategic aims and loose central planning did not necessarily reflect the existence of poor policy management, but rather a different philosophy about policy implementation.

Indeed, according to an interviewee, (a former Home Office senior civil servant), creating conditions for practitioners in order to achieve things rather than issuing detailed plans, was the kind of strategy that was considered efficient within his policy field during the 1980s:

> "I think starting from a professional belief of my own, that is what in the end makes a difference: More than policy decisions or management direct actions issued from the top it is the business of government departments, government senior managers to create the conditions in which practitioners can achieve things rather than provide in detail what they're supposed to do. You can achieve a certain amount by doing that and there are some organisations where maybe that's what you have to do".

Certainly, throughout the 1980s, the government level policy activity was limited to the making of the necessary 'conditions' for the growth of the integration of the 'helping classes' within the juvenile justice process. It was indeed a different organisational philosophy about the way that the strategic aims of the top level can reach the day-to-day concerns of the bottom level.

Parker *et al.* therefore rightly observed the growth of strategic aims for the greater participation of the 'helping classes' within the context of criminal policy in the government's policy thoughts. Nevertheless, Parker *et al.* failed to fully recognise the importance of this fact; while, at the same time they rushed to observe a lack of 'cohesiveness' in the implementation strategy. Essentially, their research undermined the organisational philosophy of the top level - the issue to be discussed in the parts below.

j) The aim of systemic inter-agency co-operation in juvenile justice: A consistent rhetoric about the participatory role of the 'helping classes'

Throughout the 1980s, the conservative government showed an explicit strategic interest in the issue of the co-operation of the 'helping classes' with the 'punishing classes', within the microcosm of the juvenile justice process. More precisely, it is better argued that throughout the 1980s, the government was consistently sending a growing message about the need of interagency co-operation in the wider field of criminal practice policy.

During the Brittan years, namely, the middle period of the 1980s the policy belief in inter-agency co-operation was expressed with the rhetoric of the 'synchronized swimmers'[313]. The rhetoric of the 'synchronized swimmers' certainly sent a message of managerial efficiency as a government concern[314] which was suggested to have survived through to the Hurd period, namely, till the end of the 1980s[315].

The very point was that the rhetoric of 'synchronized swimmers' and 'managerialism' certainly included the concept of inter-agency working[316], a concept mainly based on the idea that criminal justice should be operating as a 'system'. An interesting point about this 'system' view, or otherwise, the systemic view of criminal justice was that it was a new idea within the 1980s Home Office. It had been introduced before the arrival of Brittan, and it was particularly concerned with the interdependency of

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[313] In *'Under New Orders: The Redefinition of Social Work with Young Offenders'*, Parker *et al.* emphasised Leon Brittan's interest in the treatment of the criminal justice system as a coherent 'system'- the rhetoric of the 'synchronized swimmers' - amalgamated in the 1983/1984 fast running stream of policy papers and in particular in the Home Office document *Criminal Justice: A Working Paper* (1987:22-24).

[314] In *Transforming Criminal Policy*, Rutherford provided a similar account on Leon Brittan's interests: "A year after Leon Brittan's arrival at the Home Office *Criminal Justice: A Working Paper* was published. Described as an 'operating manual' for practitioners, the intent was to clarify the objectives of criminal justice and to describe how the 'system' worked. As one observer later noted, however, the main impression of the document was 'of primary concern with practical details and the efficient management of the different parts of the criminal justice system" (1996:93).
All these views on Brittan's criminal justice strategic interest (the 'coherent system', the 'synchronized swimmers', the concern for 'efficient management of the different parts of the system') have pointed to the picture of a criminal justice strategy which according to Cavadino *et al.* would easily fall in the category labelled as 'managerialism', (1999:41-45)

[315] According to Cavadino *et al.* the concept of managerialism, which also entailed 'inter-agency work', was a live orientation of the Hurd period, which followed the Brittan period (1999:43).
It can therefore be argued that managerialism, with inter-agency work as one important aspect, was a consistent theme in the conservative criminal justice strategy for at least the period 1983-1990.

[316] According to Cavadino *et al.* the concept of managerialism suggested that criminal justice, among other things, entails, 'inter-agency work' (1999:41).

the activity of the various parts of the system[317]. Nevertheless, the most interesting point was the scope of the systems view in the 1980s. Indeed, the 1980s systems concept did not exclude the 'helping classes'; instead it considered the entire spectrum of the 'helping classes' to be an integral part of the criminal justice concept.[318] In other words, the system concept of the 1980s held an inclusive and participative view about all those involved within the field of criminal policy.

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[317] The source which better describes the consistent interest of the successive conservative governments in a corporate model of criminal policy is the policy thought of David Faulkner, the influential Deputy Under-Secretary of State at Home Office, for the period 1982 to 1992. In Rutherford's book *Transforming Criminal Policy*, David Faulkner emerged as a central figure behind the Home Office policy. It is a view that all the interviewees (policy consultants or senior managers of justice institutions) consistently confirmed.
Hence, Faulkner, in an early 1980s speech, *Co-operation and Conflict in the Criminal Justice System*, where he clarified the co-operative attitudes of the conservative government in criminal justice policy, stated that "the expression 'criminal justice system' is in my experience quite new – I do not remember it being used much in the Home Office in the '60s and '70s and the idea that the various services and organisations operating in the field can be looked at as a system is also quite new". In the same speech Faulkner further clarified what was new in a systems approach in criminal justice: "There has not in the past been much incentive for those engaged in one part of the system to take an interest in other parts or to think about how their own particular activity affects the system as a whole". Faulkner's observation was an early identification of the interdependency between the different parts of the criminal justice system. Undoubtly, this interdependency was the issue that systems management particularly emphasised in order to support the idea for an integrationist advocate role for the juvenile justice practitioners (social workers and probation officers).

[318] In April 1984, in his talk *Probation Service in England and Wales-Statement of National Objectives and Priorities (SNOP)*, Faulkner indicated: "This statement of national objectives and priorities for the Probation Service in England and Wales has been prepared as part of the Home Secretary's (note: Leon Brittan) developing strategy for dealing comprehensively with all aspects of crime and of treatment of offenders. The strategy recognises not only that the criminal justice agencies – the police the courts and the probation and prison service must work closely together, but also that effective action requires the collaboration of other statutory and voluntary bodies and the support of all members of the community in their ordinary lives." Undoubtly, this was a first hand clarification of an important aspect of the system interest of then government; the need for wide inter-agency work.
In March 1988, in an address, to the one-day conference at Birmingham University *Crime in the Inner City*, Faulkner openly provided examples of reassuring corporative models of criminal justice: "The Five Town Project started in local areas in Bolton, Croydon, North Tyneside, Swansea and Wellinborough in 1986. The aim of each project was to show that crime and the fear of crime could be reduced by co-ordinated action by a variety of relevant local agencies. The project brought together in each location the police, the local authority departments, the probation and social services, representatives from local businesses, local schools and voluntary agencies. The purpose to use their collective expertise and resources to devise measures to tackle those problems".
The criminal policy thought of David Faulkner therefore provides the picture of a government consistently growing message for agency co-operation; the corporate model.

It can therefore be argued that during the 1980s, the policy concept of inter-agency co-operation was, firstly, a steadily growing concept within the government level; and, secondly, it was a concept which suggested the participation of the 'helping classes' within the criminal justice system.

Within the microcosm of juvenile justice, the policy message of inter-agency co-operation, what Pratt rather successfully called 'the Corporate Approach'[319], was naturally part of the early and consistent policy interest in the integrated participation of the 'helping classes' within the wider criminal justice system[320]. It can therefore be argued that with respect to juvenile justice policy, the strategy for inter-agency co-operation, namely the strategy for the stronger participation of the 'helping classes' was an early emerging agenda[321], certainly not momentary, but rather consistently growing since the early 1980s[322].

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[319] In his 1985 paper 'Delinquency as a Scarce Resource' published in *The Howard Journal*, Pratt strongly argued that the corporate approach was the central policy idea of juvenile justice of the 1980s: "juvenile justice policy in the last decade should not be characterized by the 'short, sharp, shock' clichés of the incoming 1979 Conservative administration, nor by the growth of the community alternatives to this fostered by the social work community. Instead, when we put the entire package of provisions that now exist together, perhaps the byword for recent developments should be 'corporatism': 'the prevention of juvenile delinquency is not the prerogative of any single agency', the Home Office Circular 211/78 claimed. And we can now find both an over-lapping of different agencies involved in delinquency management (such as police, probation, social services, education, and careers service) and of the various sectors of the social field that they represent" (1985:97).

[320] In *'Intermediate Treatment and Juvenile Justice'*, Bottoms *et al.*, in order to suggest the centrality of the juvenile justice inter-agency work in the 1980s, naturally turned to the 'desirability' of the government, throughout the 1980s, to move towards a wider criminal justice '*full* interagency co-operation' (1990:65). In order to support their account, they quoted David Faulkner who, then as a Deputy Under-Secretary of State at the Home Office, commented about the need of inter-agency co-operation in... criminal justice. Faulkner's comment was made in his article *'The future of the probation service: a view from government'*, published as a chapter in R. Shaw and K. Haines (Eds.), *The Criminal Justice System: A Central Role for the Probation Service,* a book published by the Cambridge Institute of Criminology, where Bottoms was the director.

[321] In an earlier talk, in 1983, on the Criminal Justice Act 1982, particularly in relation to juvenile justice, Faulkner indicated the need for the courts to co-operate with the 'helping classes' practitioners, in order to move towards supervision rather than custody. After he raised the confidence oriented questions about how 'sufficiently [the courts are] informed of what goes on under a CSO, probation, or supervision' and what 'more can be done to supply them with information', Faulkner indicated that: "The Act gives [to courts] a bigger role, not a smaller one, but is different. In particular, they can expect to be drawn more into the decision-making process. Specific reference to consultation with supervisor, in detail." As Faulkner indicated that was "a

Furthermore, the participatory dimension of the co-operative strategy was crucially strengthened by the policy level rhetoric, which pointed towards the development of a climate of 'understanding' between the various agencies[323]. The consistently growing corporate message was of an organisational relationship between the various agencies, namely; a kind of relationship that practically emphasised the need for a dialogue-based corporate model[324]. It was therefore a policy idea which suggested the development of equal roles between the 'punishing' and 'helping classes' of the juvenile justice.

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new challenge for both services". Faulkner's indication was clearly an acceptance of the role that the 'helping classes' can play within the juvenile justice process.

[322] In April 1986, in a talk given to the Magistrates' Association Spring Training Conference at Ashridge, Faulkner indicated to the audience that "it is obviously important for you to know the practice which your local police adopt on cautioning, how the juvenile bureau works if there is one [...] It is especially important for you to keep in touch with new initiatives by the probation service or the social services or voluntary organisations".
From this perspective, Pitts' view that, in the early 1990s, John Patten, a Home Office minister, was attempting to promote a 'new language and culture' between the 'punishing' and the 'helping classes' was rather imprecise (1992:137). Indeed, in the early 1990s, promoting a common understanding between the two poles of juvenile justice was not a 'new' government policy, but rather the further development of an old early 1980s conservative policy.

[323] Bottoms *et al.*, when indicating the 'desirability' of the government level in juvenile justice interagency co-operation, quoted a passage from the paper *'The future of the probation service: a view from government'*, written by David Faulkner, and published as a chapter in R. Shaw and K. Haines (Eds.), *The Criminal Justice System: A Central Role for the Probation Service,* published by the Cambridge Institute of Criminology.
In that passage Faulkner indicated the 'understanding' condition: "All five services [police, courts, probation, prison, and the Crown Prosecution Service] are about crime and what to do about it. [...] They must understand one another, and they must work together. The point is obvious, but it does not easily happen. (Faulkner 1989, p.1)" (Bottoms *et al.,* 1990:65).
Similarly, in April 1986, in a talk given to the Magistrates' Association Spring Training Conference at Ashridge, Faulkner, in relation to juvenile justice, specifically indicated to the audience the 'understanding' condition: "It is especially important for you [...] to have an understanding with the probation service and the social services on the principles which they are following in preparing social inquiry reports and in making recommendations for different types of disposal".

[324] In April 1986, in a talk given to the Magistrates' Association Spring Training Conference at Ashridge, Faulkner certainly provided an organisational (what he called 'dynamic') oriented relationship within the local juvenile justice settings: "the local relationship should operate in a dynamic way in which everyone concerned can have the confidence to ask questions and put forward ideas, and not always take the existing situation for granted or see local communications simply as providing channels for complaint".
Already in the early 1980s, Faulkner had expressed his view of organisational oriented relationships between the participants of the criminal justice context, where 'informality', 'contact' and 'discussion' would prevail. Indeed as Rutherford has informed us: "At a conference on the Criminal Justice Act 1982, convened by the Home Office, Faulkner commented that the occasion, attended by practitioners working across the criminal justice process was an innovation and that

Therefore, until 1987; well before the dawn of the Hurd years; and during the years when practitioners were developing the self-empowering crafting process of integration, during this period of time therefore, it was critically important that practitioners were not faced by a hostile policy rhetoric against the participation of the 'helping classes' in the juvenile justice process. Instead, the consistently growing idea of an organisational oriented corporate model in juvenile justice, where 'understanding' and 'discussion' prevailed, constituted a positive rhetoric for the 'helping classes'[325]. Hence, the aims of both the top policy level and the practice level were on the same line. Whether the policy aims had been understood by the bottom end practice microcosm earlier was not critical as the main point. The main point was that the integrationist practitioners were not bombarded by a hostile or contradictory rhetoric in relation to their participation.[326]

The message of the IT Initiative[327] therefore was not just a reflection of a momentary policy decision. Instead it derived from the consistently growing policy of

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'we should like to feel that the opportunity it provides for the judiciary and the magistracy, the probation and social services, and representatives of the police, prisons and education service to meet informally might stimulate more frequent contact and discussion" (1996:89).

[325] This is a point omitted by Harris' article *'The Life and Death of the Care Order (Criminal)'*. Indeed, with respect to the government level attitudes towards the 'helping classes', Harris offered a rather imprecise view where negativism against the social work profession prevailed. This is because Harris predominantly emphasised the negative climate for the juvenile justice practitioner in the early 1980s therefore depicting a pariah status for the 'helping classes' for the most part of the decade (1991:2-7). Therefore Harris ignored the fact that the growing criminal 'corporate strategy' of the Conservative government viewed the 'helping classes' as potentially equal participants rather than subordinates to the 'punishing classes'.

[326] The comment made by Parker *et al.* about the launch of the 1983 DHSS Initiative is very typical: "In the more general atmosphere of cost cutting, the allocation of £15 million by the DHSS (Circular 83(3)) to provide alternatives to custody [...] for juveniles came as a surprise to many commentators" (1987:23).
The comment reveals two things: first, that the 1983 Initiative was a 'surprise'; in other words, the growing message for a systemic participatory role of the 'helping classes' had been not widely observed. Secondly, and rather importantly, that the 1983 Initiative was a 'surprise' not against a hostile rhetoric about the role of the 'helping practice' but it was a 'surprise' in relation to the obsessive 'general atmosphere of cost cutting'.

[327] Here, it is the 'corporate' message of the IT Initiative which is emphasised. It is the message which supported the greater participation of the 'helping classes' within the local juvenile justice settings. Several relevant passages reflected this message such as: "the Government makes grants to voluntary bodies to support the introduction of intermediate treatment facilities"; or, the reference to the White Paper *Young Offenders*, that the "'Government cannot emphasise too strongly the importance it attaches to such local co-operation' and pledges 'to encourage inter-agency co-operation at a local level'"; or, that "The IT facilities provided will be expected to be managed by a committee that includes representatives of local community interests concerned with

inter-agency co-operation, the 'corporate model'; or better, it was part of the growing corporate model. In short, the launch of the IT Initiative exemplified the policy intentions about the position of the 'helping classes'.

Moreover, the IT Initiative exemplified the policy philosophy concerning the management of the integration process. Indeed, the way that it was run was particularly critical for the future of the corporative message of the IT Initiative was actually.

k) The organisational control strategy on integration policy: A 'smart' organisational control strategy

In his *Crafting Strategy*, Henry Mintzberg considered the organisational philosophy of the top-level strategists as a critical factor in the development of efficient strategies, namely, strategies which can be materialised. The philosophy of the 'smart strategist' was therefore an important question to which Mintzberg held his own answer. This was a pragmatic answer:

> "Smart strategists appreciate that they cannot always be smart enough to think through everything in advance" (Mintzberg, 1987:69).

Hence, understanding the limits of the capacity of their strategic thinking is, according to Mintzberg, a critical characteristic of the organisational philosophy of a 'smart' top-level strategist. In Mintzberg's view, for the top-management it is even more critical to understand that within the organisations they ran, people's **"actions and experiences"** embody to a considerable degree potentially efficient strategies which have the potential to **"grow like weeds in a garden"**. According to Mintzberg, therefore, whether a top-level strategist can be even 'smarter' actually depends on his/her attitude towards the organisation's 'actions and experiences':

> "Sure, people could be smarter – but not only by conceiving more clever strategies. Sometimes they can be smarter by allowing their strategies to develop gradually, through the organisation's actions and experiences" (Mintzberg, 1987:69).

Mintzberg's focus on being 'smarter' as a top-level strategist relies not on the supposedly creative qualities of the top-level strategists, such as 'conceiving more clever strategies',

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young people"; or that the progress assessment "could also include the more subjective views and perceptions of those involved in the project (eg the young people, social workers, probation officers, teachers, magistrates, etc)" (NACRO, 1991:63-67).

but rather on the way they relate themselves to the 'organisation's actions and experiences'. In other words, top-level strategists are 'smarter' when they consider not how they will come up with a big idea, but rather how they will structure the strategy-making-process in a way that will allow the 'organisation's actions and experiences' to become part of the process:

> "[O]rganisations can be effective only if their implementers are allowed to be formulators because it is people way down in the hierarchy who are in touch with the situation at hand and have the requisite technical experience" (Mintzberg, 1986:71).

'A grass-roots approach to strategic management' therefore presupposes that top-level strategists will have to accept that they are not the only smart people within the organisation. Even more, they will have to accept that "in a sense, [the organisations will] be peopled with craftsmen, all of whom must be strategists" (Mintzberg, 1986:71), or otherwise strategy **'formulators'**. In other words, they will have to accept that they must allow a considerable amount of the strategy making power to be shared with the lower hierarchical levels[328]. To put it in another way they will have to allow the lower hierarchical levels to enjoy a considerable amount of strategic management power, namely a considerable amount of control power[329].

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[328] Mintzberg observed that in businesses which 'required expertise and creativity', 'process and umbrella strategies seem to be especially prevalent' (1987:71).
Under the term '**process and umbrella strategies**', Mintzberg (1987:70,1) referred to development of strategies, first, where 'the senior management sets out broad guidelines (say to produce only high-margin products at the cutting edge of technology or to favor products using bonding technology) and leaves the specifics (such as what these products will be) to others lower down in the organisation (*umbrella strategy*); secondly, where 'management controls the process of strategy formation – concerning itself with the design of the structure, its staffing procedures, and so on – while leaving the actual content to others (*process strategy*).
In other words, in this kind of organisations, namely organisations which required great expertise and creativity (certainly the microcosm of the juvenile justice of the 1980s can be considered as within this type of organisation), the management strategy was to provide considerable scope of initiative to those working lower down in the organisation.

[329] As Mintzberg indicated in his paper: "Over the years, our research group at McGill has met with a good deal of resistance from people upset by what they perceive to be our passive definition of a word so bound up with proactive behaviour and free will. **After all, strategy means control** – the ancient Greeks used it to describe the art of the army general" (emphasis added) (1987).

According to Mintzberg, by structuring the strategic (control) power, the strategies which **"grow like weeds in a garden"**[330] will **"become organisational"** because **"they come collective"**, that is because they are allowed to **"proliferate to guide the behaviour of the organisation at large"** (Mintzberg, 1987:70).

Mintzberg's smart structure of the distribution of power for strategy making was heavingly present during the years of Conservative government in the 1980s. Interestingly, throughout the 1980s, the juvenile justice policy context, the Conservative government did not provide in detail about how co-operation could happen. Instead, the government level provided only basic principles for co-operation and consciously left the implementation strategies to practitioners.[331] In particular, the IT Initiative strategically entrusted the power of administration of the integration strategy to voluntary organisations and NACRO.[332] This was an organisation where the juvenile justice policy had been entrusted to policy oriented practitioners, as was shown in the previous chapter.

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[330] Namely the patterns emerged from "people way down in the hierarchy who are in touch with the situation at hand".

[331] Indeed, it is rather typical that in April 1986, in a talk given to the Magistrates' Association Spring Training Conference at Ashridge, Faulkner indicated to the audience that "there are different ways in which [inter-agency] contact can be structured [...] Some of you may also be familiar with the schemes operated by NACRO's Juvenile Crime Unit. There is no Home Office prescription for any of this except that local information and local understanding are essential; that not just the chairman but the whole panel must be involved".
What David Faulkner indicated to his audience was not new information. Three years earlier, in 1983, the idea that there is no government level 'prescription' for inter-agency co-operation in juvenile justice was officially presented across the pages of the DHSS LAC(83)3. In ANNEX A, (where provisions about the *Arrangements for Grants* were presented) and under the subheading *Useful Information*, in paragraph 16, it was stated:
"Information about how statutory and voluntary services can get together effectively to plan and provide community-based facilities for young people in trouble appears in the following recent publications: CAYO (Community Alternatives for Young Offenders) Report – National Association for the Care and Resettlement of Offenders (NACRO). CAYO Development Kit – NACRO. Voluntary Organisations and Intermediate Treatment: by Philip Hope, edited by Norman Tutt – National Council of Voluntary Organisations, Leicester Action for Youth Trust: 1st Year Report" (NACRO, 1991:66).

[332] In the DHSS LAC(83)3, ANNEX B, paragraph 2, under the subheading *Monitoring,* it was stated:
"The National Association for the Care and Resettelment of Offenders (NACRO) will be available to help develop this initiative and to monitor its overall impact. NACRO will also be able to give advice and information to those who request it on such issues as setting up interagency management groups, referral procedures, information systems, programme content and evaluation. Monitoring the impact of this initiative will be greatly facilitated if the record keeping and evaluation exercises carried out by the individual projects are compatible and NACRO's role could

The delegation of the implementation power to NACRO is of interest for two reasons. Firstly, NACRO, was an organisation which **"had always been very keen on interagency groups"**[333]. Furthermore, NACRO was embodied with the constructive policy spirit of the mutual understanding, namely, that agencies had to be **"prepared to listen and change to what another agency's point of view might be"**[334]. In other words, the administration of the integration of the 'helping classes' had been entrusted to an organisation which heavily shared the government's developing values of systemic inter-agency co-operation, the corporate approach.

Secondly, the delegation of power to NACRO was not a momentary, isolated decision, but rather an early policy step which reflected the growth of policy relations between government senior policy persons and the NACRO policy forum[335]. The growth

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be particularly important in this respect. Any co-operation you are able to give will be greatly appreciated" (NACRO, 1991:67).

[333] Remark made by an interviewee, greatly involved with NACRO.

[334] Remark made by an interviewee, greatly involved with NACRO.

[335] In his book *Transforming Criminal Policy*, in particular in chapter four titled *Principled Pragmatism*, a chapter exclusively dealing with the influential role of David Faulkner in the decade of the 1980s, Andrew Rutherford provided a very clear account about the developing policy relationship between NACRO and the Home Office under the lead of the influential permanent deputy under-secretary David Faulkner:
"Faulkner's general approach to criminal policy became evident when he returned to the Prison Department in September 1980 as director of operational policy. He sought to build bridges with academics, journalists and people in the voluntary sector including pressure groups such as the Howard League for Penal Reform and the National Association for the Care and Resettlement of Offenders (NACRO). [...] It was typical of Faulkner, for example, to set up in July 1981 a small discussion group which, every other month or so, brought together at NACRO headquarters a handful of senior colleagues and academics" (Rutherford, 1996:87).
Faulkner's choice to be involved with NACRO appears to be strategically instrumental for bringing the government context closer to the influence of the criminal justice reformers.
Indeed NACRO was related to *New Approaches to Juvenile Crime*: "New Approaches to Juvenile Crime was a joint body which consisted of 5 organisations. The 5 organisations that were involved initially in setting it up were NACRO, the Association of Chief Probation Officers, (it subsequently became Association of Chief Officers of Probation), the National Association of Probation Officers, the British Association of Social Workers and the Association of Directors of Social Services", (interviewee leading policy consultant of that time).
As an interviewee (a leading policy consultant of that time) remembers that "those groups (the 5 organisations comprising the New Approaches to Juvenile Crime) were all closely involved in the discussions that went on".
Furthermore, the same interviewee has considered that the involvement of the *New Approaches to Crime* with the policy context was influential for the launch of the LAC(83)3: "New Approaches to Juvenile Crime, was part of the reason why the Government in 1983 came up with its intermediate treatment initiative, whereby it put a sum of money into financing new intermediate treatment projects".

of this policy relationship was such that during the period of Douglas Hurd, between 1985 and 1990, it was even advertised openly to the wide audience of the criminal policy context[336]. Hence, from 1983 till the end of the decade, the practice dominated Juvenile-Offending-Team and Juvenile-Crime-Section of NACRO was not simply part of the 'national network', but the official communicative nod for juvenile justice policy implementation.[337] In short, NACRO JOT-JCS were the main policy players of the government's policy![338]

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[336] Hence, in July 1987, in Bramshill, the Police College, David Faulkner (whilst talking about the inter-agency approach to crime) indicated that "within the last few years, [crime prevention] has steadily expanded and it now includes schemes like Neighbourhood Watch, the layout and management of housing estates, improvements in street lighting, the design of vehicles, the replacement of cash meters for gas and electricity and measures to reduce theft from shops, vandalism in schools and violence in hospitals. These developments stem partly from the research into situational crime prevention carried forward both in this country and in the United States, and partly from the practical work on safe neighbourhoods pioneered by NACRO and now being carried forward on many estates by NACRO and others".
Later in March 1988, in an address to one-day conference *Crime in the Inner City* at Birmingham University Faulkner indicated: "NACRO's Safe Neighbourhood's Project was already operating on several difficult estates. Police, local government, NACRO and the Home Office [were brought together] and recognised crime prevention as a subject in which central and local government and the police all had an interest and responsibility".
Nevertheless, it must be pointed out that it was not only Faulkner who openly advertised the role of NACRO. Hence, in 1986, in the **NACRO** conference ***Working with Young Offenders in the Community*** organised by the NACRO Community Programme Section, the Minister of State at the Home Office, who was invited, Giles Shaw, in the opening of his speech, openly spoke of the existence of a strategic relationship:
"I was very glad to be able to accept the invitation to address your conference today on the theme of 'Crime and the Community'. The relationship between the two is at the very heart of the Government's criminal strategy"; while, in the closing of his speech, Shaw again indicated:
"May I, in closing, applaud the efforts of NACRO to close the rifts which exist. I am pleased to have the opportunity to pay tribute to NACRO's work in the field of crime reduction. To my mind we have here an excellent example of a partnership between the Home Office and a voluntary sector organisation in the fight against crime and I wish you every success in your future endeavours" (NACRO, 1986:8,11).

[337] The Initiatives reported the participation of Archie Pagan in the first practitioners conference organised by the NACRO-JOT. Archie Pagan was a DHSS civil servant, and one of the key persons behind the launch of the IT Initiative. The Initiatives therefore reported that:
"Participants were particularly glad to have the opportunity to listen to Archie Pagan, the civil servant who looks after the grant allocation process at the DHSS. Archie's contributions was so valued that after his allotted session, he was called back for a further session of questions [...] It is vital to confirm the public's faith in the value of IT as an alternative to residential care and custody, he said" (Initiatives, Autumn 1984:1).

[338] It must be also pointed out that the top policy level did not discourage the development of the 'national network'.

This structure of distribution of power of strategy implementation actually placed the control of the strategy of integration particularly close to the level of the integrationist practitioners; in the words of Mintzberg to those **"people way down in the hierarchy who are in touch with the situation at hand"**. Indeed, as an interviewee, (former leading practitioner) has observed about the hierarchical picture of the control strategy of juvenile justice policy of that time: **"if you describe that period as a pyramid, it was exactly right; it was a pyramid then, and we were in control at the bottom of it"**. In Mintzberg's words, the result of the re-distribution of the control of the strategy was that integrationist practitioners were allowed to become the strategists of integration. In other words, they were not simply the integration 'implementers', but they were allowed to become the integration strategy 'formulators'; namely, able to understand what the right practice policies were for the advancement of their profession. Integrationist practitioners were therefore allowed to be in control of their own professional fate.

Furthermore, the self-empowering learning process of crafting integration, or crafting specialisation, or in other words, the strategic learning process of crafting the professional advancement was allowed to be the main idea-provider of the discourse on efficient practice integration. In the words of Mintzberg, the new patterns of integrationist practice, which were answering to the ground problems that the 'helping classes' were facing within the local juvenile justice settings[339], were allowed to become **"collective"**; namely to **"proliferate to guide the behaviour of the *juvenile justice microcosm* at large"**. Their very personal experiences were allowed to be the guide towards efficient integration; importantly this was also a government target.

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[339] It should be therefore remembered that attempts were made to answer the problem of the 'ambiguity over their role' with the ideas of 'research' and 'collecting information for monitoring'. Also, with the ideas of 'disciplined' recommendations, or better, the 'quality improvements' in the preparation and presentation of SERs within the courtroom process; while, at the same time, attempts were made to answer the problematic issue of the 'insufficient knowledge of the law' through the idea of adapting to the legal culture.
Moreover, attempts were made to replace the problematic practice attitudes marked by an 'elision of individual interest' in the clients case with the ideas of 'constructive engagement' with young people through 'flexibility', 'cartoons' and 'role plays'; also with the ideas of the 'correctional curriculum', 'community service' and 'tracking'; and with the ideas of multi-agency approaches in dealing with 'persistent offenders'.
Furthermore attempts were made to enrich the picture towards integration through the ideas of 'marketing' practices and of 'critical meetings' with other participants of the system, especially with magistrates; also with the ideas about the use of the 'intensive programme' language and the need to be 'influential' through 'dialogue', 'trust' and 'respect'.

Hence, the importance of the LAC83(3) was not merely that it provided a significant amount of money, but also that it signalled the restructuring of the balance of the strategy making power in the field of juvenile justice by entrusting the formulation of the juvenile justice corporate aim to the strategic **"activity and experiences"** of the integrationist practitioners. Actually, rather than 'less cohesive and more ambiguous' as Parker *et al.* had argued (1987:25) the implementation of the IT was a top-level 'smart strategy' which, well before the Hurd period, set the foundations for the **"the energy, enthusiasm and the commitment of practitioners and managers 'on the ground'"**[340] to flourish towards efficiency and integration.

Nevertheless, an appreciation of the relationship between the bottom end level of practice and the distant top should also consider the historical trends of that time, namely the Douglas Hurd years. Indeed, it is particularly during these years that the advancement of the practitioners became a 'glorious' issue[341]. The wide recognition of practice expertise and professionalism certainly took place place during the Hurd era.

I) The Hurd years: The glorious top of the iceberg of the policy-practice matrix

In 1987 members of the political parties made a rather hesitant but interesting public move towards the practice sphere, and to the AJJ, in particular. Tory, Labour and Alliance politicians turned up and presented their views at the 1987 summer conference of the AJJ, titled *Towards a Custody Free Community – Next Steps in Policy and Practice.* In particular, the Home Office minister David Mellor presented the *'Government View'*; Alex Carlisle, the Liberal MP, presented the *'Alliance View'*; and, Clive Soley, the Labour MP, presented the *'Socialist View'* (AJJUST, April 1987:21,2). Also, remarkably, the Home

[340] These are epithets used by Rob Allen in order to describe the working features of the bottom practitioners and at the same time to explain the 'success of the Initiative' (1991:49).

[341] It is particularly interesting that the memories of Sue Wade were concerned with the period from 1987 onwards.

Secretary's Special Adviser, namely the special adviser of Douglas Hurd, Edward Bickham was among the audience[342] (AJJUST, September 1987:16).

Therefore, the Hurd years seemed to signal an official level recognition of the role of the bottom end practitioners. In particular, it was a recognition which was expressed particularly trough the acknowledgement of AJJ, the very practice organisation, as an integral player of the 'national network'. Practitioners were not simply becoming integrated members of the local juvenile settings but they were also recognised as national players in the relevant policy making.

Indeed in 1988, in the *AJJUST* issue which covered the proceeding of the annual AJJ conference, the long standing committee member Ken Hunnybun indicated in his conference review article that:

> "Dr Douglas Acres, former Chairman of the Magistrates Association, opened proceedings on the first day and reminded agencies involved in the Juvenile Justice System that they are all 'in the same boat together'" (1988:1).

The opening of the proceedings by a former chairman of the Magistrates Association was an important and symbolic moment, while the 'all in the same boat together' was also an important symbolic statement.[343] They both signalled not only to the helping practitioners but also to the 'punishing classes' participants that a new era had officially dawned. In other words, 'punishing classes' members could consider their co-operation with members of the 'helping classes' as an officially legitimate practice policy.

We can therefore read in the pages of *AJJUST* that the in same annual conference of AJJ in June 1988, which had been characterised as **"clearly a success"**, the attendance of the conference was becoming multi-agency:

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[342] The presence of Edward Bickham did not seem to be conventional. It was in fact purely symbolic, as in the days following the conference, the AJJ received a letter from the DHSS mentioning the following:
"I understand that the Association for Juvenile Justice (AJJ) recently organised a study course, [...] which was addressed by Mr Edward Bickham, the Home Secreatary's Special Adviser. I also understand that at the meeting AJJ members suggested to Mr Bickham that some local authorities were not making adequate provision for intermediate treatment (IT) in their areas. [...] We should very much welcome a chance to discuss the AJJ's concerns with representatives of the Association, and I am therefore, writing to ask whether the AJJ would be interested in having a meeting with officials of this Department for this purpose. I know that representatives of the Home Office would also be interested to attend" (AJJUST, September 1987:16).

[343] The important speech of Douglas Acres, titled *'Responding to Uncertainties and Mystiques'* was published a year later (See Acres (1989)).

"Although delegates were principally practitioners and managers in juvenile justice, there was also a significant number of Magistrates, Crown Prosecutors, Justices Clerks, Solicitors in attendance" (AJJUST, October 1988:3).

Therefore, in 1988, despite the different degree of integration countrywide, (namely despite the existing theorem of 'the justice by geography') it was officially acceptable within the juvenile justice microcosm for all to attend a conference organised by the practitioners of the 'helping classes', as they were all 'in the same boat'.

The Hurd era was therefore characterised by a very open official endorsement to the participation of the helping classes practitioners in the juvenile justice practice policy making. It was an endorsement which was expressed towards all the participants of the juvenile justice microcosm. Moreover, the endorsement of the Hurd years was not purely symbolic but it appears to be a reflection of a deeper Home Office policy for direct contact with the policy animals of the juvenile justice microcosm[344].

In policy terms however, the endorsement of the Hurd years can be summarised as an important window of opportunity for the further growth of an integrationist process. During the Hurd years the re-assurance of the integrationist practitioners was at a high level, there was euphoria, and **"the weather was glorious"**. The Hurd years were critical to the existence of this climate within the juvenile justice microcosm.

However, at the same time, this climate was not simply a reflection of a policy climate filtering down from the Hurd policy heights. Instead, it was the second part of a wise (or 'smart') control strategy in the 1980s at government level. This strategy restructured the power distribution, and throughout the decade allowed practice policy to be under the control of the practice context, and the practitioners of the 'helping classes' to become the strategists of the development of the efficient integration of the 'helping practice' and fulfil therefore their concerns for professional advancement.

However, the question is still whether the emergence of the mosaic of the efficient practice integration was the result of the above process solely. In order to answer this

[344] An interviewee, a former leading practitioner, and an influential member of the AJJ, has suggested that in the latter part of the 1980s the AJJ had contact with Graham Sutton, then Principal in C1 Division, part of the Criminal Policy Department at the Home Office:"he was top of the middle ranking, he was also very well regarded, lot of common sense, and he was prepared to listen to us and do some work with us". The ties of Sutton with practice can also be inferred from his 1988 presentation *'Current Trends in Criminal Policy'* where he explained to an audience which also included policy oriented practitioners the current policy direction (Sutton (1988). See also a relevant report in May 1989 *AJJUST* (:17-19) where the participation of Sutton in a practitioners conference in April 1989 was mentioned.

question, a review of the degree of relevance of practice efficiency on the occurrence of the sea-change in the sentencing outcomes of the 1980s will follow. The review will actually shed light on the limits of the efficiency agenda to sustain its own successful development; and will reveal its strong interdependence with the practice of decriminalization.

CHAPTER SEVEN

A CONSIDERATION OF THE IMPACT OF PRACTICE EFFICIENCY AND THE CRITICAL PRACTICE POLICIES OF DECRIMINALISATION: THE TRANSITION TO MINIMUM INTERVENTION

a) Efficiency, efficiency, efficiency

In 1986, Bowden and Stevens[345] considered the inter-agency approach to be critical to the pioneering sentencing trends that occurred in the Northampton juvenile justice system during the early 1980s, namely 1980-1985.[346] Furthermore, they pointed to the significant management improvements that occurred, both at the pre-court and the court decision making process, in the juvenile justice field, in Northampton.

In relation to the pre-court decision making process, they indicated that prior to 1980, "consultation in Northampton between the police and the social services department (SSD) concerning the need for prosecution was effected by way of correspondence" (1986b:326). 'At the instigation' of Malcolm Stevens, then an SSD practitioner, the alteration of that organisational pattern of communication was initiated[347] and a new system of consultation process took place from 1980 onwards:

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[345] At the time of the publication of their article *Justice for Juveniles-A Corporate Strategy in Northampton*, published in the *Justice of the Peace*, Julian Bowden was Chief Executive of Northamptonshire Magistrate's Courts Committee, and Malcolm Stevens was the Principal Social Worker and Head of the Dallington Centre, which provided alternatives to custody for young offenders.

[346] During the years 1980-1985 juveniles sentenced in the Northampton Juvenile Court were decreased from 515 to 101 whilst custodial sentences decreased from 37 to 13 and Care Orders from 16 to 3. During the same period the Northampton annual cautioning rate increased from 43% to 83% (Bowden and Stevens, 1986a:345, Tables 1,2). As Bowden & Stevens indicated: "The results achieved [...] need to be considered as the result of a multi-disciplinary approach to the problems, to which all agencies are committed and concerned to effect" (1986a:345).

[347] As Bowden and Stevens particularly indicated in connection with the initiation of the developments: "the clerk to the justices (then Julian Bowden) at the instigation of the SSD courts liaison officer (then Malcolm Stevens), convened a meeting of the court users, initially to consider the problem of delays and adjournments. The meeting delegated to them the preparation of a

"[T]he consultation process between the police and SSD was improved. Instead of the lengthy correspondence, a weekly-face-to-face meeting was instituted, called the Juvenile Consultation Meeting (JCM). The meeting was attended by senior representatives of SSD, probation, and police. All files from the previous week were considered and decisions taken immediately as to whether the result should be no action, caution or prosecution. If the decision was for a caution, for example, it would generally be administered within 14 days of the matter being detected by the police. Cases that were to go to court were processed very quickly" (Bowden & Stevens, 1986b:326).

According to Bowden and Stevens the transition from deciding by 'correspondence' to deciding in 'weekly-face-to-face' meetings actually marked the emergence of **"a highly successful innovation".** As described in the present work, it was the emergence of a highly efficient re-organisation of the management of the pre-court phase, which impacted on the pre-sentencing patterns, and on prosecution, in particular. Indeed as they indicated **"the rate of cautioning increased dramatically to over 70% of cases"**[348] (1986b:327).

At the same time, Bowden and Stevens also pointed out the significant changes, which occurred with respect to the management of the alternative-to-custody community programs, and constituted a sentencing option for the court phase. In their opinion, the system of running these programs prior to 1984 was messy:

"Prior to 1984 the responsibility for carrying out this work was divided between the Probation Service and the Social Services Department; and within Social Services between various teams of social workers (who had many other diverse duties to perform unconnected with juvenile crime), a specialist court section and a large intermediate treatment centre" (Bowden & Stevens, 1986b:328).

Therefore the problem which affected the quality and the attractiveness of the alternative programs was that they were run and introduced to courts by a number of providers who had a different understanding of the problem of juvenile offending. Managerial efficiency therefore emerged as the question which had to be answered:

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report" (1986b:326). Malcolm Stevens, a practitioner from the SSD, therefore appeared to be the key thinker of the consequent changes.

[348] As Bowden and Stevens indicated, in early 1984, due to its success, "the Northampton JCM was discontinued and replaced by a JLB." The JLB was therefore staffed "by a Director, a probation officer, a social worker, two police officers, a youth worker and a teacher, plus a small secretarial staff" (Bowden & Stevens, 1986b:327).

"Whilst there is range of national and local research available to demonstrate the effectiveness of social work intervention within juvenile criminal justice systems, it is known that the success of such work depends greatly upon its efficient and strategic application to the problem" (Bowden & Stevens, 1986b:328).

Hence, the efficient re-organisation of the system was seen to be the solution by provisioning therefore, first, the re-structuring of the programs-providers:

"For this reason it was decided that from January 1984 all statutory social work with young offenders should be provided from one streamlined specialist source – the Dallington Centre" (Bowden & Stevens, 1986b:328).

And secondly, the expansion of the task-scope of the 'one streamlined specialist source' the Dallington Centre[349], which was then staffed by **"9 social workers and 2 teachers"**:

"[The] reports and the supervision of youngsters who receive these sentences are all dealt with by the staff of Dallington Centre – as well as court liaison, police liaison, bail support programmes and remands to care or custody"[350] (Bowden & Stevens, 1986b:328).

Bowden and Stevens therefore pointed out (if not advertised) the relevance of the efficient re-organisation of the local setting to the local sentencing trends; while, at the same time, suggesting that the ascendance of the local integrationist practitioners of the 'helping classes' was the critical event behind this change.

In other words, it was implied that the emergence of the integrationist practitioners, was critical for the local introduction and development of efficient modes of juvenile justice management. This efficient management could lead to the transformation of the 'helping' dimension of the local system to an efficient branch of the local juvenile justice system. The efficient re-organisation of the 'helping' branch of the local juvenile justice system significantly impacted upon the sentencing ethos of the local decision makers of the

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[349] It must be rembered that during this period Malcolm Stevens was the Head of the Dallington Centre.

[350] In the first sentences of their article, Bowden and Stevens also pointed out the effectiveness of the efficient Dallington Centre in delinquency management: **"Independent research by Oxford University in 1985, referred to the 'spectacular results being achieved at Dallington Centre'"** (Bowden & Stevens, 1986b:329).

'punishing classes' and it was therefore critical for the trend in the local sentencing statistics, which marked a decline in custody for juveniles.[351]

This is exactly what two interviewees have suggested in their detailed accounts, (memories), in relation to the efficient 'helping' organisational-and-delinquency management that they developed, and the impact that it had on the sentencing outcomes within their local settings.

b) Two accounts of the efficient re-organisation of the juvenile justice process and its impact upon sentencing: Efficient 'helping' juvenile justice *versus* prosecution and custody

i) The memory of the experience of the efficient 'helping' management of a cautioning panel

The image of an efficiently managed emerging cautioning panel predominantly derives from an interview of a former leading practitioner[352], who initiated the development of the scheme in a local setting[353]. The scheme, initially in a pilot form, became fully operational from 1987 onwards: [354]

> "I came into youth justice in 1973, I was one of the first intermediate treatment officers in the country [...] But just to talk about cautioning, in 1985 there was a Government Circular 14/85, which was encouraging us all to get together and increase the numbers of cautioning. I started the cautioning scheme in [my area]. [...In] 1985/86 I was working on setting this up with a steering group and in 1987 it **was set up as a pilot scheme** and in **1990** I got the job to run it full time. It was

[351] Indeed, in the words of Bowden and Stevens: "[M]any juvenile offenders were brought into the system by prosecution because an effective diversion scheme did not exist. And when they appeared before the court, [...] [t]he bulk of the supervision orders made in 1980 were assigned to the probation service, rather than SSD, again reflecting at that stage the lack of confidence felt by magistrates that SSD possessed the necessary skills to be effective" (1986b:326).

[352] In this part, the particular interviewee will be referred as 'interviewee-CP'; CP stands for Cautioning Panel.

[353] That the interviewee was very much involved in the initiation of the cautioning scheme has been ascertained not only by the interview but also from one other source, in particular from *AJJUST* issues.

[354] In the period before 1987, Blagg (1985:267,fn.2) indicated that there had been innovations designed to facilitate better links between the agencies involved with young offenders to increase diversion such as those in Corby Exeter, Rochdale, Merseyside, and on a county basis in Essex.

interesting, the caution numbers from that point did increase - from 1986/87 and then we started to increase the numbers".

The interviewee enthusiastically observed the scheme as being **"very, very successful"**. Throughout his account the spirit of efficiency was present, which was synonymous to a pre-court local 'helping' process which dealt with juvenile delinquency, and where **"everybody knew exactly what had to be done"** ; an important issue for any organisation which seeks success.

Indeed, interviewee-CP described with precision the task-scope as well as the professional contribution of the members of 'his' cautioning panel to the decision making process:

"Every Wednesday morning we would meet and I would chair the meeting. [...] [T]he police officer had all the files, we [the juvenile justice practitioners] would present the acts of the offence or offences and then the others would weigh in whatever information that they got and then we would come to a decision" (interviewee-CP).

In this account one can see that the juvenile justice power was shared sensibly between the police (holding all the files) and juvenile justice practitioners[355] (holding the composition of the account on the facts). This was an important achievement of the integrationist philosophy. The voting system of the panel was again sensible in terms of power distribution, but also to the need to come up with a decision:

"I didn't have a vote, the other four had a vote, we set that up quite specifically, and I had a lot to say! *(Laughs)*. But I didn't actually have a vote. Expect towards the end we kept getting a split vote, two-two and there were some occasions when there were only three members, so that didn't make a panel there, so we decided the chair should be able to make the casting vote" (interviewee-CP).

The range of the panel decisions was simple and precise:

"The decision was either to return it to the police should have been dealt with in the first place, panel caution or prosecution. Those were the decisions" (interviewee-CP).

Who would locally 'carry out the caution' was the next thing to be decided:

"At the end of the meeting with the exception of the police officer the rest of us decided who was going to go out and join in with the local police officer at the police

[355] By juvenile justice practitioners it is meant the specialised professionals of the helping classes; namely the integrationist practitioners of social work background mainly; or otherwise the integrationist practitioners of the 'helping classes'; or simply the integrationist practitioners.

station nearest to where the young person lived to carry out the caution" (interviewee-CP).

Carrying out the caution was a juvenile justice process featured by an emphasis on legality:

"We invited a police officer in to do his bit, and then at the end of the caution we would explain what it was about, why we had taken the decision. The police officer would do his bit about the crime and so on and at the end they would have to sign for it to say they had seen the caution" (interviewee-CP).

The formal intervention of supervision, (namely one of the panel's responses to the offence committed by the young person), involved an amount of social work; whilst legality and managerial efficiency were the main features of the process of handling the panel caution:

"Then we would say 'when the panel took this decision we reckoned you needed a bit of help because you are always getting into trouble whatever reason and you've got to volunteer that has to work with you'... [...] we knew exactly what they were going to do. They would look at the offending, at the issues that were related to the offence. They would agree to the voluntary sector, and then some of the experienced volunteers, one or two who acted like supervisors and they would take a volunteer out and do a contract and the contract would contain several things that had to be tackled" (interviewee-CP).

The process of deciding and handling the 'helping' interventions was also characterised by the flexible 'balancing' of several dimensions of the problem situation. For example the victims' perspective on the offending behaviour of the youngster; or, the fact that the offence was committed by a number of young people together:

"As far as victims were concerned, where we felt that some reparations would be better, we would contact the victim and would go round and see them and say 'look this is the situation, we've got to caution this youngster but what we want to do is to make it really productive piece of work and how do you feel about that?'. More often than not, the person will say 'yes that sounds a good idea'; and they would get involved and they would find some work for the youngsters. Sometimes they would say 'well it's a good idea but I really haven't got anything' so we would then say 'we are involved in doing something more general in the community'. We also got the odd one or two who said 'no way, lock them up'... don't bring them anywhere near me, I don't want to see them'. [...] Where a number of young people committed an offence together, we would work with them on an agreed sense, if the parents agreed. Because, you've got the situation where the parents are saying 'I don't want my kid seeing them again, he spends enough time with them, I've been trying to keep him away, I don't want him involved'. So we would have to balance these things" (interviewee-CP).

Therefore, in sum, the function of the particular cautioning panel encompassed:

- a precise and sensible allocation of the task-power of the various members,
- a sensible voting system,
- a simple range of decisions/options,
- a panel caution in the form of a 'helping' intervention reserved for the more serious cases; featured by precision and flexibility in addressing the complex demands of each case - the 'best practice' idea.

Furthermore, the function of the local inter-agency cautioning system included a supporting 'monitoring system' (the idea of the ascending integrationist practice) initiated and operated again by interviewee-CP. The supporting 'monitoring system' provided the panel members with a 'good idea' about the re-offending rates:

> "I set up a group monitoring system. [...] I also got the police to agree to let me have a copy of the information that they got of all those that they have prosecuted. I didn't have the outcomes of that but I did have the figures for prosecution. So I knew the total, the whole picture that we depended on and again I kept that going for quite a long time. I don't think I got all of them but we had a good idea of what was going on; and then when things came round and they wanted information, I had the best information in the county because the police's information was all by offence and mine was by individual so I could give them re-offending rates" (interviewee CP).

Therefore rather fairly interviewee-CP insisted throughout the interview that the development of the cautioning panel in their local setting was a considerable juvenile justice advancement as it was featured by a process where **"everybody knew exactly what had to be done"**; meaning that the pre-court 'helping' practice applied in his local setting provided an efficient 'helping' mode of delinquency management. In the opinion of the interviewee-CP, this practice reliably and better dealt with the problem of youth offending:

> "My look at persistent offenders was just a multi agency approach to [ask] [...] 'what's happening in this young person's or even their family's mind which is causing this'. This is a much more productive way of doing it than just labeling kids" (interviewee-CP).

In short, the efficiently managed, 'helping'-oriented, juvenile justice constituted a better option than the one based on the 'punishing' mechanistic options of prosecution and custody, which sustained the stigma.

Undoubtedly, the account of the function of this efficient 'helping' panel constituted the memory of a deeply embodied personal experience of success. It was

certainly the memory of the experience of achieving personal success and advancement. Nevertheless, the account also carried the memory of the experience of contributing to the transition to an efficiently managed inter-agency 'helping' scheme; which, because it was run efficiently, managed to alter the local pre-court sentencing statistics at the expense of prosecution. Indeed, as interviewee-CP has particularly and emphatically indicated, when their cautioning scheme started in 1987 **"Northamptonshire were at the top with 80% but we were way down in the 30%"**[356]; but by the end of the 1980s the cautioning rate of the CP's local setting had increased: **"that proportioning got it up to about 75% proportional"** and worked at the expense of the prosecution option. Undoubtdely, it was a dramatic local trend, which was certainly associated with the better value of the efficiently managed local helping pre-court panel, an event linked critically to the self-learning process of crafting integration.

ii) The memory of the experience of the development of efficient 'helping' management of youth delinquency within a local setting – the courtroom phase

The picture of a local setting which collectively considered the efficient 'helping' sector able to provide a different, reliable, and better option worthy of being tried within a local juvenile justice system is precisely what interviewee-Crm[357], former leading practitioner, has supported in relation to the evolution of the local courtroom setting. There the practitioner actively participated and significantly contributed to its efficiency:

> **"There was an optimism that people around the courtroom and the magistrates were actually working with an understanding of each other's roles and a willingness to try and do things differently."**

There was therefore a climate of 'optimism', which was synonymous with the existence of an efficient local landscape. According to interviewee-Crm the optimism was unrelated to the local patterns of youth offending:

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[356] The reference to Northamptonshire should not surprise, as it was a local setting which was gradually leading the cautioning numbers; a statistical fact, which was becoming known to leading practitioners. Indeed, see the 'AJJ BAROMETER', published in the *AJJUST* issue April/May 1986:3-4, which provided information about the juvenile justice trends, in twenty areas. The list showed Northamptonshire at the top (fives positions up from 1983) having almost halved the number of prosecutions.

[357] In this part, the particular interviewee will be referred as 'interviewee Crm'; Crm stands for Courtroom.

"The young people coming in were just the same in terms of presenting difficulties, having terrible backgrounds and parents that were having difficulty coping. So none of that was changing" (interviewee-Crm).

Instead, it was the efficiently managed 'helping' sector, which emerged as the new local juvenile justice structure, able to deal decisively with the same old problem of youth offending:

"In the old days most people would go through the motions quite simply and did it because that was the way you did and almost always the outcome in any court case was another adjournment; people didn't worry that someone was really anxious. The new system tried to solve problems. If a parent couldn't come in for whatever reason, instead of moaning about typical parents there would be some work to try to find out why and to try to get them in" (interviewee-Crm).

Therefore, within this local courtroom, the landscape of efficiency reflected the emergence of an improved and efficient 'helping' approach, which was applied within the local juvenile justice system. This trend was concerned instrumentally with the emergence of the 1980s integrationist practitioners in the courtroom setting. Indeed, in this particular local setting, the efficiency oriented local integrationist practitioners had replaced the local 'collusive' organisational and sentencing ethos of members of the 'helping classes', who formerly participated in the court. As interviewee-Crm has mentioned the 'collusive' practitioners were bored officers applying a passive 'helping' practice and holding a 'cynical' view about the potential of dealing with the problem of youth offending:

"You often found that the person who became the Court Duty Officer had got fed up with working with people and didn't want to work with people anymore. They had become almost like mini lawyers, they knew the court procedures very well and had also become collusive with the courts and were referring to young people as toe-rags. They would assume the language of very cynical people who had seen it all before and thought that these young people would be back and that nothing ever worked" (interviewee-Crm).

Interestingly, but not surprisingly, the 'collusive' practitioners were highly influential within that local court setting[358]:

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[358] The fact that the collusive practitioners were influential should not surprise, as the particular practitioners labelled as 'collusive' were probation officers. Several papers of the late 1970s and early 1980s indicated that in several areas probation officers enjoyed a better and even influential relationship with magistrates. As McCabe and Treitel particularly indicated: "[p]robation officers have long been the servants of the court. They enjoy a special relationship with magistrates, not only providing them with sentencing resources like community service, day centres and hostels, but also giving clear and helpful sentencing recommendations in difficult cases. This relationship is

"These people had huge influence on the magistrates because they had had cups of coffee with them. When they were waiting, a young person would come into court and be dealt with and go out again and the magistrates would still be in court with their clerk, the Court Duty Officer and the prosecutor and they would have a little conversation whilst they were waiting for the next person. But instead of that conversation being appropriate or reinforcing, what it reinforced was negative stereotyping of young people, it was outrageous" (interviewee-Crm).

The bored and influential 'collusive' practitioners, through their inaction, were therefore instrumental in 'reinforcing' a passive approach in dealing with the problem of youth offending. In turn, the passive approach was crucial for negative stereotyping and consequently for the pro-custodial punitive outcomes. Hence, this 'collusive' approach was strongly linked with the mechanistic responses to youth offending; namely, the punitive, pro-custodial sentencing outcomes[359] of that local setting[360].

In the latter part of the 1980s, around 1987, within this local setting, the emergence of the self-learning process of crafting efficient integration was linked with the attempt to offer a reliable, efficient 'helping' approach able to deal with the entire local spectrum of juvenile justice system:

"We wanted to do it by the management models and 'managing by excellence' which fitted with our philosophical view" (interviewee-Crm).

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strengthened, on the magistrate's side, by the membership of probation committees, which makes them familiar with the work of probation officers and gives them some measure of control over their organisation" (emphasis added) (1983:16).

[359] Regarding the function, the effect and the meaning of 'collusion' the following quote from Bish *Intergovernmental Relations in the United States* is enlightening indeed:
"There is a term that comes close to describing cooperation which provides net benefits to the cooperating parties, but simultaneously imposes costs on third parties. This term is 'collusion'. Examples of collusion include [...] such things such as refusal of a district attorney to question police violations of civil rights or a court's unquestioned assumption that all defendants brought before it by the prosecuting attorney are guilty. Bish however indicates that 'collusion', is not really a precise term for describing many cooperative agreements which generate negative consequences for third parties because collusion implies secrecy or conspirational motives to injure third parties" (1978:23).

[360] In a NACRO and DHSS conference, Mark Feeny and Peter Wiggin (members of the Kirklees Enterprise for Youth) indicated in their Seminar Presentation *Partnership in Action* the presence of 'hardliners', which were not the often maligned magistracy, but social workers and probation officers with punitive attitudes or locked into existing sentencing patterns (NACRO, 1990:25).

The development of the local juvenile justice 'helping' specialist[361] - the creation of the self-learning process of crafting efficient integration – constituted an important personal experience of success for those local integrationist practitioners:

> "In 1987 we took over a children's home which had been closed down the year before. We set up completely new teams with new managers i.e. my two team leaders and I were completely new. So it was completely green field, we were allowed to do exactly what we wanted, there were no administration systems, there were no records and there was no way of actually doing things, we had to do everything from scratch. It was the most delightful first management job you could ever have" (interviewee-Crm).

At the same time, the elements of the self-learning integrationist process were applied locally to address the needs of all the components of the local juvenile justice system. They addressed the needs of the police[362] as well as the needs of the local prosecutors[363] providing practices of **"problem solving, delivering the goods, seeing people, giving information"**, as interviewee-Crm emphatically recalled. This therefore indicated the experience of a 'helping' sector which was transformed to an efficient local structure able to contribute significantly to the total efficiency of the local system.

In particular, within the context of the courtroom, the emergence of an efficient 'helping' approach towards juvenile delinquency addressed the sentencing anxieties of the magistrates expected form the 'helping' practitioners to provide them with alternative answers about the handling of the 'difficult cases':

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[361] "At that period we were all relatively of the same age, so by the time of the late 1980's we were all in our late twenties or early thirties [...] We were now specializing in juveniles, we were attracting people into the specialism that we thought was working in the right way so we were now setting the agenda. By 'we' I mean a group of six people or so, this changes but it still remains a small group who were exchanging ideas and were saying how they would like it to be" (interviewee-Crm).

[362] "We knew that we did not have to have philosophical disagreements with people because it is perfectly legitimate for a police officer to think that the best way to deal with a burglar is to put him in prison because they have to do the detection in society. We have a different view but we connected because they need someone in the police station, they don't want a juvenile in the police station for any length of time because it is inconvenient. What they want is for us to be efficient and for us to actually get to the police station quickly, to know our stuff, to know that there is a person who is going to protect that person's rights so they cannot be challenged in the future, but also someone who without being collusive knows what they are doing in this complicated criminal justice system we have. That is what they wanted" (interviewee-Crm).

[363] "Technically the prosecutor has to produce the previous convictions, the police and the prosecutor often cannot keep up with the number of previous convictions the juvenile is collecting, particularly because they do not tend to offend in the same area and the computer systems cannot keep up. We knew and provided the previous convictions to the prosecutors and they were very grateful so it would be a good flow of information" (interviewee-Crm).

"Most of the magistrates were reasonably good but worried an awful lot about the difficult cases as they didn't want to put the difficult cases in custody unless they had done something that really exhausted their patience. But what they had before we arrived was social workers and probation officers giving up on them, not giving any answers (interviewee-Crm).

The new efficient 'helping' management provided an 'outfit' of alternative 'answers' to custody, and therefore addressed the 'frustration' of the local sentencers caused by the previous lack of alternative options to deal with the serious cases: [364]

"What they had now was an outfit that would always come up with another go with something they were worried about so they no longer had the sentencing problems" (interviewee-Crm).

The well managed 'helping' options therefore addressed the local decision making 'psychology'[365] of the sentencers. Furthermore, the wide spectrum of efficient 'helping'

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[364] The problem of 'frustration' was highlighted in Burney's study; who discussed the psychology of magistrates when delivering their sentence within a juvenile justice setting. As Burney indicated:
"senior magistrates expressed great frustration at the failure of the statutory agencies to give them the schemes which they felt would enable them to send fewer young people into custody: [...] 'We've been fourteen years waiting for IT'; 'For years we've pressed the local authority for adequate IT'; 'We've had so many disappointments – they chop and change officers and won't pay them properly'; 'We have a tremendous drawback here – there is no day centre' – these remarks, collected from interviews in different courts, well illustrate the frustrations felt" (Burney, 1985:31).
The magisterial frustration from the lack of alternative sentencing options was an issue that was particularly highlighted by all the interviewees, former leading practitioners. The interviewees in their accounts considered that by setting up reliable alternatives they certainly managed to address magisterial frustration. Hence as one of them indicated:
"[We] were both fed up with social workers and probation officers going to court, the magistrate saying 'what about intermediate treatment?' 'Oh there's nothing happening in our area your worship.' So we set this scheme up [...], which was worked on an individual and group work. [...]. They could go to court and say 'yes, intermediate treatment, your worship, can start next Wednesday'".
Similarly, the introduction of reliable alternatives options within the courtroom sentencing process was highlighted by another interviewee, therefore indicating how important the emergence of those alternatives-to-custody options were against the resistance of passive members of the statutory services:
"I have again memories of... while we were supported, we weren't always welcomed. We were making different recommendations to perhaps some of our social work colleagues in the area office wanted us to make... I can remember going to court and a social worker saying 'it's not your time to speak, you can't stand up yet' and I was thinking ' well, if I let you stand up and talk, you are going to say: this kid needs locking up' and chancing my arm, as you do when you are young and saying 'actually, I've got the alternative, [our] project has got a strong representation to make to the court, would you hear this first', thinking that 'I am probably going to get the sack'. But we had to take those sorts of risks".

[365] In relation to the little use of CSO (Community Service Orders), Burney indicated that "[i]n earlier years, the reason given for opposing expansion down the tariff was psychological – if courts

options particularly addressed the most difficult aspect of the sentencing psychology: the 'insecurity' of the sentencers about the future behaviour of the difficult juvenile offenders[366]:

> The worst thing for a magistrate is trying to work out what to sentence this person to when everything else has been tried and we were continuing to come up with ideas for them" (interviewee-Crm).

The new local integrationist practitioners' answer to the problem of insecurity was therefore the constant formation of efficient ways to manage the problems of juvenile delinquency. As interviewee Crm characteristically indicated:

> "The magistrates **wanted** people that would solve their **problems** in court, **we never gave up** on young people" (emphasis added) (interviewee-Crm).

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see it as a 'middle-tariff' sanction they will not at the same time accept its use for heavy offenders" (Burney, 1985:48). And later in her book Burney indicated again that "the magistrates would have liked to have used CSO more tightly but frankly thought the scheme too loosely run to be able to carry the weight of a convincing alternative to custody" (Burney, 1985:49).
Indeed, another interviewee, former leading practitioner, who had actively participated within a different local setting indicated how important was to come up with well managed programmes:
"We gradually put some very tight, programmes up, to start with. So, programmes that were very comprehensive, kept the young person occupied for a large part of the day, for most of the week. [...]. In the court they thought 'well, this lad, we are going to lock up, but this scheme says, when he wakes up, soon after breakfast he is going to be looked after and watched and helped and supported in doing this and the other, till he goes to bed, we can sort of keep an eye on him and he is doing activities... so we'll give that a try'".
In particular, with respect to the alternative to custody programmes, John Hosking, then Chairman of the Council of the Magistrates Association indicated in a NACRO-DHSSS conference that in Kent "[m]agistrates used community-based alternatives because they recognised that the programmes suggested to them were not soft options" (NACRO, 1990:37). As John Hosking further pointed out, "[t]he professional way in which detailed programmes were presented to the court, and the feedback which magistrates received during the passage of the programmes, was a significant factor in reinforcing the credibility of the schemes" (NACRO, 1990:37).

[366] Burney also discussed the insecurity of sentencers about the future behaviour of a frequently failing juvenile offender:
"Most sentencers, however, focus on 'unwillingness' as the main peg for justification under this head. For this they rely on information in the social inquiry report and /or a record of non-compliance with previous non-custodial sentences or orders [...] But to most of those questioned the main substance behind such justification would be the offender's record rather than his professed or observed attitude to possible outcomes in the current case. A past failure to abide by the rules of community service or probation order, or even breach of a conditional discharge (which can hardly be described as a 'penalty'), would form the basis of their opinion" (Burney, 1985:59).
Burney continued in relation to the magisterial insecurity:
"[T]he youth will reappear in court, perhaps having taken yet more cars or motor bikes. This time he is marked as having had his 'alternative to custody' and the court will have 'no option' but to send him down this time and probably not for a short sentence either" (Burney, 1985:93).

According to the interviewee Crm, the efficient integrationist 'helping' practice – the outcome of the self-learning process of crafting the integrated specialist – had a significant impact upon the sentencing ethos of the local courtroom: magistrates could afford to be 'tolerant' towards juvenile offending.[367] In other words, they could turn their attention away from custodial responses:

> "So eventually some courts got no custody areas because the courts were so confident that what we were going to do will do the youngster good and prevent them re-offending that they weren't as interested in custody" (interviewee-Crm).

This account carried the memory of the experience of the development of a new, efficient and integrated 'helping' sector; provider of services which successfully achieved the supposed psychological certainty of the custodial mechanistic option.

The accounts of both the interviewees are based on memories carrying the experience of the developing self-learning process of the integrated juvenile specialist. This process re-organised the local juvenile justice settings towards the credo of 'helping' efficiency, both at the pre-court and the court-room phase. It was an event which impacted heavily upon the sentencing process and affected downwards the curve of custody and prosecution. Other sources from the historical memory of the 1980s further support this viewpoint.

c) Looking further into the rhetoric of the historical memory of the 1980s

In the early period of the 1980s, accounts which showed the existence of developing 'helping' efficiency and also supported the view of the increased value of efficient 'helping' practice against traditional 'punishing' options can be found. These accounts were related to particular local juvenile justice settings, which already presented relatively remarkable sentencing trends in the early 1980s.

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[367] Indeed, according to interviewee-Crm, 'tolerance' became a local sentencing value due to the efficiency infiltrated in the local setting by those integrationist practitioners: "They knew that someone was trying to sort it out. Whereas previously they weren't confident that someone was having a go at it, (so it was the confidence), what you had was a group of professional including magistrates being confident that every one of us having a real go at trying to sort out these really difficult, damaged people. So they had tolerance" (interviewee-Crm).

Harry Blagg's[368] 1985 published paper, *Reparation and Justice for Juveniles–The Corby Experience*, provided valuable information about the reparation practice of the Corby Juvenile Liaison Bureau (JLB). The Corby Bureau very much belonged in the category of cautioning schemes that had been developed in the early 1980s by integrationist practitioners.[369] Here they applied a cautioning framework which included a number of 'helping' interventions[370]. Blagg focused on the practice of reparation, indicating particularly the 'helping' nature of the Corby reparation intervention[371]. Blagg's account certainly showed the efficient character of the reparation 'helping' practice. Indeed, in relation to reparation, Blagg provided a picture of an efficient practice philosophy[372], which followed the rules of precision and flexibility[373]. Blagg also particularly highlighted the effectiveness of the reparation practice of the Corby Bureau

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[368] Harry Blagg was then Lecturer in social policy in the University of Lancaster.

[369] Bowden and Stevens, in *Justice for Juveniles–A corporate strategy in Northampton*, indicated the local expansion of the inter-agency cautioning schemes: "A greater awareness of the value of diversion by the police and the SSD in Northamptonshire led to the introduction of Juvenile Liaison Bureaux (JLB's). These were introduced successfully at Wellingborough and Corby as pilot projects" (1986b:327).
As Blagg indicated: "The Bureau like its forerunners in Wellingborough, also in Northamptonshire, incorporates some novel features which set it apart from other initiatives of its kind. [The Bureau] was intended to take the concept of diversion to its fullest limits, by influencing the practice of the five statutory agencies involved with young people, namely probation, the police, the youth services, education and the social services. To this end the Bureau was to be staffed by workers seconded from each of these agencies who would work together not only to divert individual offenders but to act as instigators of change in their parent agencies" (1985:269).

[370] According to Blagg, "[t]he Juvenile Liaison Bureau had 492 referrals, 77 of whom had taken part in some kind of offence resolution" (1985:268). Reparation constituted one of those modes of offence resolution - interventions.

[371] Blagg pointed out the 'helping' nature of reparation as applied in Corby by indicating the views of the Bureau staff, who noted that: "[t]hey would never use [reparation] in any way that could be considered punitive or judicial; rather they wished to use reparation as a means of resolving hurtful and problematic events in an undramatic way" (1985:270).

[372] As Blagg indicated: "The philosophy of the Bureau was to provide a safe structure for children who seemed particularly vulnerable to delinquent behaviour and to hold off harmful interventions by the welfare or penal networks, permitting the normal patterns of maturation themselves to bring the children out of delinquency" (1985:269).

[373] As Blagg indicated: "Reparation was to be used selectively and only when a number of criteria had been met. Firstly was the offence admitted? Was it an offence that could be resolved? Was the offender willing to participate? Was the proposed form of reparation appropriate, that is keeping with the scale of the offence? Did the victim agree to the idea and feel comfortable with the proposals?" (1985:269).

where attempts were made to resolve things in an 'undramatic' non-punitive, but reliable way.[374] The Corby efficient practice therefore provided a reliable 'not soft'[375] sentencing option, which, according to Blagg, effectively diverted juvenile offenders from the 'punishing' option of prosecution.[376] Therefore in conclusion Blagg indicated that in Corby: **"reparation has come to play an important role in the Bureau's overall repertoire of diversionary strategies"** (1985:278). In other words, that efficient practice was recognised as the arsenal of the integrationist practice against the 'punishing' options.

It can therefore be argued that towards the middle of the 1980s, Blagg's academic rhetoric, based on the experience of the Corby setting, provided an argument about the existence of the efficient 'helping' practice and the potential to impact drastically on the 'punishing' ethos of the local processes. This therefore led to the increase of the use of these 'helping' options at the expense of prosecution. During the late 1980s, when the 'sea-change' was becoming progressively apparent, accounts attributing sentencing trends to a change in the local sentencing ethos due to the emergence of the efficient 'helping' practice appeared both in conference gatherings and most commonly in professional journals.

Indeed, in 1989, the eight pages *INSIDE* section of *Community Care*[377] extensively covered the ten-year-developments of the 'helping' practice in Juvenile Justice field. The

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[374] In one case Blagg discussed a boy who went to apologise to his victim: "The boy himself said that he had 'felt terrible seeing the person' he had offended; it had made a big impression of on him and he had, he said, 'stopped nicking since', although he hadn't experienced it as a form of punishment, 'I was just putting things right between us'" (1985:276).
Blagg highlighted therefore the effectiveness of the 'offence resolution' of the efficient reparation practice at Corby JLB.

[375] At the same time, Blagg, was eager to point out that: "Personal reparation was considered by the children and parents so far discussed to be a difficult and hard process and not a 'soft' option or easy way out" (1985:276).

[376] Indeed, in the case of a girl offender, Blagg particularly indicated the effect of the Corby JLB reparation practice on diverting her from prosecution. The recognition of the value of the efficient reparation practice meant that the girl had successfully avoided prosecution and whatever that would be resulted in terms of sentencing outcome. "In most juvenile courts, especially in the present climate, [the case of a girl] would almost certainly have received a high tariff disposal of one kind or another" (1985:276).

[377] As it was stated in *Community Care*, "the INSIDE supplement explore underlying trends and issues in social work, examining a different topic each month" (30 March 1989:viii).

front page was titled *The Successful Revolution* and was written by Denis Jones[378]. In the very first paragraph, Jones started with the meaning of this 'successful revolution', or in other words, the elements of the 'successful revolution:

> "The 1980s have seen a revolution in the way the juvenile system operates in England and Wales. There are few areas of criminal justice practice and policy of which we can be proud, but this is an exception. While there is no room for complacency, there is a core of good practice and inter-agency co-operation which can be built upon in the 1990s. Many notions which once seemed totally unrealistic, such as the abolition of juvenile imprisonment, are now viewed as achievable" (Jones, 1989:i).

Therefore under the banner of 'successful revolution' Jones linked the decline of the custodial provision (he talked of an achievable abolition) with the development of the 'operation' of the juvenile justice system, 'good practice' of social work, and 'inter-agency co-operation'. The connection between the two trends was certainly the interest of Jones.

In the rest of the first page, Jones presented, in some detail, the sentencing trends that had occurred indicating that **"a brief review of the latest criminal statistics, for 1987, highlights the changes"**. In the brief review, Jones noted the proportional increase in the use of cautioning, the fewer number of juveniles appearing in courtrooms, and the trends in sentencing options. The positive course of supervision orders within the courtroom process was highlighted in particular.[379] Developments in institutionalization were highlighted even more; based on the statistics of the 1987, (but also through his personal practice experience) Jones was able to provide a picture of 'decline'.[380] According to

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[378] In 1989, Denis Jones was assistant director of the Intermediate Treatment Fund. Earlier, in 1985 and 1986 Jones respectively authored the brief articles *The Need for Credibility*, published in *INITIATIVES* (Winter 1985:1,2.), and *Community Homes–A Social Inquiry Report*, published in *AJJUST* (July/August 1986:17-18). Then, (1985,86) Jones was project director of the Rainer Well Hall project in Greenwich.

[379] In relation to supervision orders Jones indicated that: "Supervision orders have been maintained at about 18 per cent of disposals, though this is significant, arresting a steady decline throughout the 1960s and 1970s and suggesting social workers and probation officers have re-established credibility with magistrates" (Jones, 1989:i).

[380] "The most startling changes, however, have been in the absolute and relative decline of the care order for offending, and the decline in the use of custody. [...] The fall in numbers sentenced to custody is equally significant. [...] [T]he number of young men sentenced to detention centre, borstal and youth custody has been halved from a peak of 7,700 in 1981 to 3,900 in 1987. The 'tougher regime' in detention centres has come and (almost) gone; the indeterminate borstal

Jones, these trends explained mainly by reference to the great changes that occurred at the practice level, namely the emergence of the 'specialist' practitioner[381]; or in the words of the present work, the emergence of the integrationist practitioner.

Indeed, Jones, under the telling subtitle **'CONFIDENCE'**, highlighted the theme of the self-learning process of crafting integration and the development of the efficient 'helping' practice;[382] which, in turn, impacted on the working ethos of the local juvenile justice settings[383]. Actually, under the telling subtitle **'CONFIDENCE'** Jones supported the argument that the increased value of the emergent specialisation and professionalism of those confident practitioners was integrated into the local settings therefore affecting the curve of custody and prosecution. The confident practitioners of the 'helping' classes therefore affected the sentencing ethos of the 'punishing' classes by integrating the value of the efficient 'helping' practice, which they created, against the traditional mechanisms of custody and prosecution. Therefore, naturally, Jones was able to conclude and suggest that:

> **"The major feature of all this is that it has been practitioner-led change"** (1989:ii).

In other words, the emerging efficient and integrationist 'helping' practice was the predominant drive behind the transition to the sentencing 'sea-change'.

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sentence been abolished; and name changes for the young offender prison institution become more and more frequent in a desperate search for legitimacy" (Jones, 1989:i).

[381] "The explanation for these changes in the juvenile justice system is complex but various themes can be highlighted. As SSDs recovered from the reorganisation of the 1970s, recognition of the expense and ineffectiveness of placements in residential care led to the development of specific policies of 7(7) care orders, and the creation of specialists posts in intermediate treatment sections with the responsibility of working with young offenders in the community" (Jones, 1989:ii).

[382] "As these workers gained confidence, and learnt to use a range of social skills and behavioural change exercises, they began to address other areas of the system and develop into juvenile justice teams, which carefully monitored the juvenile justice process. The DHSS initiative under local authority circular 83/3, in which £15 million was made available for alternative to custody schemes, not only directly promoted such developments but facilitated the sharing of good practice, mutual support and increasing confidence of juvenile justice workers" (1989:ii).

[383] "The confidence in turn communicated itself to other agencies in the juvenile justice system and broke down a lot of barriers and hostility that had previously existed. For example, magistrates developed confidence in alternatives to custody. Most areas of the country now have inter-agency juvenile justice meetings in some form and monitor the operation of the system" (1989:ii).

In sum, all the above mentioned accounts from the historical memory of the 1980s suggest that the downwards curve of the 'sea-change' was synonymous with the upwards curve of the self-learned and self-crafted integration of the 'helping' practitioners within the local settings. As a result, this was concurrently synonymous with the related and steady upward curve of the integrated efficient 'helping' practice, which won over the sentencing ethos of the 'punishing' classes; diminishing therefore in their eyes the value of punishing options.

This kind of explanation certainly falls within a logic, which suggests that the development and integration of particular kinds of efficient 'helping' interventions/institutions, (such as efficient cautioning panels, efficient cautioning interventions, and efficient alternatives-to-custody programs), were solely responsible for the 'sea-change' that occurred in the 1980s juvenile justice process. However, the problem in this otherwise attractive explanation is that it has identified the occurrence of the 'sea-change' solely with the emergence of the efficient 'helping' practice, which the integrationist practitioners developed and carried into the local settings. This therefore suggests that the sea-change occurred solely within the practice policy framework of 'integrationist efficiency, which increased the value of the 'helping' delinquency management and consequently affected the management of the sentencing process. This viewpoint cannot explain the existence of another working practice policy, which was also applied by integrationist practitioners during the 1980s.

d) The second 'helping' practice policy

On 3rd February 1989, in the conference organised jointly by the Department of Health[384] and NACRO, participants convened **"to mark the impact of the IT Initiative on the Juvenile Justice System"**, (NACRO, 1990:4), between 1983-1987[385]. In other words, they convened to mark the 'success' of the integration of the efficient 'helping' practice[386].

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[384] Formerly called DHSS.

[385] "The conference was chaired by Navnit Dholakia JP, Principal Officer for the Commission for Racial Equality and member of the Council of NACRO. Representatives from all the agencies, organisations and institutions involved in the Initiative's success attended: the judiciary, the magistracy, central government departments, local authorities, social services departments, probation services and voluntary organisations" (1990:4).

The *Closing Address* of the conference proceedings was held by John Hosking JP, Chairman of the Council of the Magistrate's Association, who served in the Kent's Magistrates' Courts and who had also been a member of the CSV Kent Advisory Committee, "which was responsible for the largest single scheme in the country" (NACRO, 1990:36). In the beginning of his address titled *'A Magistrate's View'*, Hosking indicated that **"[i]t is always stimulating [...] to be associated with a success story"** (NACRO, 1990:36). He then went on to analyse the project's impact by quoting Norman Warner, Director of Kent Social Services' account, on the contribution of the CSV project scheme to the reduction of the custody rate and prosecution rate of juveniles in Kent[387].

Warner had expressively suggested the development of efficient inter-organisational relations as 'the key' for the sentencing trends in Kent. In particular, he had employed the term 'harmonious' to mark the working climate of the efficiency-oriented local juvenile justice setting.[388] Remarkably, according to Warner local integrationist practitioners were the harbingers of the efficiency–oriented local trends:

Speakers included: Bill Utting, Chief Inspector, Department of Health Social Services Inspectorate, Vivien Stern, Director of NACRO, James Foote, Director of Social Services, Metropolitan Borough of Sandwell, Anne Mace, Chief Probation Officer, West Yorkshire Probation Service, Peter Phillips, Director, Newham Consortium for Youth, John Dixon and Toby Wells, Surrey Juvenile Offenders Resource Centre, Frances Gosling and Trevor Locke, NACRO, Juvenile Crime Section, Richard Hester and Julie Barker, the Rainer Foundation, Mark Feeny and Peter Wiggin, Kirklees Enterprise for Youth, Peter Duxbury and Sheena Doyle, Knowsley Alternatives to Custody Centre, Jill Rivers, Roy Stansfield and John Phillipson, Barnado's, Pamela Mudge Wood, Arnie Wickens, Andrew Balfour and Mark Jeff, Community Service Volunteers (CSV) Kent, David Metcalfe, MAYO Centre, Macclesfield (1990:5-6).

[386] The 'success' of the Initiative, (a phrase actually used by many speakers) during the years it operated (1983-87), was described in the *Introduction* of the relevant publication as follows:
"Six-monthly census returns completed by the projects for NACRO as part of its national monitoring work have shown that:

- The rate of custodial and care order sentencing in Initiative areas has been below the national average.
- Those young people sentenced to attend project programmes have been very similar, in terms of the type and number of previous disposals and of the type of offence committed, to those previously receiving custody and care" (NACRO, 1990:4).

[387] According to Hosking: "In 1983, before the Kent scheme started, 14.6% of juvenile offenders received care and custody sentences. In 1987, the last year of the scheme, this figure had fallen to 8.5%. The numbers of young people passing through the courts had also fallen during the same period from 1,069 to 651" (NACRO, 1990:36).

[388] "The major lesson of Kent's experience over the past three years is that harmonious inter-agency working is the key to a more cost effective juvenile justice system in which expensive,

"To achieve this success, the role of an external catalyst in the form of CSV Kent has been crucial" (NACRO, 1990:36,7).

With respect to the courtroom sentencing trends and the related betterment of the courtroom process, Warner again indicated the 'major' role played by the efficiency oriented integrationist practitioners, the CSV members:

> "[CSV] has played a major role in explaining to magistrates the advantages of alternatives to custody, helped by their considerable diplomacy and the fact that their experience with young people gave them the necessary standing in the eyes of other agencies" (NACRO, 1990:36).

Undoubtdly, Warner's observations[389] constituted a hymn to the efficient practice of the Kent integrationist practitioners in relation to the changes in the local sentencing processes and numbers.

At the same conference, Frances Gosling and Trevor Locke, from the NACRO-JCS, reviewed the three years of juvenile justice practice policy in relation to custodial reduction. In their seminar presentation *Developing an Initiative*, Gosling and Locke indicated that:

> "Monitoring of court sentencing in areas served by projects showed a significant decrease in custodial sentencing. This was more likely to be achieved by those projects which were proactive in their approach to working with the courts and statutory agencies than those which passively waited for referrals" (NACRO, 1990:22).

Therefore much like Warren, Gosling and Locke pointed out the importance of the efficiency of the integrated officers, who actively and empathetically pursued the diversion of juvenile offenders from the custodial option to the alternative ones.

Nevertheless, Gosling and Locke also further emphasised that:

> "Many projects achieved diversion from custody, not only through taking juveniles on to their programmes but also through successfully recommending lower tariff disposals" (NACRO, 1990:22).

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unproductive, and excessively severe outcomes for juvenile offenders are avoided" (NACRO, 1990:36,7).

[389] Certainly, in the form they have survived in the pages of the relevant 1990 NACRO document, *Reducing Custody for Juveniles: The DHSS Intermediate Treatment Initiative.*

Gosling and Locke therefore suggested that the reduction in custody was not solely the result of a practice objective to divert young offenders from custody to efficient 'helping' modes of intervention, namely the alternative programmes.

Indeed, several sources show that the juvenile justice practitioners were actually very economical in the use of alternative-to-custody modes of sentencing as a means to reduce custody. Instead, 'down tariff' practice was widely employed and can be suggested as the other ascending practice within the court-room process of sentencing management.

e) The practice of 'down tariff' through de-seriousnessization

That the integrationist practitioners constituted an irreplaceable structural mechanism able to affect the sentencing curve 'down tariff' (and not only to divert juvenile offenders to efficient alternative-to-custody programs) was an issue that had been well observed during the latter part of the 1980s. In particular, in the 1988 NACRO report *School Reports in the Juvenile Court-A Second Look*[390] chapter three titled *The Impact of School Reports on Sentencing*, Sumner *et al.*[391] indicated the rather punitive impact of the school reports (SCRs) as opposed to the 'down tariff', or otherwise away-from-the-custodial-option effect of the social inquiry reports (SIRs):

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[390] The interest of NACRO in the impact of school reports (SCRs) on juvenile justice sentencing had been expressed as early as in 1984 when an inter-disciplinary working group was set up by NACRO and published its report *School Reports in the Juvenile Court.* That report "contained a number of recommendations for changes in the way school court reports were produced and presented". However, "[c]ontinuing concerns about SCRs prompted NACRO to re-convene the working group [...] to take a second look at the national picture, to draw on recent research and to up-date the research undertaken prior to the publication of the first report. The working group met six times throughout 1987 and 1988. In June 1988, a consultation meeting was held with representatives from a wide range of organisations and Government departments involved with education service or aspects of the juvenile criminal justice system" (NACRO, 1988:4). Therefore in many respects it was a well informed report.

[391] Chapter 3, written by Sumner, Jarvis and Parker was a revised version of a paper, which first appeared in *Youth and Policy*, in 1988. As Sumner *et al.* stated "the research reported in this paper was not designed to investigate the influence of school reports on sentencing [but] it arises from a much larger study on the impact of the 1982 Criminal Justice Act on the sentencing of 14-20 year olds in magistrates' courts focussing particularly on the use of custody. The study funded by the Home Office, was carried out at Liverpool University between 1984 and 1986" (NACRO, 1988:8). It was the basis of the Parker *et al.* 1989 book *'Unmasking the Magistrates'*.

"School reports were [...] a major influence on sentencing in 37 (63%) of the 59 cases. As a percentage of the cases in which they were available, school reports carried more weight than any other single factor, with SIRs being mentioned as a major factor in 61% of the cases in which they were available. But SIRs were mainly referred to as having influenced the bench 'down tariff'' or away from the imposition of a custodial penalty. A worrying proportion of school reports tended to have the opposite effect, with 20 (34%) of the 59 school reports being a major influence towards the use of a custodial or other high tariff penalty" (NACRO, 1988:10).

Remarkably, according to Sumner *et al.*:

"Our research shows that the impact of negative reports about school performance was minimised only in the court in which responsibility for providing information had been taken on by SIR authors" (NACRO, 1988:12).

Finally, Sumner *et al.*, certainly impressed by the 'down tariff' practice of the integrationist practitioners, proposed an interesting suggestion in order to eliminate widely the 'up tariff' impact of the SCRs:

"The question raised here is whether this model should be adopted more widely. The authors' view is that it should" (NACRO, 1988:12).

Therefore, within the court-room process of sentencing-management, the greater use of the efficient alternative-to-custody programs did not constitute the only objective of the day-to-day practice of the integrationist practitioners, and certainly not the only method to divert juveniles from custody. Instead, the avoidance of custody was pursued along with a 'down tariff' practice policy, which was achieved through the method of de-seriousnessization[392]; namely, through the careful consideration of the kind of offending behaviour, which could be regarded as serious and consequently would demand the application of juvenile justice interventions, either 'helping' or 'punishing'.

It must be noted undoubtedly, that the wording of Section 1(4) of the *CJA1982* imposed the careful consideration of the seriousness of the offence as a restrictive condition to the sentencers before the imposition of a custodial sentence.[393] The point is

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[392] The term de-seriousnessization is a linguistic invention of the present work.

[393] Section 1(4) of the Act stated that a custodial sentence could only be passed on a young offender if:

(i) the offender appears unable or unwilling to respond to non-custodial penalties, or
(ii) the custodial sentence is necessary for the prosecution or the public,

that during the 1980s the wording of Section 1(4) constituted the legal ground for an increasing number of appeals against custodial sentences imposed by magistrates. Since the implementation of the *CJA1982*, and in particular between 1983-1985, the appeals against custodial disposals for juveniles increased sharply.[394] The seriousness of the offence was the legal ground that mainly attracted the interest of the appellants[395]; whilst, the Crown Courts opted "for the upper end of the scale of seriousness in order to justify a custodial sentence" (Dodds, 1986 & 1987). In other words, the Crown Courts enhanced the restrictive direction of the term 'so serious', which was contained in Section 1(4) *CJA1982*.[396] The most remarkable point is that integrationist practitioners working directly with young people were particularly active in this field.

Indeed, in 1988, as Chris Stanley indicated in *Making Statutory Guidelines Work*, published in the *Justice of Peace*[397]:

> "The early disregard by magistrates for s.1(4) of the 1982 Act encouraged those advising young offenders who had received custodial sentences that they ought to appeal" (1988:648).

Certainly, in the specific passage Stanley did not state (but merely implied) the identity of the advisors, who encouraged the appeals. However, a few paragraphs below, with respect the situation in Kent, Stanley clearly indicated the role of integrationist practitioners:

(iii) the offence was so serious that a non-custodial disposal can be justified" (emphasis added).

[394] "Appeals against custodial sentences [concerning the under 21 age group] had been steadily increasing since 1980 to a peak of 3,985 in 1985. The implementation in May 1983 of the Criminal Justice Act 1982 stimulated a particularly sharp rise in appeals from 2,348 in 1983 to 3,345 in 1984 and 3,985 in 1985 (Stanley, 1988:648).

[395] As Dodds indicated, the most frequent ground used to justify a detention centre or a youth custody sentence was based on the seriousness of the offence (1986), (1987). So naturally appeals were staged against the inappropriate application of the term so serious suggesting that actually the offence was not as serious as the magistrates considered it.

[396] See DODDS (1987 & 1986), and also Stanley who indicated the mainly anti-custodial sentencing outcomes (mainly the imposition of 'helping' disposals at the expense of custody), which derived from the appeals issued and the restrictive interpretation of the term 'so serious' by the crown courts (1988:648).

[397] Chris Stanley was a development officer in NACRO's Juvenile Crime Section and previously the co-ordinator of CSV Kent, an alternative to custody and care project for juvenile offenders. Chris Stanley was also active member of the AJJ.

> "Despite the increase in legal representation over this period, many solicitors were not very keen to undertake appeals and sometimes deterred their clients from appealing because of lack of either interest or knowledge. It was therefore sometimes necessary for those working with young offenders to challenge some solicitors' reluctance to appeal and to advise them of the procedure and the emerging judicial guidance concerning s.1(4)" (1988:649).

Integrationist practitioners had therefore taken a particularly active role in relation to appeals based on Section 1(4)[398]; and they had certainly become familiar with the restrictive interpretation of the term 'so serious'. In other words, they linked themselves to the de-escalation of the perceived seriousness of juvenile offences, at the appeal stage; essentially they were involved in the appeal process of de-seriousnessization. The wider issue is that integrationist practitioners were actively engaged in a day-to-day process of de-seriousnessization within the courtroom context aiming at 'down tariff' sentencing outcomes.

Indeed, in her MPhil study, in one case Wade described how the unit had 'successfully' avoided custody and achieved 'down tariff', by means of de-seriousnessization; namely, with means other than the increased value of an efficient (and potentially effective) 'helping' program. As Wade mentioned, with respect to a situation that developed in their local setting in 1987:

> "the court dealt with a series of cases from one of the structured 'group one' children homes which was going through a phase of being out of management control. For several weeks, every court sitting had up to ten childrens home cases listed" (Wade, 1996:72).

Within the courtroom context, the conflict between the court participants was concentrated on the question of the imposition of custody for those juveniles:

> "The unit's two court duty officers dealt with the issues during the court hearings with some dignity and complete confidence and commitment to the principles that they clearly articulated to the court. This was in stark contrast to near hysterical comments from the local police and the residential staff, who wished the court to remove the problem by locking up all the juveniles concerned" (Wade, 1996:72).

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[398] The main purpose of Stanley was actually to show how practitioners could have an effect on sentencing by 'correctly interpreting' the Section 1(4) provision (1988:649-50), and in particular the term 'so serious'. The involvement of integrationist practitioners with the 'correct' interpretation of the relevant provisions can be evidenced also in the pages of a big number of *AJJUST* issues, which provided relevant advice in the column *Points of Law*.

It was a serious conflict. The involvement of the unit manager was extensive:

> "The unit manager attended several of these weekly courts as an observer, following phone calls to the duty manager at the unit from the unit's court staff [...] She [...] was able to gain access to the retiring room after the day's cases were heard to brief the magistrates [...] Access to the retiring room was unusual [...] but the magistrates appreciated the direct contact with the unit manager" (Wade, 1996:72).

The custodial option was actually avoided because of the persuasive arguments made by the integrationist practitioners about the nature of the problem situation:

> "The unit was successful in persuading the court to see the situation as a product of the regime at the childrens home rather than simply as the responsibility of the individual juveniles appearing before them. In this way, the court avoided using custody in the individual cases"[399] (Wade, 1996:72).

Therefore by transferring responsibility from the individual to the system the local integrationist practitioners had practically developed an efficient argument of de-seriousnessization with respect to the behaviour of those juveniles.

Interestingly in a number of such cases, the persuasive argument of de-seriousnessization did not necessarily lead to the imposition of an efficient alternative 'helping' program, but rather to a lower disposal, which kept the juvenile offender away from the juvenile justice system. Hence, according to Wade, in another particularly interesting case, the unit had again efficiently influenced the court's attitudes to the seriousness of the behaviour of a juvenile, therefore succeeding in achieving a 'down tariff' option - a conditional discharge:

> "In one case of a 15 year old in care who was charged with a very serious physical assault on his girlfriend, the social worker, from a psychiatric background, and the residential establishment, had decided that the young man was dangerous and had arranged for residential mental health facilities to be available as a sentencing option. The unit in preparing the SIR, assessed that he had a temper control problem and managed to persuade the department to pay for a residential placement in a child care setting away from his home area. The package presented to the crown court by the unit was sufficient to allow the judge to sentence him to a conditional discharge

[399] It must be noted that at the same time Wade indicated the decisive and efficient response towards the problematic institutions: "[The court arranged] for a reporter to be present at a subsequent hearing and [make] a public statement about the problems associated with the childrens home. The home itself was subsequently closed and reformed following a visit by other magistrates during which a small riot took place" (Wade, 1996:72).

rather than the anticipated Section 53 detention or a mental health disposal as originally suggested by the social worker"[400] (Wade, 10996:77).

Moreover, it must be pointed out that the practice policy of 'down tariff' can also be observed during the pre-court sentencing process applied by the several inter-agency cautioning panels. 'Down tariff' was an important practice policy within this context as well. Wade, in her study, referred to a practice policy of 'influence' in order to achieve diversion from court and also from the 'formal criminal justice process'; meaning avoiding the formal disposals of the pre-court phase as well[401]. A very precise account of the existence of a 'down tariff' process within the cautioning process was provided by Davis, Boucherat and Watson in relation to the practice of the Northampton JLB[402].

In their 1989 paper *Pre-Court Decision-Making in Juvenile Justice*, published in *British Journal of Criminology*, Davis, Boucherat and Watson indicated that:

> "Juvenile Liaison Bureaus (JLBs) are hybrid organisations, drawing their staff, on secondment, from a variety of services, including probation, education, youth work, local authority social services, and the police. The nomenclature and certain organisational features vary between different centres. But what these pre-court decision-making bodies have in common, apart from their multi-agency base, is the objective of diverting young offenders from criminal prosecution, and indeed from most other forms of what is cryptically termed 'formal intervention'" (Davis, Boucherat & Watson, 1989:219).

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[400] Again, it must be also noted that Wade provided extra information regarding the positive change that occurred in the life of this juvenile: "The unit also persuaded the department that they should be in charge of the care order than the social worker, and were able to continue to influence the young man's placement decisions, visits home, and general development. By 1990 he was attending college, worked as an apprentice builder and was planning to return to his home. His future within a secure mental health facility and with the label of dangerousness would have been far less bright" (Wade, 10996:77).

[401] "One of the objectives of the [JJU] was to introduce a system of influencing police decisions regarding cautions or prosecutions, in order to ensure that the majority of juvenile offenders who were unlikely to re-offend were diverted from court and from the formal criminal justice process" (Wade, 1996:62,65).

[402] It must be mentioned in particular that Davis, Boucherat and Watson were very critical of the practice policy of the Northampton JLB, even suggesting its abolition. Undoubtedly, they were not in agreement with the JLB's aims and objectives though it is not clear in their paper what their philosophy was, in other words, what the basis of their critique was.

The diversion of juveniles from 'formal intervention'[403] simply represented the 'down tariff' integrationist practice policy applied within the context of the local pre-court settings, namely the inter-agency cautioning panels. Indeed, as the authors indicated:

> "There was a clear tendency for police members of the group to argue 'up' and for the social worker and probation officer to argue 'down'" (Davis, Boucherat & Watson, 1989:229).

Davis Boucherat and Watson's account was more than clear about the exact way 'down tariff' was managed:

> "JLB staff referred to several instances of a young person's offending being less serious than the official record might suggest. For example, the theft of a magazine at age of ten, a couple of pounds stolen from mother's purse at thirteen, and theft of two ashtrays from a pub car park at age sixteen would appear as two thefts and a burglary. The Bureau constantly sought to highlight the triviality of such behaviour and to argue for a minimal response" (Davis, Boucherat & Watson, 1989:222).

The interpretation of the offending behaviour as less serious than the formal juvenile system tended to present it was therefore based on the application of the practice policy of de-seriousnessization. This certainly affected the sentencing outcomes of this local pre-court setting at the expense of prosecution. Indeed, as the authors further indicated in the later part of their paper:

> "The compromise between retributive thinking and a belief in the disutility of prosecution was achieved, generally speaking, through a new and rival presentation of the offence as less serious than appeared from the original police account. It was accepted that a line had to be drawn, beyond which lay retributivism, but it was frequently argued that the behaviour in question [...] might appropriately be placed on the 'diversion' side of that time" (Davis, Boucherat & Watson,1989:230).

In the particular JLB, the working time of the panel was mainly occupied by interpreting the offending behaviour. As the authors indicated:

> **"The JLB gave considerable time to exploring these questions, justifiably so given the scaling down of seriousness which they managed to achieve"**[404] (Davis, Boucherat & Watson,1989:230).

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[403] A term which was similarly used by Wade in an earlier passage (1996:62,65).

[404] The authors presented in their paper part of the discussion of the JLB members who were trying to decide on the seriousness of the offence and the response that it deserved. The discussion of the 'punishing' classes and the 'helping' classes is particularly interesting. A very interesting

It can therefore be argued that during the evolving course of the 1980s, throughout the entire juvenile justice process, achieving 'down tariff' through de-seriousnessization constituted an important dimension of the integrationist practice. Integrationist practitioners therefore impacted on custody and prosecution not only through the development of efficient (and potentially effective) alternative modes of 'helping' practice of increased value; but they also impacted on sentencing through the constant re-interpretation and de-escalation of the 'punishing' classes' perception of the seriousness of the offending juvenile behaviour.

In practical terms this practice policy tended to re-define downwards the limits of the official interpretation of the seriousness of the problematic behaviour of a number of juveniles. In other words, it can be argued that this practice policy disputed the importance of criminalization; namely, the value of attaching the label of criminal offence to a wide range of troubling juvenile behaviour, demanding in turn the resolution of the criminal behaviour through the formal processes of the criminal juvenile justice system. As a result, it could be argued that the practice policy of 'down tariff' through de-seriousnessization constituted the development of a practice policy of decriminalisation, which was employed within the local juvenile justice settings by integrationist practitioners:

The practice of 'down tariff' through de-seriousnessization = A day-to-day policy of decriminalisation

The question is why this practice interest in decriminalisation. Was it because integrationist practitioners were particularly pro-youth? Certainly, it should be expectable that practitioners of the 'helping' classes should be pro-youth. This is their job; to be pro-youth. Nevertheless, this is not a sufficient reason for someone to opt towards the practice policies of decriminalization. Instead, someone could argue that heavy 'helping' interventions within the context of juvenile justice can have a positive effect on children and divert them away from crime. In this case decriminalization, namely the downsizing interpretation of the concept of criminal behaviour, is not a priority. In this case criminal

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point however is that the argumentation of the 'helping' classes, who were seeking an informal response and not a formal caution, was certainly more informed.

behaviour is a given concept and the priority then is to correct the young person and fix the given problem of criminal behaviour. However, as it appears from the above examination, that was not the primary question for the 1980s integrationist practitioners. Instead decriminalization, namely the downwards re-interpretation of the concept of criminal behaviour constituted an important day-to-day task. So what was the hard reason behind this decriminalization tendency?

f) The importance of volume control for the success of the efficient integrationist 'helping' practice

The efficient 'helping' practice of the 1980s, and particularly the alternative-to-custody efficient programs of the 1980s, namely the practice programs which challenged the concept of custody, constituted an important professional advancement for the integrationist practitioners. Indeed, an interviewee, a former leading practitioner, has strongly indicated the value of the efficient supervision programs in contrast to custody:

> "the original programs were based on... as I say, waking up at nine o'clock and someone would be supervising you till late into the evening really. That wasn't about welfare... not in the bad sense of the word. These were young people that would otherwise be in custody. Whatever you do is far better than being locked up. So if it was very intensive and very controlling and all those things that restricted them to some extend, well, that's better than restricted in custody".

This passage embodied the view shared amongst integrationist practitioners about the pragmatic value of the efficient 'helping' practice that was advancing within the local juvenile justice settings: **"Whatever you do is far better than being locked up"**.

However, at the same time, the same interviewee indicated the very concern about the 'danger' from the efficient application of supervision:

> "The danger was you wide them. The magistrate's once they got to know about it, they wanted to do it with other children and of course they found it attractive[405]. Why don't you do more of this? We said no. We only want those that are either on the

[405] The same interviewee also argued that these programs were attractive because: "the figures that we produced on re-offending after 2 years, custody was giving us over 80 to 89%. We got 66% re-offending with our programs, which wasn't brilliant, but the seriousness was much less. So the offending came down, whereas seriousness with custody went up ours went down. We could demonstrate that things are getting better, and the courts were getting feedback".

border of custody or you would otherwise give them custodial punishment. Correct-targeting-correct-system, really".

The main concern of the interviewee, a former leading practitioner was therefore particularly related to the 'danger' of net-widening; a key issue at that time. This surrounded the wide debate about the potential of the alternatives and the community corrections[406] - namely the criminological potential of the 'helping' practice.

Nevertheless, the truth is that the interviewee was not concerned so much with the expansion of the "*qualitative* transformation of control",[407] as in the opinion of the interviewee **"whatever you do is far better than being locked up"**. Similarly, the interviewee was not critically concerned with the moral dilemma of the "increasingly sinister nature of penal control", which derived from the expansion of the "*quantitative* transformation of control".[408] Indeed, the idea that **"whatever you do is far better than being locked up"** constituted a persuasive argument/rational for the development of the efficient 'helping' practice, as indeed, what can be worse than custody?

Instead, it can be argued (as this worth suggest) that the interviewee's concern about the 'danger' of net-widening stemmed mainly the practitioner's realistic concern over their inability to apply the efficient 'helping' practice to the increasing volume of juvenile offenders that would be processed to them because of the attractiveness of these

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[406] See in particular the highly informed 1990 article by Maeve McMahon, *Net-Widening: Vagaries in the Use of a Concept*. At the very beginning of his article McMahon indicated the wider climate pointing out that "During the 1980s, critical analyses of trends in the use of imprisonment and alternatives repeatedly pointed to the occurrence of 'net-widening'" (1990:121).

[407] McMahon suggested that in the net-widening debate "two kinds of expansion are said to be involved in the evolution of wider, denser, and different nets". The second expansion was the '*qualitative* transformation of control', which occurred with the "development of community corrections [as] people are being subject to more intensive and pervasive forms of penal processing" (1990:124).

[408] According to McMahon "it is contended that a *quantitative* form of expansion is occurring: with the development of community corrections, more and new people are being subject to penal processing". In the circles of the critical criminologists this form of expansion showed the "increasingly sinister nature of the penal control" (emphasis added) (1990:124). Namely McMahon indicated the existence of a debate which was partly based on moral considerations.
The moral dilemma caused by the introduction of alternatives in juvenile justice in England and Wales in the first half of the 1980s was particularly indicated by Burney who confirmed the relevant debate: "Since [the middle-1984] numerous schemes all over the country have either been opened up or will come on stream in the course of the next year or so, especially those funded by the DHSS £15 million programme.[...]. Pessimists however believe that levels may be maintained both because of 'net widening' systems which pull more youngsters into the official classifications of delinquency, and because of socio-economic factors" (Burney, 1985:90).

programs to the bench. In short, their success was simultaneously seen as a source of failure-risks.

To put the issue in very simple terms: what is the maximum number of juveniles that could be possibly supervised efficiently (and potentially effectively) from **"nine o'clock in the morning till late into the evening"**? Naturally, this number could not be particularly big; as increasing numbers of juveniles would endanger the efficiency of these programs; in other words, the risk of program failure, because of the wide application of these intensive alternatives, would be high. Then, in case of failure, magistrates would probably turn their interest and attention back to custodial option, the natural enemy of the ambitious integrationist practice; as an increase in custody implied failure of their professional success. Hence, the reduction of custody through successful efficient 'helping' practice was critically dependent on the control of the volume of juveniles that could potentially be considered for imprisonment; and here comes decriminalization.

Indeed, decriminalization within the court-room process, namely 'down tariff' through de-seriousnessization, was the practice strategy employed to deflate the number of those that could potentially be considered for imprisonment and concurrently of the number of those eligible for efficient alternatives programs, at the expense of custody. Hence, the practice of decriminalization in the court-room process was practically supporting the success of the alternative-to-custody programs/interventions through volume-control.

Furthermore, decriminalization was the strategic mechanism for the control of the entire volume of those juveniles processed through all the mechanisms of the juvenile justice system. Undoubtedly, the success of the cautioning process, namely the reduction of prosecution, was considered particularly critical for the success of the anti-custodial strategies applied within the court-room process:

> **"We were getting the court to concentrate on the more difficult young people and the others were being cautioned by the police"** (other interviewee, former leading practitioner).

It was therefore important that the number of juveniles to be prosecuted would be small. As a result, volume-control, namely decriminalization, was a strategic issue within the pre-court process as well.

The account of another interviewee, a former leading practitioner, shows that volume-control was important for the success of the cautioning phase of their local setting

as well. The account is highly revealing. The interviewee first indicated the potential for the volume of juvenile cases coming to the panel to increase considerably:

> "If you just talk about cautioning, [...] the model was we got him on the third occasion that they'd offended – sometimes the fourth. With final warnings, they did away with one of the stages so, you know, if you'd had the panel I had, it would have taken the clientele, if you like, the group that we worked with, down the scale. Now it's a pyramid – you get all these offenders first time and a few offenders second time and it goes up and it's quite a flat pyramid, actually. So it took us down – so the number of young people that would have been eligible to come to the panel on the new set-up would have been five times greater than what we were doing. And those were figures that I worked out – five times greater".

Here comes the solution to the volume problem:

> **"So what you're doing is networking – you're sucking more kids in at the bottom that need to be dealt with. The police know this and the magistrates know it as well."**

Why the increasing volume can be a problem? According to interviewee because:

> **"[The police and the magistrates] don't want to be seeing youngsters for the first or second time".**

So, the interviewee mainly supported the idea that volume control was a major, a critical issue. Why? As increased number of cases of juveniles reaching the panel stage simply increased the risk of a punitive response, namely prosecution (the other enemy of the ambitious integrationist practitioners). The reason for that was seen to be the attitude of the police who considered increased appearances as an indicator of increased criminality and therefore meant that the juvenile had to be dealt with by the magistrates' court[409]. In

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[409] Gwynn, Davis and Watson's paper *Pre-court Decision Making in Juvenile Justice*, contained a very interesting discussion that took place in the Northampton JLB. This concerned a juvenile who "had been charged with being carried in a stolen car"(1989:223,4). The juvenile had committed several previous offences (they were not mentioned) "leading to three cautions and two prosecutions". At that time he was subject to conditional discharge. The discussion taking place was very revealing about the attitude of the two police officers who were members of the panel towards the case of a juvenile with a criminal record. Characteristically the police officers considered the need for a drastic justice response as a way to fix the problem case of criminal behaviour. They mainly suggested and argued the following:
"I'm of the opinion that it's one of these cases where perhaps a court appearance would be of benefit to him"; or, "I can't see police agreeing to NFA for a start ... the number of cautions he's had, they've made no impression on him at all"; or, "So what are we going to do – just say him 'carry on offending'?"; or, "A caution, if I thought he'd benefit or respond to it, I'd go along with, but from what I've heard today, it doesn't matter what happens"; or, "With his problems with drink and drugs, he'd get the help he needs [in prison]"; or, "[Prison] would stop him doing it"; or

the interviewee's opinion, prosecution in turn increased the criminal image of juveniles in the eyes of magistrates; and again, it was implied that the criminal image constructed would increase the risk of a severe 'punishing' response at the expense of the 'helping' practice.

Hence, again, in the pre-court phase as in the court-room phase, the strategic practice of decriminalization, (or in the words of the interviewee **"doing networking [and] sucking more kids in at the bottom"**) was critical because it discontinued the road to prosecution by leaving small numbers of juveniles to be considered for prosecution. At the same time, these juveniles could still be treated through efficient 'helping' practice and therefore the option of prosecution was further diminished[410]. As a result, the number of juveniles processed to the court-room phase was deflated, which, as it has been already argued was critical for the success of the court-room 'helping' practice.

Decriminalisation was therefore a critical practice strategy, because volume-control of the juveniles processed through the entire juvenile justice system was a critical issue for the success of the efficient 'helping' practice. The last pages in chapter six of Wade's MPhill study are highly revealing of the importance of the entire process of volume control through decriminalization and its strong connection with the concern about the success of the efficient 'helping' practice.

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finally, "There's no point in going to court, if he can get the same sort of treatment outside" (Davis *et al.*, 1989:223,4).
It must be mentioned that it would be very unlikely for the juvenile to receive a prison sentence as despite his previous record the offence was not serious at all.

[410] Nevertheless it must be noted that integrationist practitioners were rather economical with the use of efficient modes of 'helping' practice. As Gwynn *et al.* mentioned:
"In November 1986 we were given permission to return to Northampton in order to study the processes of mediation and reparation. In fact, the Bureau's practice in this area did not conform to their original brief. They no longer believed that juvenile offenders should be asked to make reparation: as far as that went, there was nothing for us to observe. We therefore opted to study the process of diversion, although playing particular attention to those cases in which some form of 'reparation' might have been possible" (1989:223).
Obviously, it was a case of decriminalization; enforcing the idea of down tariff through de-seriousnessisation, namely multiple cautioning instead of program intervention. Modes of efficient helping practice could therefore be reserved for serious cases (those that were at the risk of prosecution), or more efficient modes mainly for those that were tried in court with the probability of receiving custody.

At the end of chapter six, Wade commented on a number of journal entries, dating back to 1990, which were concerned with the interdependency of the issues of staff morale, staff workload and the level of court tolerance.[411] Wade pointed out that:

> "The journal comments indicate an interest in staff morale and optimism and a possible connection to high work levels and less tolerance from other agencies to large numbers of juvenile offenders" (1996:107).

Therefore remarkably Wade indicated that the journal entries connected the question of 'helping'-failure-or-success to the management of the numbers processed by the components of the interdependent justice process. In the same paragraph a few sentences later, Wade further and explicitly indicated that:

> "The assumptions that were being made at the time were that the unit with problems was not implementing a satisfactory diversion policy, and were thus getting more work through the court; this caused their staff to become demoralised and less able to spend time on the persistent offender cases and thus contributed to a general pessimism about the effectiveness of work with those offenders. The result was higher custody rates, which then helped produce a higher tolerance of custody for all" (1996:108).

Immediately following these comments, Wade provided a journal entry dated 21.12.1990 which contained strategies to deal with the above 'assumptions'. Hence, in relation to the diversion/supervision strategies of the local Juvenile Justice Unit the following were mentioned:

> "Diversion; - Important to ensure that only end up with serious and persistent offenders in court, lower numbers increases tolerance and gives room to pay attention to the more difficult cases. [...]
>
> Supervision; small numbers, reserve for highest seriousness and persistent. Means can pay considerable attention to them, no longer minimum intervention. Very high quality support work" (1996:108,109).

The connection between volume control through decriminalization and successful 'helping' sentencing management is striking. In other words, the very concern of the professional life of the integrationist practitioners, namely the advancement of their local professional position through the advancement of their hard working expertise could only evolve within a strategy of decriminalization; namely, only through the deflation of the

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[411] The journal entries were in the diary that Wade kept when she worked as a juvenile justice specialist in Hampshire (see *Introduction* of her MPhil study).

number of juveniles that were regarded as criminals or potential criminals. Therefore the transformation of the quality of the services of various juvenile justice settings towards 'helping' efficiency (an advancement which was introduced by the ambitious integrationist practitioners) occurred on the back of the downsizing of the business of these settings. This event which reflected the practitioners' pragmatic recognition of the limits of their efficient 'helping' management; in other words, that within the context of the formal juvenile justice system 'helping' efficiency can only be successfully developed if it deals with a limited number of cases.

Importantly, this pragmatic recognition of the integrationist practitioners constituted an important transition, which occurred during the 1980s.

g) Minimum intervention: A critical transition in the understanding of practitioners about the scope of their evolving 'helping' practice

An interviewee, a former leading practitioner, particularly emphasised the existence of an important transition that occurred during the 1980s. It was the transition concerned with the ascendance of what the interviewee called as **"minimum necessary intervention"**:

> "we changed track in the 1980's quite significantly, we went from sort of the groupie, running up and down mountains and canoeing up and down fast streams, we went from that to the beginning of the 1980's where we used to have long-long debates, we had a conference which was actually titled 'Justice and Welfare'. Because, you know, we were involved with children in these ... exciting things... but hadn't committed any offences. We were involved with them in the things for longer periods than would have been involved in anything if they had gone through the courts [...] and we moved in the 1980's from the 1960 onwards, where we were very welfarist-act, we moved towards justice, we moved towards minimum necessary intervention. That's a very important phrase, minimum necessary intervention, three words, [a very important phrase]".

The account of this interviewee, who had experienced the changing faces of the juvenile justice 'helping' practice for a long period, is particularly important. The account indicates the existence of a transition which occurred during the 1980s. This transition was concerned with the integrationist practitioners' understanding of the limits of the scope of their developing efficient 'helping' interventions when applied within the context of criminal juvenile justice.

From the early and wide 'helping' interventions,
to the recognition of the minimum necessary limits of the 'helping' intervention

The interviewee's account shows that the development of the 'helping' services was not necessarily the missing dimension of the social work practice of the 1970s which was involved with the management of juvenile delinquency. Actually, "running up and down mountains and canoeing up and down fast streams" and all these "exciting things" indicated exactly the opposite; namely that the development of 'helping' services was in the agenda of practice. In fact, the missing dimension was the understanding of the limits of the scope of the 'helping' practice when applied within juvenile justice settings.

Therefore, understanding the scope of their work constituted the critical transition in the working philosophy of the bottom end practitioner, during the 1980s. It was a transition which reflected the appearance of the practice policies of decriminalization into the day-to-day routine of the efficient 'helping practice'. Hence, from the practice level perspective, integrationist practitioners were the owners of the minimum intervention philosophy the same as they were the owners of the integrationist efficiency development. In short, the domination of minimum intervention appears to be a practice development strongly associated with the evolution of professional thinking.

The practice transitions discussed so far in chapters six and seven will be modelled and summarized, below.

h) The domination of minimum intervention: Initial conclusions

At the end of chapter two, the analysis of the 1980s statistics indicated the emergence of a completely new direction in the 1980s juvenile justice philosophy successfully summarised in Rutherford account:

"[the transformation became evident] in the number of 'known offenders', the shrinkage of the court caseloads and the reduced severity of sentencing practice" (1992:11).

As stated at the end of chapter two several accounts associated this transformation with transformations that occurred at the practice level:

"the sea-change of the juvenile justice direction was strongly associated with a sea-change which occurred at the practice level working philosophy. In fact, the sea-change in the working ideology of the practitioners of the 'helping classes' was suggested the critical event behind the sea-change in juvenile justice direction of the 1980s."

Therefore the examination of the 1980s juvenile justice practice was seen as important in order to understand the content and the dynamics of this transformation.

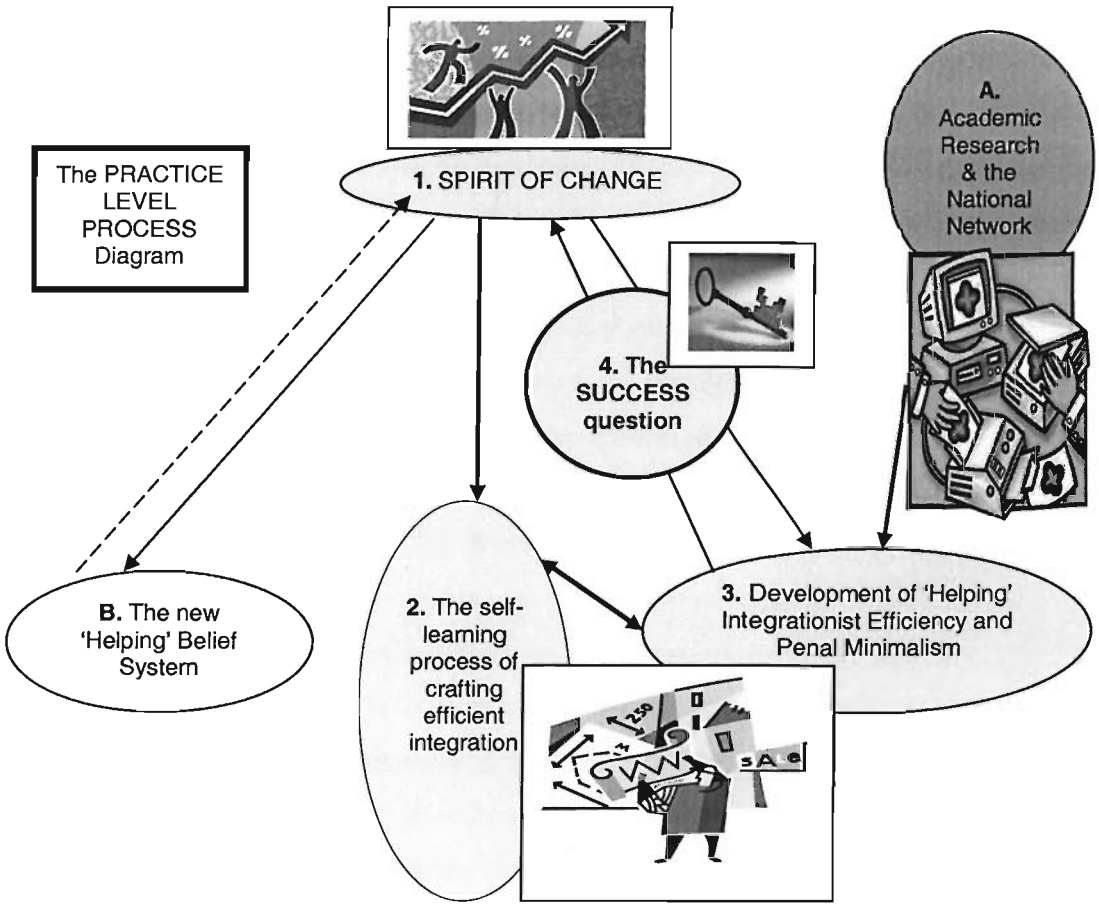
The conclusion of the discussion in the subsequent chapters three and four was that:

"the unearthing of the 1980s 'helping' practices from the historical memory of the 1980s juvenile justice in conjunction with the ideas of the loose Lancaster group has provided us with a rich picture of new practice policies concerned with the depth and the scope of the 'helping' juvenile justice practice during the 1980s. It can certainly be argued that the present research has uncovered (and recovered) a significant part of the practice policy mosaic of the 1980s – the mosaic of the 'helping' practice integration."

In other words the examination of the 1980s practice developments indicated the development of a concrete volume of efficient developments within a number of local juvenile justice settings, indicating the existence of a new working ideology: efficient integrationism. In chapters five, six and seven we tried to indicate the dynamics which originated this working philosophy at the practice level. The question posed concenred:

"how efficient integration became the working ideology of the practice level."

In chapter five it was argued that the academic research and the so-called 'national network' contributed to this transformation but in were by no means the critical events. The interest of the present research is focused on the dynamics of the practice itself. Therefore, in chapters six and seven, an examination of the dynamics of the 1980s 'helping' efficiency of the integrationist practitioners was made reflecting the existence of a practice level process which is modelled in the process diagram below.



The practice level process diagram includes:

The development of 'helping' integrationist efficiency and of penal minimalism; namely the development of the decriminalization practice policies which ensured the philosophy of minimum intervention **(3)**. In other words the diagram indicates that efficiency was not the only practice development of that time and therefore the mosaic of efficient integration should be completed with the practices of penal minimalism.

The diagram also includes:

The development of the self-learning process of crafting efficient integration **(2).** This critical practice level process included not only the learning of efficient integration but also the learning of penal minimalism.

In the above diagram the strong connection between stages (2) and (3) is represented with the double red arrow which connects learning with the experience of creating: the wealth of practice knowledge.

The diagram also includes:

The 'spirit of change'**(1).** The 'spirit of change' indicates the existence of practice intentions from a number of practitioners who wanted a new direction for the 'helping' profession within the context of juvenile justice; an important trigger for stages (2) and (3) and this why is numbered (1).

The diagram also includes:

The success question **(4).** The success question is numbered four in the process model but is of particular importance. As submitted earlier 'success' was critical for the undisrupted continuation of stages (1), (2), (3) in relation to the development of integrationist efficiency. It was also argued that success was critical for the development of penal minimalism which, through the construction of a limited operational scope, ensured the sustainable success of 'helping' efficiency. This is why the stage (4) characters are red and a key symbol has been attached to the stage.

The above presentation shows that the integrationist practice process actually included three stages which can be seen as critical to the development of 'helping' efficiency and penal minimalism:

STAGE 1 - STAGES 2+3 - STAGE 4.

Two notes:

First, as stated out of these three stages success proved to be the instrumental stage for the continuation of the process. Success modified and boosted the intentions, which in turn modified and boosted the creative learning process; which proved to be a success!

Secondly, the combined stages 2+3 substantially represent the 1980s integrationist activity; namely dealing with complexity.

It can therefore be argued that three stages were behind the transformation towards efficiency and penal minimalism:

SPIRIT OF CHANGE – DEALING DECISEVILY WITH COMPLEXITY – THE SUCCESS QUESTION

This simpler model is represented below.

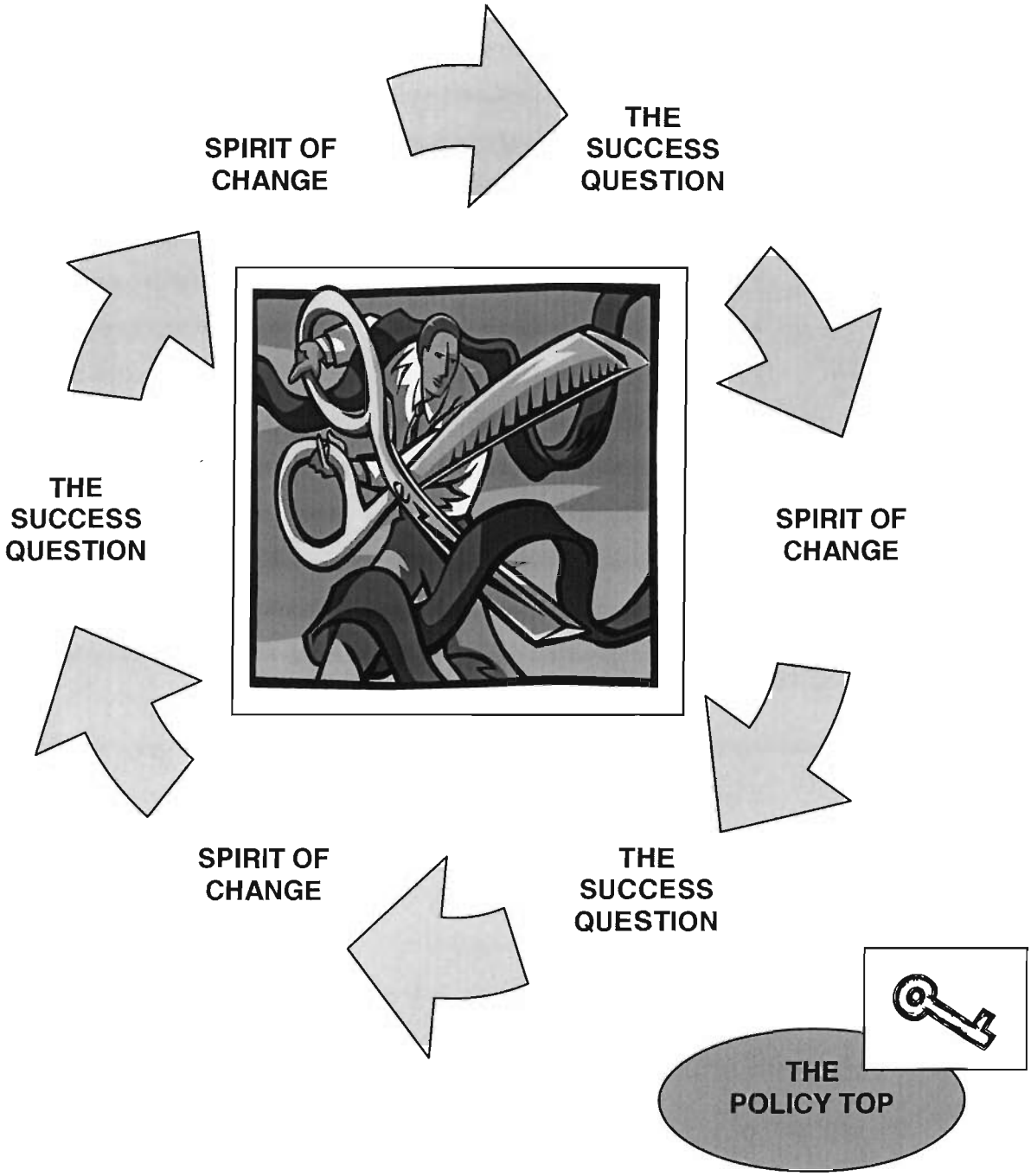
Before briefly discussing this model two stages of the above diagram should be mentioned; (A) & (B).

Field A is about the communicative/co-ordination contribution of academic research and the 'national network'. The academic research provided the theoretical legitimization of the discourse of 'helping' efficiency, which was however developing in practice pockets. The 'national network' sustained the discourse of 'helping' efficiency which again was developing mainly through practice experience. Their contribution was therefore important because it was within the realities of the practice process.

Field B is about the 'helping' label; namely to be pro-youth and anti-custodial. The anti-custodial/pro-youth ethos was a professional 'ethos', part of the professional ethos of integrationist efficiency which is represented in stage 1; the spirit of change. In other words, the 'helping' ethos was developing in accordance with professionalism. The realities of professionalism and success were more critical than the idealism of 'helping' values. In fact all social workers are supposed to be helpful. In the 1980s the question was whether they were able to be 'helpful' and achieve success.[412]

The model below depicts in a somewhat abstract way the dynamic process behind the efficient integrationism and penal minimalism:

[412] The issue of the centrality of 'ethos' in the 1980s practice is discussed in the final chapter 10.



The above model describes the transformation of the practice philosophy and helps us to understand the domination of minimum intervention at the practice level.

The transition was related to the pragmatic concerns of the ambitious integrationist practitioners who dealt with complexity and wanted to achieve success for their 'helping' profession within the local juvenile justice settings. The domination of the minimization

of the juvenile justice scope was interrelated with the sustainable development of 'helping' efficiency namely with a day-to-day 'helping' process.

An additional issue in this model is the field of the policy top which is also indicated as a 'key' field. Indeed, as it was argued in chapter six, it was the policy top which allowed integrationist practitioners to become ground strategists and deal decisively with complexity. Nevertheless, this indication in chapter six provokes a critical question: was the practice understanding of the pragmatic value of the minimum scope alone a sufficient condition for the domination of minimum intervention at the practice level?

The historical memory of the 1980s shows that practitioners understanding of the pragmatic value was the one condition; as several accounts also point to other directions regarding the proliferation of this critical transition in the understanding and domination of minimum intervention. The examination again should be directed to the academic research environment, and particularly to the policy top level.

CHAPTER EIGHT

CONTRIBUTION AND LIMITS OF THE ACADEMIC IDEAS WITH RESPECT TO THE MODIFICATION OF THE SCOPE OF THE 'HELPING' PRACTICE EFFICIENCY – THE QUESTION OF THE CRITICAL INFLUENCE OF THE CRIMINAL POLICY RHETORIC

a) The depressing issue of the 'tariff hoist effect' in the 1980s memory of the juvenile justice 'helping' classes

In his 1982 article very tellingly titled *The Road to Custody is Paved with Good Intentions*, H.A. Thomas[413] argued that the wide application of early 'helping' interventions constituted a fact for the late 1970s juvenile justice practice policy[414]. Furthermore, the wide application of early 'helping' interventions was described as an undeniably depressing fact for the practice policy of the 'helping' classes, on two grounds:

- First, the wide application of the early 'helping' intervention had the potential to undermine the effectiveness of 'community-based treatment';
- Secondly, the wide application of the early 'helping' intervention had the more 'serious' potential to effectively hoist up the sentencing tariff for a group of children with no serious record of delinquency[415]; the tariff hoist effect.

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[413] Assistant Chief Probation Officer, Nottinghamshire.

[414] H.A. Thomas argued that the late 1970s wide application of a 'catch 'em young and early' approach in the 'helping' practice in juvenile justice was particularly evident in the Home Office statistics (Home Office Statistical Unit – New Initiatives Data – 1981) which showed that "over 50 per cent of all supervision orders made to the Probation Service were on persons with no previous convictions" (1982:94).
According to Thomas' calculations the overall annual number of this group of people was big: "As the Probation Service handles only half of all supervision orders made, and social workers' recommendations to courts on juveniles seem to follow a not dissimilar pattern to probation officers', at least in terms of the early intervention approach, the net result is likely to be that annually some 10,000 first offenders come on to the books of the Probation Service and Social Services Departments" (1982:94).

[415] It must be noted that Thomas did not employ the terms 'serious' or 'seriousness' in order to describe the offences and the offending behaviour of this group of juveniles. Rather he used more descriptive phrases such as juveniles "at the early stages of a criminal career" or "with no previous convictions", or juveniles "of [a kind of] youthfulness and [of] current social and domestic characteristics", or juveniles who had not been considered on "offence criteria" but they had been

Thomas argued that the depressing picture, especially the 'tariff hoist' effect on a wrong group of juveniles, was the 'unintended consequence' of the accumulation of a non-manageable volume of juvenile offenders within the context of the formal juvenile justice process. This was due to the problematic early treatment practice that was widely applied by the 'helping' classes, who were part of the juvenile justice process[416].

Thomas' depressing message, which connected issues of intervention philosophy, volume management, and wrong sentencing outcomes, was relevant to the wider climate in English criminal policy, which was characterised by an emphasis on both the declining value of the rehabilitative ideal and on the need for penological pragmatism[417]. Thomas' depressing article which also emphasized the unfairness of this strategy, was certainly in tune with the 'Justice for Children' discourse about the limits of juvenile delinquency interventions[418].

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considered "with associated non-criminal factors such as family, school or other background features".

[416] "The prevailing ethic promulgated during training and subsequently followed in practice is that juveniles can be treated out of delinquency by social work intervention. Such a philosophy seems also geared to another philosophy that the best time to intervene in such a process is at the early stages of a criminal career; in other words a 'catch 'em young and early' approach" (Thomas, 1982:94,5).

[417] In 1980, Bottoms in *An Introduction to the 'The Coming Crisis'* 'identified' the existence of 'four facets' (and not only two) in English Penology: "the collapse of the rehabilitative ideal; penological pragmatism; the crisis in penal resources; and the bifurcation" (Bottoms, 1980:7,8).

With respect to 'the collapse of the rehabilitative ideal', Bottoms and Taylor in *Retrospect and prospect* indicated the presence of a group of academics in a 1978 weekend conference "amongst whom there is a considerable (not absolute) consensus about the 'collapse' of the [rehabilitative ideal]"; however at the same time interestingly Bottoms and Taylor also indicated that in the same conference the participating 'practitioners' "were far from happy with some of the assumptions about the collapse of the rehabilitative ideal made by criminologists"(1980:214,15). With respect to the facet of the 'penological pragmatism', Bottoms indicated the emphasis of the Chief Inspector of the Prison Service on the concepts of pragmatism and realism at the expense of the treatment ideology (Bottoms, 1980:4).

It must be noted that further examination of the above particularly interesting observations about the 'who-is-who' behind the 'the decline of the rehabilitative ideal' or the need for 'penological pragmatism', during the late 1970s, is beyond the scope of the present work.

[418] Harris, in his paper *The Life and Death of the Care Order (Criminal)*, referred to a set of interest groups "which argued that local authorities were unnecessarily locking up too many children in care, thereby infringing their 'civil liberties'" (1991:3); while later he particularly referred to "an emergent children's right movement (which included academics, civil servants and social workers)" (1991:4,5). In relation to the children's right movement, Parker *et al.* (1989) under the sub-heading *Justice for Children* more explicitly mentioned that "[d]uring the late 1970s

The point, which is of particular relevance to the present work, is that the depressing message of Thomas was part of the theory that originated in the late 1970s; the 'tariff hoist' theory. Indeed, in his article Thomas referred to a number of research projects, which questioned the strategic rationality of the early 'helping' interventions to juvenile delinquency, emphasizing its connection with the increasingly institutional/custodial sentencing outcomes[419]. Gradually, from the late 1970s, these research projects were accommodated under the umbrella label of the 'tariff hoist' theory, therefore strengthening the 'tariff hoist' discourse. Therefore, during the latter part of the 1970s, the professional contribution of the 'helping' classes to the sentencing process of the juvenile justice system was marked by the emergence of the depressing 'tariff hoist' theory, which connected 'helping' intervention philosophy (early treatment), with unmanageable numbers of clients, and increasing modes of institutionalization.

Notably, the '(unintended) tariff hoist' effect argument was dominant for the best part of the 1980s[420]. Hence, the 'tariff hoist' argument could be regarded as part of the

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a group of academic liberal lawyers were [...]critical of welfare 'solutions'" (emphasis added) (:10). According to Parker *et al.* these academic liberal lawyers "[i]nfluenced by a general trend in academic criminology favouring the 'just deserts' model of sentencing they focused on the incompatible welfare-punishment roles of the juvenile court, and the injustices thereby produced. They were critical of the discretionary powers invested in social workers" (1989:10).

[419] Thomas supported the view of his study with 'evidence' from the 1978 study by Cawson *Young Offenders in Care: A preliminary report*; also from a Thorpe's study *Sending Young Offenders Away* ; and finally from the study of Crook, Canton, Storer and Mulrenan *Study of Entries into Detention Centre.*
Also Nellis, in his brief article the *The Myth of Up-Tariffing in IT,* referred to almost the same studies including more titles from the Lancaster conducted studies. He also included the one by Thomas, and did not include the one by Crook *et al.*

[420] The 'tariff hoist' effect was a central theme in the debates of a group of 1980s policy concerned practitioners or academics, therefore ascertaining that the tariff hoist effect was an important theme for the microcosm of the 'helping' juvenile justice practice.
The article by Andrew Bilson, *A Counter-Productive Strategy?*, published in *Community Care*, was a characteristic case. At the very beginning of his 1986 article, Andrew Bilson, the principal officer for research and development for Fife Regional Council, stated that: "There is an argument that *preventive strategies*, which rely on early intervention with children who have not yet begun or are in the early stages of a deviant career, lead to them being 'hoisted up the tariff' and entering custody more quickly if they do offend" (1986:16). In the rest of his article, Bilson elaborated on the research findings of a 1984 study of SERs in a local juvenile justice setting and basically as the explanation behind he supported the existence of the unintended tariff hoist 'argument'. Hence in 1986, Bilson ascertained the existence of the tariff hoist argument.
The most characteristic case, which indicates the survival of the 'tariff hoist' debate during the 1980s, comes from the pages of the *AJJUST.* In 1987, three *AJJUST* issues (the April, the September and the December one) accommodated the 'tariff hoist' debate between Mike Nellis,

integrationist practice philosophy of the 1980s, at least at the level of the leading practitioners; particularly of those who were involved with the administration of the 'national network'[421]. Certainly, what these professionals had in their minds in relation to the 'tariff hoist' effect cannot be described with precision. At the same time, it is questionable whether their understanding of the problem of the 'tariff hoist' effect was the same as those who researched and wrote about the problem. Nevertheless, it can certainly be argued that the concern with the early treatment of a large number of juveniles **was** part of the practice policy thinking of a number of the 1980s integrationist practitioners.

In the present work, the argument is that one important reason for the existence of the concern with early 'helping' interventions in the 1980s collective memory of integrationist practice was that the 'tariff hoist' effect and its resolution had particularly attracted the academic research interest. In particular the loose Lancaster group[422]

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then researching the historical development of I.T. at the Institute of Criminology at Cambridge, Sue Ross then Area Social Organizer, Fife, Danny Boils from Fife, and David Smith from Lancaster University.
Through this correspondence of articles and letters arguing for and against the tariff hoist issue, one can certainly deduce that the tariff hoist argument was dominant in the integrationist juvenile justice practice world.
So, in his article Nellis treated the tariff hoist argument as an established **'myth'** which **'now'** in 1987 **"could be abandoned"**, (1987:10), and in his later response letter he clearly supported that **"the 'myth' of up tariffing has become an integral part of the occupational ideology of practitioners in the alternatives to custody movement"** (AJJUST, September 1987:6); Ross argued that **"[t]he tariff hoist theory [...] is a fundamental part of our understanding about the nature of Social Work"** (AJJUST, September 1987:6); Boils similarly argued about for the tariff hoist theory as one of the **"fundamental assumptions about what Social Work is really all about"**(1987:23). More elaborate in his writing about the tariff hoist argument, David Smith suggested that the **"recognition that [social work] should entail [the understanding and managing the system] is an important advance of the last ten years"** (1987:24). The phrase 'understanding and managing the system' to a great degree included the tariff hoist theory, which was actually the main theme of this debate.

[421] It must be noted that in the December issue of *AJJUST* which marked the end of the correspondence of articles and letters about 'up-tariffing', the editorial of *AJJUST*, in the *Comment...* column diplomatically indicated in relation to 'up-tariffing' debate that **"members must take those arguments that fit their own experiences"**; but interestingly it was also noted that **"the position taken by [...] Ross is more likely to be reflected in the day to day experience of those who manage local juvenile justice systems"** (AJJUST, September 1987:26). In other words, the *AJJUST* editorial certainly supported Ross' argumentation about the problematic effect of the early social work intervention.

[422] In his brief article written in 1987, Nellis, among other things, also attempted to disassociate **"the University of Lancaster"** from the **"influence of the idea"** of **"the up-tariffing effects of preventive I.T., or of I.T. which is used too early in a youngster's offending career"** (1987:7).

considered the 'tariff hoist' effect [423] and in turn suggested and disseminated to the practice world a strategic set of ideas for change[424]. Rutherford's contribution to the practice world was also instrumental.

b) The academic emphasis on 'de facto decriminalization' for reversing the problems inherited to the 'helping' classes by the practice policy of the 1970s

In *Out of Care*, Thorpe *et al.* discussed the problematic issues surrounding the 'tariff hoist' effect on all types of incarceration, and the strategies to deal with these issues[425].

The point is that through this argumentation, Nellis practically recognized that the loose Lancaster group was widely supported to be behind this 'idea', 'argument', 'theory'.
It must however be mentioned that in their articles neither Thomas in 1982 nor Bilson in 1986 referred to Lancaster members as the creators of the idea. Characteristically, Bilson apart from the study in question only further discussed a London area study by Giller and Morris (1981) and briefly referred to one by Thomas *et al.* published in the 13.6.1985 issue of *Community Care.*

[423] In 1980, in *Out of Care*, in the first chapter *The 1969 CYPA and its Aftermath*, probably written by Thorpe, Thorpe *et al.* indicated the following in relation to the application of social work within the context of juvenile justice through the form of Intermediate Treatment: "the new system extends its scope, its range of intervention and surveillance, down through the age groups, and acts as a feeder mechanism for the courts and custodial institutions [...] An unfortunate consequence of this arrangement is that when children do come to court, they may be more vulnerable that they might otherwise have been since more is known about them and social work intervention has already been tried (and seen to fail)" (1980:23). Hence, in the very first chapter, actually an introductory chapter, Thorpe *et al.* indicated early 'helping' interventions and tariff hoist effect as one of the main problems that they would discuss; as they did in most of the rest seven chapters.

[424] From this point of view, it can be argued that the loose Lancaster group was fundamentally related to the 'tariff hoist' theory. Indeed in the earlier mentioned *AJJUST* debate about the 'tariff hoist' argument, Ross particularly highlighted the research role of Lancaster in the development of the 'tariff hoist' theory by stating that: **"IT owes a debt of gratitude to Lancaster University which the rest of Social Work has to learn from"**. Also in the same debate, David Smith, from the Lancaster University, and co-author of the *Out of Care*, explicitly indicated in his letter, the critical role of Lancaster in providing a set of strategies to deal with the problem of the tariff hoist problem: "In the 1970's a lot of us began dimly to sense that this was happening, and owe a debt of gratitude to David Thorpe [...] for enlightening us with some coherent and practical proposals for stopping it" (Smith, 1987:24).

[425] The table below provides an abstractive picture of the against-the-tariff-hoist-effect (namely down tariff) agenda of the *Out of Care*:

PHILOSHOPHY: <u>No</u> to treatment – variety of reasons mainly based on labeling theory and symbolic interactionism - variety of socio-liberal oriented alternative ideas

Furthermore, it was the 'entrepreneurial' practice of members of the loose Lancaster group[426] which brought into the practice course of the 1980s a set of 'coherent' and 'credible' strategies dealing 'successfully' with most of the problematic issues identified with the 'tariff hoist' theory[427]. Hence, the research of the loose Lancaster group highlighted to the 'helping' practice areas of concern, and also pointed to a set of solutions[428]. The need for focus was one of the main issues of their research[429], and so the

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STRATEGY: gate-keeping [program intervention reserved for those at risk of custody/ SERs/diversion/cautioning]

TARGET GROUP: juveniles at risk of custody

AIM: decarceration, diversion from the agency to community, decriminalization

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[426] See the earlier chapter three.

[427] In 1984, in *Questioning the new orthodoxy* (published in *Community Care*), Ray Jones indicated that "Norman Tutt meantime had moved from the DHSS to Lancaster University as Professor of Applied Social Studies, where he formed (notably with David Thorpe) the Centre for Youth Crime and Community, and they have most successfully established packages and programmes which provide coherent and very credible local schemes which combat the trend towards pushing young people through courts and into custody" (Jones, 1984:27); namely against the tariff hoist effect.
Also, in 1990, Dennis Jones in his article published in *AJJUST The Rise and Fall of the 7(7) Care Order* indicated that: "Emerging research into local care and justice systems began to highlight the type of young person being sentenced to the 7(7) care order and being placed in the CHE system. In many cases these proved to be youngsters convicted of petty offences, whose behavior and family characteristics did not seem to be such as to justify removal from home. The combination of this research with consultancy at the Centre for Youth, Crime and Community of Lancaster University led to a series of initiatives at local level to reduce the use of CHE placements and develop community based services for this client group, often with spectacular success" (1990:6); namely, 'with success' against the tariff hoist effect.

[428] In their 1986 article, *Justice for Juveniles-A Corporate Strategy in Northampton*, Bowden and Stevens indicated that "when the SSD at chief officer perceived the need to specialized in juvenile offenders" then "a report was commissioned by SSD from Lancaster University in 1980 which when completed in 1982, identified several areas of concern:

i. the number of young offenders brought to court not having been cautioned;
ii. care, supervision and intermediate treatment orders were being made for low-tariff offences, because of the offender's welfare needs;
iii. such orders were generally being made on the recommendation of social workers and probation officers
iv. no viable alternatives to custody were being presented in social inquiry reports from more serious and persistent offenders, therefore custodial sentences were imposed.

(1986:327).

loose Lancaster group suggested the replacement of the nebulous concept of the juvenile delinquent by the much narrow and more precise concept of juveniles-at-risk-of-custody[430]. Therefore, juveniles-at-risk-of-custody was suggested as the professional target group for the alternative programs of the 'helping' practitioners working within the local juvenile justice settings[431]. The remaining juveniles had to be dealt with otherwise; essentially they had to be cautioned; therefore cautioning was propagated as a desirable strategy[432]. Maintaining a narrow focus for program intervention by targeting the custodial option and promoting cautioning, at first, appears to be the twin strategy of the

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[429] Thorpe *et al.* stated that: "One of the ways in which this book is meant to be helpful to social workers is in suggesting that in order to achieve change they must work towards a clearly defined target and very rigorously maintain a narrow, specific focus in their work" (1980:39).

[430] The story of a social worker who "returned to the office from court angry that a child had been found not guilty of an offence" characteristically exemplified how the loose Lancaster group viewed the nebulous social work practice of the 1970s. As Thorpe *et al.* indicated the social worker was angry "not because of her feelings about the offence but rather because, believing that the child would plead guilty, she had prepared a social enquiry report in which she had argued for a care order[;] [and] [s]he was angry because the 'not guilty' finding had denied her access to the child and his problems" (1980:92).
In the eyes of the loose Lancaster group the practitioner had an obvious difficulty to identify her professional target, because she confused welfare needs with the criminal justice system and she was therefore becoming de facto pro-institutional. The development of her professional practice was therefore the result of nebulous beliefs about her role.

[431] The case of the Woodlands Centre at Basingstoke, certainly exemplifies the importance of the intervention of members of the loose Lancaster group in the design of the focus of the 'helping' practice. Indeed, with respect to Woodlands Centre, the innovative early 1980s alternative project in Basingstoke, which successfully reduced custody in 1986, Rutherford indicated in *Growing out of Crime* the following:
"The arrival of Chris Green at the Woodlands Centre determined that the programme's sights were set on Basingstoke rather than on the criminal justice arena. Green had been a member of a research team at Lancaster University which served as a resource to local authorities whishing to develop alternatives to sentences of care and custody. He brought much more than concern for programme ideas to the new project; he insisted that Woodlands should be as much concerned with changing the existing pattern of decision making across juvenile justice, especially with reference to sentencing. [...] Under Greens' direction, Woodlands was to deal with older adolescents (not the younger age group who were in the minds of some of the founder group), and to confine its attention to young people who almost certainly would otherwise receive institutional sentences. Green firmly rejected the conventional interpretation of Intermediate Treatment, or IT [which was] used as a preventative measure for young persons who had not been before the courts" (Rutherford, 1986:137).

[432] Tutt & Giller indicated in their 1983 article *Police Cautioning of Juveniles: The Practice of Diversity* that: "diversion away from formalised court hearings by means of police cautioning and reductions in the levels of use of custody are desirable objectives to pursue" (Tutt & Giller, 1983:587).

loose Lancaster group in order to depart from the depressing for the 'helping' classes 'tariff hoist' effect.

Nevertheless, it must be pointed out that the idea of 'down tariff' (namely the opposite to the issue of 'tariff hoist up' or otherwise 'up-tariffing') constituted the critical point of departure for the twin Lancaster practice strategy. Indeed, from the perspective of the loose Lancaster group, in order to reverse the 'tariff hoist' effect, 'down tariff' was regarded as a more important aim than increasing the number of 'helping' interventions.[433] The objective of reducing the number of juveniles dealt with by the court was equally as critical as the objective of replacing custodial sentencing with alternative programs[434]. As a result, and with respect to the practice of cautioning, the loose Lancaster group set as its primary objective the reduction of prosecutions, and not the expansion of the use of cautioning through the development of several modes of cautioning[435]. Diverting from

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[433] Hence, in the *Community Care* article *Doing Justice to Great Expectations*, Tutt and Giller (based also on evidence of their research) emphasized the importance of reducing the number of SIRs (even SIRs which were positive for the juveniles) in order to achieve down tariff: "[I]n the Greater Manchester area, many social services departments and probation services are withdrawing reports from the juvenile court – especially with respect to first time court appearances. In part this strategy is based upon a growing body of evidence which suggests that providing reports routinely in these cases can have the unintended consequence of pushing the young person deeper into the juvenile justice system than is merited on the facts of the offence alone" (Tutt & Giller, 1985:22). Three years later in 1988, in his article *The Role, Context, and Impact of Social Inquiry Reports on First Time Court Appearers*, Chris Stanley, a leading practitioner, following Tutt and Giller, conveyed the message to the *AJJUST* readers that from a similar study it was again confirmed that "the absence of a social inquiry report for first time appearers does not disadvantage the offenders concerned"(1988:28). Stanley made clear to their readers that more social work was not the question: "The benefits of not producing reports routinely for first time court appearers do not seem fully understood. In a substantial majority of cases the reports may contain the unintended consequences of up tariffing a juvenile when the appear in court for the first time" (1988:28,9).

[434] Hence, in chapter one of *Out of Care* (probably written by Thorpe), it was indicated that "more social work is not likely to succeed and it is therefore time to try something new and different"; and a few lines below, it was suggested that "each child who does not come to court (or who does not come to court again) can be counted as a success" (Thorpe *et al.*, 1980:23). Despite the fact that the two final chapters (probably written by Paley) discussed merely forms of socio-liberal program-interventions; the first chapter clearly indicated that the main focus was not on the social work program but on limiting the scope of these interventions.

[435] Thorpe *et al.* explicitly indicated the importance of diversion for the reduction of the numbers of juveniles entering into the system: "Diversion refers to a different question: not how to get children out of institutions but how to stop them being put into them in the first place" (Thorpe *et al.*, 1980:34). From the perspective of the loose Lancaster group, this concept of diversion was suggested as the guiding idea of cautioning practice.
Also, Tutt and Giller in their 1983 paper, *Police Cautioning on Juveniles*, clearly indicated that the question was not about the further increase of cautioning, but to ask what is the aim of cautioning. They referred therefore to the 1970s study by Ditchfield (1976), which indicated the problem of

prosecution, or otherwise a 'down tariff' practice at this stage of the process, was therefore an objective, which was particularly highlighted[436]. Hence, in the agenda of the loose Lancaster group, cautioning, and particularly quality alternative programs (namely an important part of the efficient 'helping' practice) operated within a framework of 'de facto decriminalization'[437], namely the Lancaster suggested gatekeeping[438] practice of decriminalization. In sum, in the opinion of the loose Lancaster group the reversing of the 'tariff hoist' effect, could only be achieved through the minimization of the efficient 'helping' practice business rather than through the further development of modes of alternatives-to-punishing-sentencing, namely efficient modes of integrationist practice.

Emphasis on 'de facto decriminalization' rather than 'on program' was Rutherford' main agenda for the 'helping' practice world in order to deal with the problems of juvenile justice. In the *NEWS* column of the *INITIATIVES* of summer 1985, the journal of the

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net-widening, as the problematic reality of the cautioning practice which escalated the up-tariff career of juveniles. See especially the *Conclusion* part of the article (1983:595).

[436] Already in 1980 Thorpe *et al.* indicated the need of less intervention, less social work and more networking, within the cautioning context: "[W]hen diversionary mechanisms are introduced there is a tendency for the number of referrals to rise by way of compensation, with the result that the system as a whole simply expands. Cooperation with the police or access to police decision-making is therefore essential." They therefore indicated that "at least one intermediate project has discovered that its success in reducing the numbers of court appearances among its clients is thanks mainly to effective police liaison rather than the substance of its social work 'input'" (1980:129,30).
Later in 1985, Tutt and Giller, based on their research finding highlighted that "a diversionary strategy with multiple cautions [was] possible" and could result in a more limited use of prosecution (1985:21).

[437] Remarkably, in 1980 the Council of Europe *Report on Decriminalisation* was published (an almost 300 pages book) and provided the definition of the de jure and de facto decriminalization. Hence, in the report, as de facto decriminalization was defined as **"the phenomenon of (gradually) reducing activities of the criminal justice system for certain forms of behaviour or certain situations although there has been no change in the formal competence of the system"** (1980:14).

[438] "[The] general 'gatekeeping' mechanism [would be] designed **to oversee**, as far as possible, the entire network of policy and procedure. The function of this mechanism could be both to influence and monitor" (Thorpe *et al.*, 1980:129).

NACRO-JOT, a part of Rutherford's speech to the practice audience[439] was reported as follows[440]:

> "In England, custody has increased at the same time as community-based alternatives – we have seen a parallel development of both systems and consequent net-widening. More and more young people being caught in net of the justice system and intermediate treatment" (INITIATIVES, Summer 1985:4).

Hence, Rutherford indicated to his practice audience that the over-expansion of the juvenile justice system, both on 'punishing' and 'helping' terms, was a problem.[441] Indeed, since the late 1970s, Rutherford had constantly pointed out in his talks and writings the over-expansion problem within the juvenile justice system; much like the loose Lancaster group he indicated the need for a new strategic focus for juvenile justice 'helping' practitioners. His terminology was certainly different from that of the loose Lancaster group. Instead of employing the phrase juveniles-at-risk-of-custody, Rutherford was keen to use the term 'deep-end' in order to define the strategic target for the reforming juvenile justice 'helping' practice[442]. Actually, the meaning of 'deep-end' was

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[439] It was a talk in opening the first conference of National Children's Home staff, held in London on 26th June.

[440] In the report, the summary of the main points of Rutherford's speech started with the phrase: **"An emphasis on process over programmes"** (INITIATIVES, Summer 1985:4).

[441] The "parallel development of both systems and consequent net-widening" was another way to describe the 'tariff hoist' theory. Indeed, in the research interview, as Rutherford has indicated "there was a sense then that we'd done exactly the wrong things, we'd widened the net, a lot of intermediate had been focused on the shallow end of the process. [...]I used to make the, tell the story of the [X] Estate. At that time in 1979, I recall, Hampshire Social Services had a big van, big truck, they'd drive onto the [X] Estate, almost with a loud speaker, saying they wanted to take children to the Welsh mountains for intermediate treatment weekend. So all sorts of kids would climb onto the van and these kids may or may not have ever been in any trouble but they wanted to go to the mountains. But they didn't know they were being drawn into some sort of anti-crime programme and they were very often described as the 'sibs' of offenders, brothers or sisters of offenders – they weren't the offenders themselves. This was all preventive stuff. All of this was very dangerous because it was bringing people into the system without proper controls and checks, it was shallow end stuff".

[442] In his paper *Strategies for Keeping Young People in the Community* read to the 24th June 1982 Intermediate Treatment Association Conference (Magee College, Londonderry), Rutherford in a number of times referred to the 'deep-end' strategy. He indicated the "choice between deep-end and shallow-end strategies of juvenile justice reform"; he considered that Intermediate Treatment has tended to avoid the rougher waters of the deep-end preferring to paddle at the shallow-end"; he suggested that "[i]t is now time for target groups at the deep-end to be firmly located at the sentencing stage"; he concluded that "the alternative is a deep-end strategy" suggesting that intermediate treatment workers should insist "upon locating intermediate treatment at the deep-end".

synonymous with the loose Lancaster group's idea about the juveniles-at-risk-of-custody; namely, that de-institutionalization and decarceration of juvenile offenders had to be pursued at the higher level of the sentencing process. That higher level had to be the focus of juvenile justice practitioners.[443]

Nevertheless, it is particularly important to indicate that from Rutherford's perspective the 'deep-end' focus had to operate within the framework of the 'de facto decriminalization'. Indeed, in his 1985 talk to the above mentioned practice conference reported in the *NEWS* column of the NACOR-JOT *INITIATIVES*, Rutherford indicated to his audience:

> "If projects are successful in keeping young people down to tariff, [...] and where good cautioning practice is reducing court throughput, then there will be minimal

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The reference to the above paper is only an indicative example of the use of 'deep-end' by Rutherford. Undeniably this term can be found in most if not all of Rutherford's talks and writings during a period starting prior to the 1980s and lasting through latter part of the 1980s.

[443] In the previously mentioned paper *Strategies for Keeping Young People in the Community* Rutherford indicated to his audience that "of particular importance are the ways in which formal cautioning by the police and intermediate treatment connect: often with the result of keeping activity in the shallow-end, e.g. cautioning/intermediate treatment schemes run jointly with the police Juvenile Bureau" (emphasis added) (1980). As Rutherford continued in his talk, "[b]oth the CAYO team at NACRO and the University of Lancaster group have demonstrated that changing process is critical [...] the conclusions point to Intermediate Treatment being carefully located within the tariff of the juvenile justice process – with the result of stretching the tariff" (1980).
Here some comments should be made about the origins of Rutherford's 'deep-end' strategy. It must nevertheless be noted that these comments go beyond of the scope of the present work:
The above paragraph shows the relevance of Rutherford's deep-end strategy to the need for focus, an issue that the loose Lancaster group had widely supported. However it would be a mistake to conclude that Rutherford's deep-end strategy was only a version of the Lancaster ideas. Research findings show that the roots of Rutherford's deep-end strategy went back to the period he spent in the US working on the 'Massachusetts experiment' of closing down the juvenile justice correctional institutions, a policy initiated by Jerome Miller. During this period Rutherford developed the strong view that the 'closing down' of institutions had to be the strategic priority - hence his 'deep-end' strategy. Certainly, returning to the English context of juvenile justice, Rutherford adapted his argument to the particularities associated with the use of Intermediate Treatment and the 'tariff hoist' effect.
The strong point in Rutherford's 'deep-end' theory was the view that the rate of the custodial increase was negotiable. It is worth referring to a quote from a 1980 paper read to a Howard League Day Conference on Juvenile Justice. In the end part of this paper Rutherford referred to the research conducted in Southampton University in relation to 7,300 juvenile offenders received into detention centres and borstals in 1978. As Rutherford concluded: **"[the] preliminary findings point to the strategic use of regional quotas as a first step towards the elimination of Prison Department custody for juveniles" (1980)**. This phrase exemplifies the base of Rutherford's 'deep-end' strategy, which clearly meant that prison custody is negotiable, a view probably gained from his Massachusetts experience.

numbers of young people in the projects. This is a desirable situation", (INITIATIVES, Summer 1985:4).

Therefore, according to Rutherford this 'desirable situation', namely an emphasis on reducing client numbers rather than on attracting increasing numbers of clients for the efficient projects, was the appropriate strategic response to the problem of the over-expanding juvenile justice system in England and Wales.

In sum, in Rutherford's opinion juvenile justice business minimization rather than program development was the answer to the problem of the increasing net-widening, which derived from the combined effect of the expanding 'helping' and 'punishing' interventions within the context of the juvenile justice system.

Hence, both the Lancaster group and Rutherford suggested the minimization of the juvenile justice business as being the rational professional objective for the 'helping practitioners' of the 1980s and therefore clearly modified the conceptual transition for the 'helping' practice's scope:

- **from the state**, where many early and wide interventions were considered to be the strategic priority for the 'helping' practice;
- **to the new state**, where the 'deep-end' focus within the 'de facto decriminalization' framework constituted the means for the minimization of the operational scope of the efficient and integrationist 'helping' practice that operated within juvenile justice.

In the opinion of these academics this transition would be beneficial for the professional future of the 'helping' practitioners.

c) Reducing the business scope is beneficial for the juvenile justice 'helping' professionals

The loose academic group pointed out to integrationist practitioners that the reduction of the business scope could be meaningful for the development of the 'helping' profession. In other words, they suggested that the framework of the 'de facto decriminalisation' could prove beneficial for the advancement of the 'helping' professionals, a key concern for the ambitious and efficiency oriented integrationist practitioners.

Indeed, in the above mentioned talk covered by the *NEWS* column of the *INITIATIVES*[444], Rutherford was reported to have pointed out to his practice audience that the strategy of the 'de facto decriminalization' rather than a strategy based on an increasing amount of program would be critical for achieving a better future for the alternative 'helping' practice within juvenile justice. Indeed, Rutherford's message was that down tariff and "minimal number of young people in the projects" would ensure a 'permanently established' future for the programs. Otherwise, he indicated, **"alternative programmes would flourish in parallel with incarceration rather than replacing it"** (INITIATIVES, Summer 1985:4); in other words, he reminded practitioners that emphasis on program had been tried and depressingly failed.

The loose Lancaster group seemed to adopt the same view towards the 'helping' professionals. Minimization of the 'helping' practice for its own benefit was certainly a critical issue for the loose Lancaster group. In 1980, Thorpe *et al.* mentioned that placing the emphasis on the widening-the-scope-'preventing'-programs was in fact a recipe for failure for the 'helping' practice itself:

> "'prevention' while conceivably bringing benefits to some families, were to widen the target population for social work to such an extent as to constitute a major influence in the failure to develop services for actual delinquents themselves" (Thorpe *et al.*, 1980:4[445]).

Five years later, in *Doing Justice to Great Expectations*, Tutt and Giller also referred to the benefits of the reduced scope for the 'helping' classes professionals[446].

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[444] It was in this same context talk Rutherford was reported to have indicated to his practice audience that "keeping young people down to tariff" and "reducing the court throughput" (namely de facto decriminalisation) was **"a desirable situation"** (INITIATIVES, Summer 1985:4).

[445] In the first chapter of *Out of Care*, titled *The 1969 CYPA and its Aftermath*, (pages 1-26, probably written by Thorpe), the issue of decriminalisation was discussed within the context of the 1956 Ingleby committee and the CYPA 1969. The truth is that this important point about the effect of decriminalisation on the success of daily practice was not discussed further in *Out of Care*; however it was implied in all subsequent chapters. Indeed, the success of community programs was a key question for the *Out of Care,* the full title being: *Out of Care: The Community Support of Juvenile Offenders*.

[446] In the following paragraph of their 1985 article, which dealt with strategies of 'de facto decriminalisation' such as multiple cautioning and withdrawing reports for first time court 'appearers', Tutt and Giller indicated to the readers of the *Community Care* that: "Freed of the unnecessary expenditure of effort to write reports in routine and mundane cases, report writers are being asked to give more careful consideration and produce better quality reports for those cases that run a real risk of being pushed deep into the criminal justice system" (1985:22).

In sum, the academic message to efficient integrationist practitioners was that the transition to a minimised professional scope through the framework of the 'de facto decriminalization' would be instrumental for the success of the 'helping' practice. It was an important message, but not as important as their indication about the policy rationale behind the minimum professional scope. Indeed, by suggesting the existence of a criminal policy reason the academic group contributed to the transition to minimum intervention.

d) Pointing out the criminal policy rationale behind the emphasis on the reduction of the professional scope through the framework of the 'de facto decriminalization'

According to the loose academic group, the transition from an over-expanding juvenile system to one of minimum scope through 'de facto decriminalization' constituted a rational strategy because it shifted the juvenile justice policy values towards the socio-liberal model of criminal justice[447].

In the loose academic group's opinion, the transition to a juvenile justice system of minimum scope was rational because it minimized the predominantly negative effects of juvenile justice interventions on the juvenile-life-phase. The loose academic group emphasized the criminological theory of stigmatization and labelling to the practice audience; namely the negative effects following on from the juvenile justice interventions[448]. Remarkably, they referred to the damaging effect of 'helping'

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[447] The discussion about the three models of criminal justice can be found in the article by Sir Leon Radzinowicz *Penal Regressions* in pages 425-27. Radzinowicz considered the existence of two opposite 'unbridgeable' models, the authoritarian and the socio-liberal, with the third conservative model standing between the two but with the potential to be assimilated only to the authoritarian model.

[448] Within the theoretical discourse of that time, the negatives effects of the interventions to troubling juvenile behaviour was not limited to the apparent problems that derived from the custodial option (suicides, luck of socialisation etc). The whole justice apparatus was regarded as a major source of negative effects, which would potentially spiral juvenile delinquency through stigmatisation and labelling. In the early 1980s, the proponents of the justice approach mainly supported their thesis on this argument: "[W]e are in favour of minimum intervention [...] and [...] we support the current trend towards keeping children out of the juvenile court, commonly called diversion. [...] The main argument in favour of diversion is that it can prevent the stigma and negative consequences of a court appearance. It has been suggested that the process of arrest, trial and conviction changes the self-image of the juvenile" (Morris et al., 1980: 53,54). In 1980, Thorpe *et al.* supported the minimum policy scope of 'helping' interventions with the

interventions and not only to those of the 'punishing' ones[449]. In Rutherford's opinion, the context of the juvenile justice system was part of and not the solution to the problem of juvenile delinquency[450].

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same argument: "a major premise of this book is that the labelling, stigmatising and controlling activities of official agencies, including those which employ social workers, are qualitatively different from those of everyday life and make a large contribution to our present mismanagement of delinquency [...] One of the ways in which this book is meant to be helpful to social workers is in suggesting that in order to achieve change they must work towards a clearly defined target and very rigorously maintain a narrow, specific focus in their work. Otherwise, for example, there is nothing to prevent intermediate treatment programmes which start off with persistent juvenile offenders as their target group from gradually becoming more and more diffuse until they are merely one more part of the blanket of prevention spread in a stigmatising and suffocating way over the supposedly dangerous or at least irresponsible people in society" (Thorpe *et al.*, 1980:32,39).

Similarly, Rutherford, in his 1982 talk *Strategies for keeping young people in the community*, indicated the need to recognize of "ways in which juvenile justice process can contaminate and label".
In general, the labelling theory was seen as important during that time. As an interviewee, then an influential juvenile justice policy consultant, has indicated "the evidence did seem to show that the labelling theory wasn't just a theory. There was some evidence [...] and research that had been done by the Cambridge Institute of Criminology's long term study of delinquent behavior [showed] that that was true. Young people were more likely to live up to a label as criminals if they were prosecuted rather than cautioned, at an early stage in delinquency". It must be noted that the reference to the West long term study about delinquent behavior was a common occurrence in a number of documents in that period, especially those coming from the NACRO context.

[449] An interviewee, a former member of the loose Lancaster group, particularly indicated his belief about the damaging effect of 'helping' interventions, such as institutionalised treatment, within the context of the juvenile justice system: As he mentioned: "I spent five, six years at least working in the [approved schools] sector and I became increasingly convinced from the research that I was doing that institutional treatment of young people was damaging to them, it didn't solve their problems, it made them very much worse [...] treatment had very little impact on reconviction rate. It also produced a whole range of secondary problems. Young boys would abscond from the approved school, commit further offences, so even during the period that they're sentenced they weren't kept out of circulation and still committing offences. Education in the schools was terrible, so they came out, had no exam qualifications, so they couldn't get jobs so they were more likely to re-offend. Very often they had spent three or more years in an approved school a long way from home and so they had broken all their networks with their family, all the support networks, that when they went home might have helped them stay out of trouble. So I became convinced by my research that approved schools were very negative influence on young people's lives so if you wanted to stop young people offending the first thing you had to do was stop them going into approved schools".
Certainly, the damaging effect of the development of treatment oriented 'helping' interventions, during the 1970s, which followed on from the enactment of the CYPA1969, was a key theme throughout the pages of the *Out of Care*

[450] In his interview Rutherford certainly indicated his view of the criminal justice system as being a part of the problem and not a solution to the problem of crime. It was a view gained primarily from his experience as deputy governor of a young offender institution, a Borstal at Everthrope: "When I left Everthorpe it was with the sense that there had to be some way forward dealing with

Importantly, the loose academic group further supported the idea of minimum intervention by suggesting alternative policies, which could better deal with the problems of the 'adolescence' phase; a concern for a number of policy oriented practitioners of the 'helping' classes.[451] In 1980, Thorpe *et al.* had attempted to address this concern. According to Thorpe *et al.* 'adolescence' could be better dealt with within the community. Resorting to community was the idea that the loose Lancaster group had supported in the very early 1980s as the alternative policy choice for the troubling phase of 'adolescence'[452]. Thorpe *et al.* also suggested the 'atonement theory' along with a related 'framework' as an alternative theory to replace traditional penology.[453] The problem was

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serious young offenders that, if at all possible, kept them out of institutions. I became convinced that the institution at Everthorpe was part of the problem".

[451] Indeed, the management of 'adolescence' seemed to reflect an urgent need for a number of policy oriented practitioners of the 'helping' classes, in the early 1980s. In his first 1985 edition *No Holiday Camps*, Holt, a policy oriented practitioner who labelled himself as 'radical' indicated that **"[t]here is no doubt that a new agenda is urgently required"** (1987:40). The statement of Holt referred mostly to the 'streetwise' systems management agenda, which in the view of Holt did not provide a philosophy (actually a progressive philosophy) about the question of 'adolescence', its problems and the responses required.
Similarly, one interviewee, former member of the loose Lancaster group, stated that "[practitioners] begun to feel they were hearing the same message again and again. By 1984 or something they actually wanted to move on". The interviewee basically meant that the message contained in the 'streetwise' systems management, provided an agenda for integration but also contained an agenda for the 'de facto decriminalization', but not a clear message about the issue of 'adolescence', its problems, and appropriate responses.
Certainly, for a number of policy-oriented practitioners, responses to 'adolescence' problems should not have been an issue of concern for social work. This view was predominantly supported by those social work practitioners who had a strong belief in the value of the labelling theory and therefore were suspicious of any interventionist invention. See for example the letter by Sue Ross in AJJUST: "Social work intervention [...] is ALWAYS intervention in a client's life by a statutory agency. It cannot be anything else, whatever the worker's reason is for involvement. It is always clientising, criminalising and has the potential to 'up the stakes' in terms of how the child is seen by society and the courts" (September 1987:5).

[452] In 1980, Thorpe *et al.* indicated that "[i]t will be argued in a later chapter that there are more constructive ways of dealing with juvenile offending, at least than having automatic resource to the blunt instrument of the criminal law which of its nature is impersonal and abstract and cannot take into account of the human reality of an offence, as experienced by either victim or offender" (Thorpe et al., 1980:46). Resorting to the idea of community was a major option that suggested by Thorpe *et al.* Out of the agency and back into community was a kind of a slogan across the pages of *Out of Care*.

[453] Thorpe *et al.* also elaborated on the 'atonement' idea along with an alternative policy 'framework', which included the community prevention model applied by the Devon police, in pages 110-113 (see also the relevant Figure 5.1-page 113, which represented the 'framework'- this framework had been probably developed by Chris Green).

that the community/'atonement' approach of Thorpe *et al.* in practical terms brought the emphasis back to agency interventions through the backdoor. Indeed, by shifting the emphasis back onto modes of community interventions they actually re-widened the scope of agency intervention; a situation which Thorpe *et al.* had treated as the root-problem of the 1970s failing practice policy[454]. From this point of view, it is questionable whether the Lancaster group were successful in providing a real alternative rationale to the problems of adolescence[455], which would support, in policy terms, the strategy of 'de facto decriminalization'[456].

It was indicated that, "'Atonement' despite its Biblical sound, is a useful generic term covering most of the available possibilities – all the way from imprisonment to community service and the recently canvassed 'reparation'. The basic idea is that if to commit a crime is to take something away from somebody (a private individual, or 'society' at large), it follows that one should be made to give something up in exchange (whether that something is useful to somebody else or not: one's liberty presumably, is not). The adoption of this concept would make it possible to discuss something which is separable, and ought to be separated, from socialisation and various other conditions under which atonement would take place. We are arguing, in other words, that instead of penology and the philosophy of punishment we ought to have the 'theory of atonement'" (Thorpe *et al.*, 1980:111).

[454] It is certainly interesting to read at page 22 of chapter one of *Out of Care* the problem that Thorpe *et al.* had indicated in relation to the enactment of the *CYPA1969* and the introduction of the I.T. helping system in the 1970s as a new system for juvenile justice: "What happens when a system that is intended as a replacement is simply grafted on to its predecessor and run in parallel with it? The 1969 CYPA makes a wonderful case study. Considered abstractly there are two possibilities, of which the first is intense conflict and abrasion. While there has indeed been a great deal of conflict at the ideological level (i.e. on the part of those whose duty it is to make as much official noise as possible), this simply has not happened in practice. The other possibility is that the two systems come to some form of accommodation, an implicit set of demarcation agreements and neutral zones, and that the sector served by the old system simply expands in order to make room for the newcomer. It is this direction that all the available evidence points in the case of the 1969 CYPA" (1980:22). So, the community/'atonement' alternative strategy would not follow the fate of the 1969 CYPA Intermediate Treatment – merely because it was not called 'treatment' or because of the concurrent strategy of the 'de facto decriminalization'.
It can certainly be argued that despite the decriminalization thesis, in pages 110-113 Thorpe *et al.* did not resist the temptation of offering a new 'helping' replacement, as part of the juvenile justice system. The reasons for this contradiction are well beyond the scope of the present work. Here, only a few thoughts will be mentioned, such as the looseness of the group, or the fact that they were affected by the threat to the welfare ideology due to the ascendance of the Thatcher government. Interestingly, Thorpe himself seemed to be very worried about the development of a persuasive and pragmatic alternative. The final part of the paper *De-instutionalization and justice* (1983) reflected his concern.

[455] Indeed, Tutt and Giller who after some time indirectly identified with the Lancaster group through his professional link with Tutt (see ch.3) did not provide any argumentation about the criminology of 'adolescence'. Tutt and Giller and their excellent consultancy work through the SIS had a pragmatic sole focus on the implementation of 'de facto decriminalization' within the context of juvenile justice aiming at the reduction of the scope of the system as a whole.

The truth is that Rutherford's policy recommendations as regards the alternatives for dealing with the maturation phase of the young persons' life cycle were more persuasive [457]. Indeed Rutherford did not see any need to consider the invention of further mechanisms for the juvenile justice, or to resort to the concept of 'community'. Throughout his argument for the developmental approach, Rutherford made explicit that **"the most effective resources for coping with and resolving the problems of young people and crime are located in the home and school"** (1986:12). The existing institutions of 'home and school' constituted his predominant policy idea, which justified the need for a re-adjustment of the policy scope of juvenile justice. 'Adolescence' therefore was a phase in the human life-cycle, which had to be understood and dealt with by family and school; a message, which seems to have been received by policy oriented practitioners following the second part of the 1980s, after the publication of Rutherford's *Growing out of Crime*[458].

The greatest advantage of Rutherford's 'home and school' 'developmental' agenda was that it provided a viable argument, which perfectly supported the rationality of the

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[456] It could certainly be argued not, as the 'atonement' theory did not really appear as a core theory for integrationist practice up until the 1980s.

[457] As regards the argumentation by Rutherford in relation to the rationality of the minimisation of the scope of the juvenile justice system and what happens afterwards, an interviewee, a former member of the loose Lancaster group, has indicated that: **"Andrew's was a slightly more subtle argument"**.

[458] In 1986, Trevor Locke, a Development Officer with the NACRO-JOT, indicated in his book-review the important 'messages' contained in *Growing out of Crime*:
"[T]he real contribution of the book to current debate is its messages. These messages are clear enough: most kids will grow out of trouble if we leave them alone – delinquency is a passing phase so to speak; the solution to the problems posed by juvenile crime lies with parents and teachers but if we are to hold on to our troublesome youngsters, then the home and the school must be properly equipped to do this" (INITIATIVES, Summer 1986:5).
Within the framework of the developmental approach, Rutherford's views were seen by Trevor Locke as 'sensible and new':
"Rutherford states that traditionally, society has reacted to delinquency with punishment, treatment and welfare. However, he negates all three approaches and advocates a developmental approach which emphasizes the normalization of the child. His recommendations to improve policy and practice in dealing with young offenders are sensible, if not entirely new" (INITIATIVES, Summer 1986:6).
Government Green Paper, *Punishment, Custody and the Community* presented to Parliament in July 1988 David Wilson, Governor at HMP Grendon Underwood: "Some of Rutherford's arguments are more persuasive than others, but what he has produced is a challenging alternative to the Government's proposals in that it is based on the care and understanding of young people, rather than their punishment, whether within the community, or in a prison" (Wilson, 1989:9).

minimisation of the scope of the juvenile justice system practice interventions, even the 'helping' ones.[459]. Indeed, Rutherford's policy argument was very much in touch with the pragmatic limits of the day-to-day experience of the ambitious and efficient integrationist practitioners.[460]

Hence, the loose academic group further modified the transition to minimum intervention because they addressed (Rutherford in particular) the criminal policy rationale, which underpinned the rationality of applying the framework of 'de facto decriminalization'. In other words, in policy terms, minimization of the juvenile justice system was a rational criminal policy option.

e) The academic leadership's contribution to the transition to 'de facto decriminalization'

It could therefore be argued that the loose academic group contributed to the modification of the transition to the recognition of the need of a reduced scope for juvenile justice because:

I they insisted on the 'tariff hoist' theory; in other words, they insisted that the 'tariff hoist' effect was a problem associated with the 'helping' practice, as it was applied during the 1970s;

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[459] As Trevor Locke concluded in his *Growing out of Crime* book review: "It sounds warning bells about the possibility of our so called 'community based' alternatives themselves becoming institutions. It cautions over-zealous professionals against removing responsibility for the young from their communities and families and this can be no bad thing" (INITIATIVES, Summer 1986:6).
Also according to an interviewee, a former policy consultant, "Andrew Rutherford put up a very convincing case for minimum intervention and the phrase, 'growing out of crime', which implies that people will do that left to their own devices – you only need to give them as much help as you really need, I just think was a very good catch-word".

[460] Characteristically, as an interviewee, a former leading practitioner mentioned: "I can think of a handful of kids, who through those years went to custody, because they went through our system once, twice even three times, and that's when I said "we were naïve" [...] [We] didn't have the resources (and we were slightly naïve) to impact all the other aspects of a child's life. I mean, how can you? When you are dealing with [the project] and just a bit of offending, dealing with the aspects of poverty, being excluded from school...".
The interviewee practically described the limits of juvenile justice 'helping' (or even 'punishing') intervention in dealing effectively with serious juvenile behavior. Indeed school and social exclusion (in the words of Rutherford 'home and school') were identified as the areas where investment was needed primarily rather than the area of social work program intervention. Other interviewees/practitioners seemed to be particularly prepared to acknowledge these same concerns.

II they offered a new professional focus for the 'helping' practice/program by pointing to the small size 'deep end', instead of the preventive business widening 'swallow end', which had widely attracted the intermediate treatment practice of the 1970s;

III they suggested 'de facto decriminalization' and not program development to be the framework to respond to the late 1970s depression of the 'helping' classes professional problem of the 'tariff hoist' effect, which associated issues of 'helping' intervention philosophy with volume management and sentencing outcomes;

IV they justified the rationality of the minimum intervention by highlighting the negative effects of the juvenile justice interventions on young people – labelling and stigmatization;

V they justified the criminal policy rationality of minimum intervention by indicating 'home and school' as the institutional pillars for dealing with the 'adolescence' phase rather than being dealt within the context of the damaging juvenile justice system;

VI they believed that the reduction of the juvenile justice business scope would be supportive to the advancement of the 'helping' practice/program within the context of the juvenile justice system.

In particular, the argument can be made that by introducing into the self-learning process of crafting efficient integration the issues I-VI, the academic group substantially managed to establish minimum scope and the means to achieve it ('de facto decriminalization') as integral parts of the efficient integrationist practice of the 1980s. Interviewees, former members of the loose academic group, have supported this view, despite minor variations in their opinions.

In accordance with the account of one academic-interviewee, the academic contribution could be seen a both significant and instrumental because they introduced to integrationist practitioners **"something they could actually do"**. In other words, they addressed the professional needs of the practice context[461] which were driven mainly by the need to achieve success. Based on the opinion of a second academic-interviewee, the importance of the academic contribution can be seen not merely significant but rather as

[461] As the interviewee mentioned: "There was much impact of the kind of thinking we were advancing; well the movement was patchy, but I think because we were able to actually offer practitioners and middle managers, something they could actually do [...] there was a professional reason for them to be interested in this".

instrumental; since by introducing a new professional focus/framework[462] they provided 'leadership' to the learning course of the 'helping' professionals: **"I suppose, the arrogant way would be to say that we provided leadership, but I think there's some truth in that"**. A third academic-interviewee particularly emphasized the psychological 'leadership' that academics had provided to the self-learning process of a practice movement, namely to **"people [who] were ready to hear because they'd seen the failure of the shallow end".**[463] As the interviewee particularly emphasized: **"we were almost like the preachers or the priests with a message, and they believed in us".**

All three academics-interviewees[464] have pointed to the power of academic ideas or otherwise the academic 'message' which led the psychology of the bottom level juvenile justice 'helping' practitioners that were engaged into their learning or self-learning 'evolutionary' process[465] during the 1980s. Hence, the transition to minimum intervention and to the dominant ascendance of the 'helping' practice of the 'de facto decriminalization' were both the outcomes of such a process, where the leading role of the ideas and the rhetoric of the loose academic group was of paramount importance. Undeniably, there is substantial truth in this explanatory approach. Nevertheless, there are some practical problems as well.

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[462] As the academic-interviewee mentioned, they pointed out to practitioners what their job was about: "Your job is to reduce custody, so we're going to set targets for you each month and each month you've got to have less people going into custody. Because that's what you're really being paid for. Not to make decisions about individual cases but to look at the overall trend and say, my job's to reduce custody".

[463] As the interviewee mentioned: "I was just one of several who were more than happy to talk about these things at meetings if asked to do so, but there was an audience that wanted to hear it, and they didn't need a lot of persuading. [The academic contribution] was reinforcing, it was articulating to people ideas that they'd sort of worked out for themselves but they just needed to hear it stated clearly and authoritatively by somebody who knows about these things. So there was that curious, interesting relationship between the audience, if you like, the practitioner and the people, like myself and a few others who were speaking".

[464] All the three academics-interviewees were member of the loose academic group (Lancaster plus Rutherford).

[465] In relation to the 'evolutionary' learning process, or simply 'evolutionary' process of public policy, see Peter John (1998), the final chapter titled *A Synthesis through Evolution*, in particular pp:182-88. As John has indicated: "The evolutionary process is different to the classic Darwinian selection mechanism in that human actors are capable of consciously adapting to their environment. The process is Lamarckian rather than Darwinian because the organisms are partly succeeding through their own efforts though chance and competition are no less important. Ironically, modern evolutionary theory now incorporates the idea that some organisms have adaptive capacity and learn strategies to evolve" (1998:185).

f) Practical problems with the academic leadership's contribution to the transition to 'de facto decriminalization'

One set of problems concerns the degree of coherence and the continuity of the presence of the academic 'policy advocacy coalition'[466], which supported the minimum intervention idea and the framework of 'de facto decriminalization' as important policy options for the 'helping' practitioners (and middle managers). In particular, as mentioned earlier in chapter three, the academic 'policy advocacy coalition' was particularly loose, or in other words incoherent. Here, it will be argued further that to a great extent there was inconsistency in the academic views; while the leading presence of some of them during the 1980s practice course lacked continuity. These kind of problems practically affected the 'leadership' effect of the loose academic 'policy advocacy coalition' on the evolutionary learning process of the integrationist practice.

Undeniably Rutherford's contribution lacked neither continuity as regards his contact with the integrationist practice movement of the 1980s[467] nor consistency in his view about the importance of the 'de facto decriminalization' direction. His talk, *The Next Step*, to practitioners at the successful 1987 AJJ conference[468] constitutes a testament both to Rutherford's continuing supportive interaction within the integrationist practice movement and also of the spirit of change and direction that his rhetoric aired to the audience[469]. The point is that, especially during the latter part of the 1980s, Rutherford

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[466] "Public advocacy coalition: a coalition of actors within a policy sector who share and advocate common ideas about how to solve public problems" (John, 1998:204).
The use of the PAC term does not imply a particular research interest in the relevant policy field, as this would be beyond the scope of the present work. The PAC term has been employed simply to describe the tendency of the loose academic group to argue actively within the practice microcosm for a particular direction for juvenile justice. Policy 'entrepreneurs' could be also an appropriate term, but the PAC term seems to fit better because of the words 'advocacy' (they advocated a particular direction), and 'coalition' (they formed a loose group and they tried to create a practice network).

[467] Rutherford's continuing strategic stance towards the practice level throughout the course of the 1980s has been discussed and supported in chapter three.

[468] The *Next Step* has survived in a 1989 AJJ publication of papers presented in the proceedings of the 1987 and 1988 AJJ conferences (Rutherford, 1989a).

[469] Rutherford gave his talk on the last day of the successful 1987 AJJ conference. It was the final talk of the conference before lunch and closed the conference proceedings.

was the only one from the loose academic 'policy advocacy coalition' to actively advocate the importance of the transitional course of the integrationist practice world towards minimum intervention through the framework of 'de facto decriminalization'.

Indeed, Thorpe, the big name in the social work world in relation to 'tariff hoist' theory, had left Britain, soon in the early 1980s. Chris Green, the third co-author of *Out of Care* and the leading person directing the development of the *Woodlands Project* at Basingstoke[470], did not appear at the forefront of the integrationist practice movement in the latter part of the 1980s. Paley, the fourth co-author of *Out of Care* who had published largely, with Thorpe, a number of research papers on the 'tariff hoist' effect, was reported to have strong reservations about the validity of the 'tariff hoist' theory. He was also

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The start of his speech was as follows: "I believe this is a pivotal time in terms of juvenile justice policy development in this country. I sense a degree of excitement and encouragement in 1987 which was not evident some years ago. There was a sense of doom – that the '70s had been wash-out despite the expectations of the previous decade. However, we have survived the concerns about the 1982 Criminal Justice Act" (Rutherford, 1989a:29).
Rutherford's accurate observations indicate his relevance to the course of the 'helping' classes, from the late 1970s to the late 1980s. At the same time, the making of the observations, which stressed the transition from 'doom' to 'excitement and encouragement', provided an emotional re-assurance to practitioners about their own transition to an emergent success. It can also be argued that the observation that 'we have survived' has a particular symbolic weight of support as firstly it aired optimism; and secondly Rutherford, an academic, placed himself within the practice world- he described himself as part of the practice world.
At the same time, in a particular part of the speech Rutherford also provided direction for further change by strongly suggesting to the practice audience what the 'next step' 'should be': "The AJJ should be arguing [...] that the juvenile court should be extended to include the 17-year olds. We should also be concerned with the policy neglect of young adults who have been virtually ignored since the Younger Report of 1974. There seems to be no reason why the programmes that have been developed for juveniles cannot be equally effective (or even more so) with young adults" (Rutherford, 1989a:29).
The remainder of the text of the speech pointed out (otherwise reminded of) to the audience the practice achievements; and from this point of view again the speech was both supportive and instructive. Hence, Rutherford indicated to the practice audience the significance of the integrationist practice movement; the significance of their efficient/effective programs; the significance of their practice of 'de facto decriminalization' (the practice emphasis on process rather than on program); the significance of "bolstering and supporting those institutions in society that carry out the burden of handling young people" (1989a:30).
Naturally therefore, Richard Hester, Assistant Director Rainer Foundation, indicated in his article on the conference that **"Andrew Rutherford's extremely lively lecture on 'The Next Step' reflected the general air of optimism particularly in relationship to the pessimism after the 1983 election"** (1987:15). This remark points an indication of the close supportive interaction of Rutherford to the advances of the integrationist practice.

[470] See earlier footnote and Rutherford's account in *Growing out of Crime* (1986 or 1992).

reported to have supported some form of 'preventive work' with young people[471], namely the kind of practice strategy that the 'tariff hoist' theory had largely dismissed. Similarly, David Smith, the second co-author of *Out of Care*, and certainly a growing academic name in the 1980s,[472] seemed to have distanced himself from the 'tariff hoist' theory and to have placed his emphasis on program development (through some form of preventive work) rather than on 'de facto decriminalization'[473]. Hence in relation to the four authors of *Out of Care*, who in the late 1970s had linked their names with the development of the 'tariff hoist' theory and co-authored the *Out of Care* published in 1980, the argument is that during the 1980s they appeared either to have departed from the forefront of the 1980s juvenile justice 'helping' practice debate; or, to have departed from both the 'tariff hoist' theory and the emphasis on 'de facto decriminalization' rather than on program. Practically, at least for the latter part of the 1980s or earlier, Thorpe *et al.* were not present; they were not an integral part of the transition to minimum intervention.

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[471] In 1987, in his article *The Myth of Up-Tariffing in I..T.*, in relation to Paley, Mike Nellis supported that Paley's view that the 'rationing of services' namely, increase of social work professionalism could 'design out' the 'negative effects' of preventive work (namely the early treatment interventions) and consequently the 'tariff hoist' effect. In particular, Nellis stated that Paley "quickly distanced himself from [...]Thorpe's 'overstatement'" and further indicated that "[i]n a more recent analysis Paley lends his name to a tactful but cogent critique of the views with which he had previously been associated, in a way that clearly leaves room for preventive work of some description, within a framework of 'youth social work'" (1987:9,10). Further research has shown that Nellis' information was probably correct.

[472] Research evidence has shown that David Smith was active throughout the 1980s in relation to integrationist practice movement as a conference speaker.

[473] In his 1987 article/letter, *Crime Prevention: An Attempt at Mediation*, published in *AJJUST*, Smith stated that **"understanding and managing the system is not all that social work entails – though the recognition that it should entail this is an important advance of the last ten years"** (1987:24). In the same article Smith advocated the significance of the **'social crime prevention'** approach, which should target not those at risk of custody but also those that are **"likely to be arrested, and try to help them develop strategies for survival which reduce this likelihood"** (1987:24,5). At the end of his article/letter Smith posed the question: **"Can the AJJ accept that in social crime prevention there is scope for positive, enabling, reforming activity? Or must we restrict ourselves to essentially defensive activity, managing the system (often against the odds), holding the line, glumly accepting that our best endeavours are more likely to do harm than good?"** (1987:25). It can therefore be argued that through to the 1980s David Smith was not really a believer in the value of 'de facto decriminalization', and he did not see its potential within the context of the 1980s juvenile justice practice policy. Further research evidence has indeed shown that, Smith had actually place his emphasis on program development as the antidote to a custodial option and only the end of the 1980s did he acknowledge the potential of Lancaster 'systems management', namely the potential of the 'de facto decriminalization'.

Hence, it could be argued that Norman Tutt was left alone with his research partner Henry Giller[474], during the 1980s, to support the rationality of the 'de facto decriminalization' from the Lancaster side. Nevertheless, there is still a problem with the continuity of his participation and the degree of his impact on the integrationist practice movement. The problem is that in the latter part of the 1980s, certainly after the 1987, Tutt had practically withdrawn as a big player[475]. At the same time, it also appears that his argumentation (or rhetoric), about the value of the transition to the 'de facto decriminalization' in order to reduce custody, had gradually weakened,[476] reflecting rather his increasing distance from the juvenile justice practice course. His January 1987 *Manifesto for Management* (jointly written with Giller) was essentially repeating most of the issues that the integrationist practitioners were already debating or had even advanced; it also seemed to lack vision. Actually, it lacked influence. At the successful 1987 *AJJ* conference, in one of the practitioners' workshop, the *Manifesto for Management* was discussed[477] and was criticized as being out of touch with the realities of the day-to-day operation of juvenile justice business of the latter part of the 1980s.

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[474] Director of Social Information Systems.

[475] Account based on the research conducted.

[476] The author of the present work, based on research evidence, can certainly support that among the loose academic group, Tutt was the one who had a very good understanding of the system's workings and held therefore a particularly strong view about the rationality of 'systems management', and also about the potential of 'systems management' to bring about country wide change. His argumentation certainly aired pragmatism and professional rationality. Nevertheless, through to the 1980s years, his pragmatic and rational rhetoric seemed to loose touch with the demanding day-to-day process of juvenile justice.

[477] In the June 1987 issue of *AJJUST* which contained the program of the workshops for the forthcoming AJJ conference it was stated: "*Workshop on the Manifesto for Management* – The Manifesto was sent to local authorities in January by Social Information Systems, which provides a juvenile justice monitoring and consultancy service to several local authorities. It makes recommendations for local authority policy and practice to achieve the elimination of custody for juveniles [...] The aim of the workshop is to use participants' knowledge of their own agency, and experience of promoting and implementing changes in policy and practice to assess the potential for a more widespread application of Manifesto's recommendations; to enable participants to learn from each other's experiences; and to enhance their ability to promote such change within their agency" (*AJJUST*, June 1987:21).

Indeed, in a later article, which amalgamated the workshop's view towards *The Manifesto for Management*, Ken Beaumont[478] indicated that **"the frustrations that were evident in the workshop are likely to be shared by many other practitioners"** (Beaumont, 1989:38). The widely shared 'frustrations' seemed to reflect the concern of practitioners with the need of a leadership (or a new leadership?), which was able to understand the various local advances and failures of the integrationist practice. Beaumont, who pointed to AJJ for such a leading/coordinating role, indicated in the 'three measures' that he recommended the following:

> "there is a need for the development of a more comprehensive view of what is happening in the juvenile justice field than is currently available. [...] The workshop on the Manifesto for Management suggested the possibility that many are struggling [...] [T]here is a need to develop an information exchange role within the A.J.J. to provide practitioners with sources of information and experience to press for change within their authorities and with the courts" (1989:38).

Regardless of whether Beaumont was right or wrong on the issues contained in the 'three measures', the point is that his 'measures' reflected the collective workshop-view, which clearly indicated a lack of leadership, and consequently demanded someone to play this role, in order for practitioners to be able to continue with the advancement of the decriminalizing integrationist practice.

Hence, the integrationist practitioners of a particular workshop disputed the existence of any academic 'leadership', especially from the loose Lancaster group. It can perhaps be argued that their views more or less echoed the views of the wider integrationist practice context[479]. Therefore any account, which supports the 'leadership' contribution of

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[478] Ken Beaumont was a long standing member of the AJJ committee and leader of the workshop on *the Manifesto for Management*. As it was stated in the relevant workshop program: "The workshop leader has no connection with S.I.S., and works for a local authority which does not use its services but has implemented many of the points reflected in the Manifesto. He has played an important part in the implementation of changes in policy and practice which have enabled Nottingham to have dramatic effects on the local juvenile justice system" (*AJJUST*, June 1987:22). His account of *the Manifesto for Management* along with the workshop participants' views were amalgamated in an article, which was published in a later AJJ publication which contained papers from the proceedings of the 1987 and 1988 AJJ conferences (Beaumont, 1989).

[479] In relation to the second part of the 1980s, as an interviewee, a former leading practitioner, indicated: "Norman Tutt and Henry Giller had become a bit passé by then, they were still publishing but we thought they were still looking at the old view of things. They were out as far as we were concerned".

the loose Lancaster group in the transition to 'de facto decriminalization', should take into account that the physical presence, or the argumentative impact of this group was, for various reasons[480], practically absent during the latter part of the 1980s. Certainly this is an issue which questions the 'leadership'-contribution of this group_during the whole period of the 1980s.

Nevertheless, the wider theoretical issue, in relation to the significance of the academic impact, is whether the loose academic 'policy advocacy coalition' alone; or in other words the spread of the academic thought alone was itself able to provide the much needed 'leadership' to the 'helping' practice transition towards minimum intervention.

g) The limits of academic criminological ideas: "Nonetheless politics prevail".

During his interview, an interviewee, a former chief probation officer, particularly emphasized the **"very exciting time"** that was generated by the power of ideas emerging from 'really good' criminological research projects:

> "There was some really good research around; there was the Cambridge Institute longitudinal study about who became delinquents, so you could see hugely the effect of family, particularly, of young people who got into trouble and the early warning points where you could do something about it.[481] More than anything else there was the Head Start program in the United States which said, if you want to do anything about juvenile delinquency you do it before they're five years old. [...] That you pick out very early the youngsters who are most at risk of becoming delinquents later and that's where the father's in prison or got a criminal record, where there are particular difficulties with housing or whatever and you offer help – not related to offending at

[480] The reasons do not constitute the subject of the present work. Furthermore, it should be pointed out that these observations do not constitute a kind of critique for the activity of the loose Lancaster group, which had anyway been significant for the advances of the juvenile justice in the1980s.

[481] As it has mentioned earlier the Cambridge Institute longitudinal study by West (later West, Farrington) was regularly cited during the 1980s, whilst interviewees who served as managers of the 'helping' sector also showed an attraction to it. Hence, another interviewee, a former chief probation officer, also emphatically referred to the socio-economic issues raised by this study, and other similar ones: "all the research papers suggest that the sort of people we send to custody as juveniles have had very poor experiences in terms of families both from breaking-up families, often the children had been in the care of local authorities under public imperative, so they had a very poor education record, poor health record a poor family background most of them had been in care from local authority. They are the most needy group of people".

all – as early as possible, preferably before the age of five. And so in this hundred or so projects under fives, enormous amounts of help were given to high delinquency estates – everything from babysitting services to improved housing to parenting classes to help with reading and writing before they started school – you name it – huge amounts of help but in fact none of it to do with offending. But what they did was then followed those kids up 20 years later – well, between 15 and 20 years later and they found that the end result was that for every dollar they spent they saved seven dollars. They were more likely to get all the way through school, they were more likely to have jobs, they were more likely to have stable marriages, they were much more likely to be stable tax paying citizens, much less likely to be in trouble. [...] That was a hundred-odd projects in the USA under the Head Start program and they were all producing consistent, consistent findings".

According to the interviewee, this reliable research production, which practically supported the idea of the minimum use of criminal policy interventions (either 'helping' or 'punishing'), was able to impact upon the professional psychology and the professional personality of practitioners. In the words of the interviewee:

"Things like research, like the Head Start programme, didn't just give you a licence to do anything you wanted, they gave you a sense of purpose in terms of saying, we can learn from this, we can do things here, we can use the Cambridge Institute study, we can really get what we know from long term studies and make a difference to young people's lives which is, after all, what I was in business for".

With this hymn to the power of research ideas, the interviewee clearly recognized the 'leading' role of a particular kind of criminological ideas towards the development of innovative and effective 'helping' practice policy. It was a **"very exciting time"** for those who wanted to follow an innovative practice policy route.

Nevertheless, the same interviewee clearly suggested that the innovative 'helping' policy and practice was uniquely dependent on the political sphere:

"But you could [make a difference to young people's lives] against a background of [political] support."

In other words, the interviewee indicated the limits of academic/research criminological ideas in playing the leading role towards the progressive transformation of juvenile justice practice policy; because, as another interviewee, again a former chief probation officer, clearly indicated: **"Nonetheless politics prevail"**.

h) "From say 1978 through to 1992, that period is almost the sort of clear blue sky."

The problem of the dependency of the 'helping' practitioners' activity on the organisational attitudes of the distant policy top was addressed earlier in chapter six, when the effect of the government policy level on efficient integration was discussed. In particular, it was indicated that the government policy top redistributed the power of operational control for the benefit of practitioners; and therefore allowed practitioners to develop the learning process of crafting efficient integration and address their concerns for professional advancement within the local juvenile justice settings themselves. Here however, the question of the effect of political power over the development of juvenile justice 'helping' practice during the 1980s is seen from a different perspective; this of the criminal policy logic. Indeed, the issue now is about the impact of the government criminal policy logic/rhetoric/agendas upon the 'helping's practice policy development.

i) The supremacy of 'political setting'

Murray Edelman, in his book the *Symbolic Uses of Politics*,[482] stated the dependency of public policy formation (namely the dependency of the work of the state administrative agencies) from the **'political setting'** (1985:103-105); namely from:

> **"whatever is background and remains over a period of time, limiting perception and response. It is more than land, buildings, and physical props. It includes any assumptions about basic causation or motivation that are generally accepted"**[483] (Edelman, 1985:103).

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[482] The classic title *Symbolic Uses of Politics* was first published in 1964. The 1985 publication which is employed in the present work had as an extra only a 'new afterword', written in 1984; otherwise the two publications were the same.
In the *Introduction*, Edelman stated that "this book concentrates on the mechanisms through which politics influences what [people] want, what they fear, what they regard as possible, and even who they are" (1985:20]. Certainly, the 'people' aspect of governance is not the central issue of the present work – perhaps not an issue at all. Nevertheless, political power and its mechanisms, especially the mechanism of policy rhetoric is the central issue of the final chapters and therefore *The Symbolic Uses of Politics* is considered to be a particularly useful source.

[483] According to Edelman this was **"a pragmatic definition of political setting"** (1985:103).

In other words, Edelman pointed to the power ('limiting perception and response') of the political/policy logic ('generally accepted assumptions') which envisages the appropriate policy to be formulated.

ii) The supremacy of policy rhetoric/agendas/logic in the historical memory of the 1980s

This interaction between the policy top logic, which is incorporated in policy-rhetoric and policy-agendas, and the administrative practice polices, with the government policy top holding the upper hand over this interplay[484], was an issue which was stated in several evaluative studies in the late 1970s and the early 1980s[485]. Furthermore, the importance of agenda-making and the rhetoric of the government policy top did not escape the attention of the Lancaster group who had placed their emphasis on the practice world.[486] Andrew Rutherford also considered it important to indicate to his practice audience the emerging

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[484] In *Analyzing Public Policy*, and particularly in the chapter *A Synthesis through Evolution*, Peter John made substantial argument about this interaction where policy 'agendas' hold the upper hand: "In fact the practice of policy-implementation mirrors that of agenda-setting. The activities are completely intertwined. [...] Thus the evolution of agendas characterizes the whole of public policy-making" (John 1998:185).

[485] The importance that Anderson (1978) placed on the political level was indicated in chapter three. Towards the end of the 1985 published book, *Sentencing Young People-What went wrong with the Criminal Justice Act 1982*, in particular in the closing paragraph of the book, (was this paragraph really written just before publication?), Burney indicated that: "The demand for custodial places for juveniles has already begun to slacken and this could provide the psychological opportunity for an absolute reduction in places. But only political will can dictate how far this process is carried" (Burney, 1985:97).

[486] Thorpe *et al.* indicated the importance of the policy top in several parts of their book. At the beginning of *Out of Care*, in the chapter which dealt with the past policy improvements they referred to the activity of a small circle of civil servants to set acceptable agendas: "The civil service favoured the 1968 White Paper. Bottoms comments that *Children in Trouble* was in fact largely the product of a small group of people at the Home Office with professional social work backgrounds who were able to transform the earlier, more radical proposals into ones which were both politically and professionally acceptable, by retaining the juvenile court and giving more discretion to child care professionals" (1980:6,7). Later toward the end of their book they spread the encouraging message that at the beginning of the 1980s, there were still policy individuals able to affect the course of policy: "There are civil servants who, behind the scenes, are working to influence national policy towards more rational ends. There are even some politicians, both locally and nationally, who are prepared to shout back at the strident ranks of the law-and-order brigades and to stand up for values once associated with the British left – compassion, commitment to the underdog, help and understanding rather than coercion and punishment" (Thorpe *et al.*, 1980:177,178).

Hopeful Sings of the political setting. In a 1986 *AJJUST* issue, under the title *Hopeful Sings*, he was reported to have spread a hopeful message:

> "The Tories no longer see law and order as a vote catching issue" Andrew pointed out that despite the doubling of expenditure on law and order services since the Tories came to office crime had increased by 40%. As a result we now have the spectacle of Lord Hailsham pointing out that fear of crime was a worse problem than crime and asking for a bi-partisan approach. Norman Tebbit has not yet got the message but doubtless the lady will be having a word in his ear sooner or later" (AJJUST, April/May1986:12).

The *AJJUST* report certainly exemplifies the importance that Rutherford placed upon the content of the criminal policy rhetoric of the government, which at that time seemed to have slightly modified its law and order logic. This was typical of Rutherford who consistently quoted encouraging policy agendas or indicated the critical role of policy rhetoric.

Furthermore, the above *AJJUST* report exemplifies the importance that leading practitioners, (those editing the *AJJUST*, at least), placed on the government criminal policy rhetoric/agendas/logic, in relation to their every practice development. Accounts from interviewees support this view. Indeed, an interviewee, a former leading practitioner, indicated the dominant power of politicians to 'bend the public opinion', namely to shape opinion, and critically influence the practice work.[487] This was a direct reference to the power of the government criminal policy rhetoric upon practice development. Another interviewee, a former leading practitioner, clearly 'fed up' with the government level rhetoric, referred to Kenneth Clarke's policy attitude [488] and in particular to his stubborn and hostile policy rhetoric, which blocked in practice communication between the

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[487] According to an interviewee: "Academics generally are good and civil servants are not bad, they say "what works", and we know what works, we don't actually need any more research, we actually know what works, we know what causes crime, we know what we need to do to stop it. But somehow politicians, they bent the public opinion and we have got the press, the gutter press feeding that opinion". In this account the interviewee pointed to the government criminal policy rhetoric and the relationship with public opinion as the problem for the day to day practitioner.

[488] Kenneth Clark was Home Office Secretary later than the period under examination and certainly at a time when the pendulum of Juvenile Justice policy started to swing in the other direction.

hierarchical layers and therefore discouraged the initiation of practice policies.[489] This was certainly a strong example of the effect of political speech on practitioners' morale. Similarly, another interviewee, a former chief probation officer, highlighted the importance of incorporating into the top criminal policy rhetoric/agenda/logic the experiences and the ideas of the lower hierarchical levels of policy formulation.[490] This was a view which again strongly implied the critical effect of the government policy top upon the interplay between top agendas and bottom developments. Therefore, in all these accounts the interviewees from the practice world highlighted in particular the existence of a communicative interplay between practice policy developments, (a matter they were strongly concerned about), and the *de facto* dominant criminal policy rhetoric/agenda/logic of the distant government policy top. Their verdict was that the criminal policy rhetoric/agenda/logic of the political level had a critical impact upon their work.

iii) Working climate and political speech

Another interviewee, here referred to as **A**, a person who was heavily involved in the dissemination of innovative criminal justice practice policy, provided a rather longer and more precise account about this communicative interplay and the critical influence of criminal policy rhetoric. According to interviewee:

> "the climate in which courts operate and other people in the system operate is very influential. Where you have politicians making speeches, like Michael Howard for instance in the 1990s when he was a very right-wing, punitive Home Secretary, when you have politicians making speeches arguing for tougher punishment that

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[489] The interviewee referred to a relationship between the Medical Profession and Kenneth Clark in order to indicate the impact of the political policy attitude expressed through rhetoric on practice activity. In must be noted that during this period Kenneth Clark was associated with the decline of minimum intervention and this is the reason why the interviewee referred to him; namely to associate the decline with the U-turn in government criminal policy agenda/rhetoric. According to interviewee: "They [the Tories after 1990s] got doctors, teachers, you know, anybody that was an expert seemed to be damned to hell, you know, and certainly Clarke would not listen. I shall never forget hearing the director, or whatever he was, the chief guy from the British Medical Association, gave it up and the interviewer on television said, why did you give it up? And he said, well, I just got fed up with going to see Clarke to discuss things. He said, you could tell him it was Friday and he would not agree with it, even if it was Friday. He said, I just got fed up with, you know, they just would not listen".

[490] As the interviewee stated in relation to practice policy development: "You've always got to have a matching pair of ears and eyes within the government, within the policy of the civil servants that some times it's kicked further into development by enthusiasm of the young ministers".

influences, it helps to influence, the climate in which the courts work and it influences them towards more punitive sentencing".

In this account, interviewee **A** introduced the concept of the working climate within which criminal justice practitioners operate. Interviewee **A** also made clear that the working climate is heavily impacted, if not constructed, by the content of the political speeches, which incorporate the current policy rhetoric/agenda/logic.

iv) The supportive working climate of the 1980s

Another interviewee, here referred to as **B**, a former chief probation officer, also involved in innovative policy dissemination, supported a similar view stating the influence of 'crime war' rhetoric in constructing a 'fearful' working climate.[491] At the same time, interviewee **B** particularly indicated that in the 1980s the working climate was 'different'.[492] According to another interviewee, here referred to as **C**, the different working climate experienced in the 1980s should be described as 'clear blue sky':

> **"From say 1978 through to 1992, that period is almost the sort of clear blue sky."**

In this account the interviewee **C** wanted to highlight the influential impact of the government policy agendas in the construction of a supportive climate[493] wherein the 1980s juvenile justice developments occurred; a view clearly supported by interviewee **B**, who emphatically stated that:

> **"the biggest single influence in the decade was the political climate [...] in which we were working."**

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[491] "The language of war against crime makes everybody, actually, more fearful".

[492] "[I]t's difficult to talk now without seeming nostalgic about how different [the climate] was in the '80s".

[493] In Edelman's opinion the 'stimulus and supportive environment' was the background condition for the development of activity. By quoting a paragraph from Morris' 1946 piece of work, *Sings Language and Behavior*, Edelman tellingly indicated the effect of the surrounding 'supporting' environment on action: "Morris emphasizes the impossibility of action unless both a stimulus and a supporting environment are present: 'the fact that behavior takes place within a supporting environment implies that the sign alone does not cause the response evoked, since the sign is merely one condition for a response-sequence in the given situation in which it is a sign. The dog upon hearing the buzzer does not seek food wherever it happens to be (though certain components of a food-response – such as salivation - may appear when the buzzer is heard). Only if a supporting environment is present will it seek food'" (Edelman, 1988:104).

Interviewee **A**, the above mentioned experienced policy communicator, also subscribed to this view, clearly indicating at the same time the source of the 1980s supportive working climate; namely 'political speech':

> "where you have politicians that are making speeches regularly arguing for a lesser use of custody and a greater use of constructive alternatives, again that influences the climate in which the courts sit, one of the things that influences it and then tends, other things being equal, to produce a lesser, or more sparing, use of prison. And that was what was happening in relation to the overall climate [during the 1980s]".

Therefore, interviewee A suggested that from the perspective of the 'helping' classes the working climate was positive for the 'helping' practice because of the content of political speech in the 1980s. The political speech supported the reduction of custody and the greater use of 'helping' alternatives; and therefore this political speech constructed a supportive climate, 'the sort of blue sky', in which the innovative developments of the 1980s grew.

v) Political values behind the supportive climate

A number of interviewees certainly indicated the existence of a supportive climate emerging straight from the policy top. In one interviewee's the opinion the criminal policy agenda of the government policy top constructed a climate which was not restrictive but in fact permissive in enabling practice to experiment with 'helping' innovations in juvenile justice.[494] Another interviewee directly referred to the Douglas Hurd's juvenile justice policy values.[495] Hurd 'supported' the innovative practice developments of the 'helping' classes.[496] The role of the 'reformist' Douglas Hurd in influencing the development of the

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[494] "All I know is that when you've got that kind of permission politically to go back and do things, you can do it. And the climate was so bad later because you knew that if you went out and did anything and it wasn't in tune with government policy, they'd be all sorts of problems and you'd be threatened with having your money cut off. [...] But [then] if you were convinced that it was right, especially with young people and your probation committee agreed, you could actually go and do it. You didn't have those battles".

[495] Home Office Secretary 1985-89. He had been a Minister of State, Home Office, 1983-84.

[496] As the interviewee suggested: "Well while Douglas Hurd was the Home Secretary he supported us quietly and fed money into intermediate treatment. Because he believed in some of our ideas." The particular interviewee, a former leading practitioner held a strong admiration about the political personality of Douglas Hurd. The interviewee had had the chance to meet with Douglas Hurd and the relevant memory carried the interviewee's view about the critical role of this politician in relation to the developments during the 1980s:

decarceration movement was also indicated strongly by another interviewee.[497] Another interviewee associated the influential role of the policy top in constructing a supportive climate with a senior civil servant; David Faulkner.[498] Actually, one interviewee emphasised that the policy activity of David Faulkner had started well before the appointment of Douglas Hurd as Home Secretary, and lasted throughout the 1980s.[499] From the perspective of another interviewee the developments from the policy top should be associated with the 'liberal policy-duo' Hurd-Faulkner:

> "Douglas Hurd [...] is one of the key figures in this decade, as is David Faulkner. Because the two of them provided a liberal thinking and very objective policy-duo at the top of the tree under which we could do things. [...] Douglas Hurd was the best by far, I think, of the three [Home Secretaries]. And it was the partnership with David Faulkner that made them so enormously effective. They actually stopped and thought – they both had superb brains".

"I actually met him in his office with a deputation on 'New Approaches to Juvenile Crime', that was very prominent with Lady Faithful. But we went along and we had a number of things we wanted to put to them. I was designated to suggest was to take 14 year olds out of the custodial process. I said that 'my figures show that very few 14 year olds are actually going into custody so why don't we just cut it out now and tie it all up' And he said - I will never forget this - He said "I would rather it wither on the vine than risk the wrath of the magistrates, it will be counter-productive to us. I agree with you he said but it will be counter productive. "I have to keep the members of the Torry", he meant the blue rinse brigades, "I have to keep these people happy and if I try to do anything that... it will wither on the vine"... And in the end it did, in the end it did. I actually think that Douglas Hurd was the last real statesman in Parliament, to be honest with you, certainly in the Home Office and after that it just went downhill".

[497] "Bear in mind of course that Margaret Thatcher was never interested in domestic politics should never criticize or making any comments on Douglas Hurd, and Douglas Hurd was allowed to get away with what he wanted to do. And by a large, Douglas Hurd was a reformist Home Secretary quiet *statesman* like diplomatic. He was very interested in the major part in terms of de-carceration movement takes strength under the Tory government".

[498] "[T]he other thing was the people at the high level, like David Faulkner, who was very much to the fore in the initiatives of the '91 Criminal Justice Act and had been tracking this for a long time before that, was noticing what was going on. It was being seen at a high level. I don't know that Douglas Hurd knew quite closely the kind of initiatives that were happening in that field at that time and wasn't looking to stop them".
It must be remembered that David Faulkner was the influential Deputy Under-Secretary of State at Home Office, for the period 1982 to 1992. See Rutherford's detailed account (1996, chapter four) of Faulkner's the critical role in the shaping of criminal justice policy during the Thatcher years.

[499] "But don't forget this is exactly the period, at least from 1980, 81, 82 that David Faulkner becomes deputy permanent secretary, responsible for criminal policy. [...] So David had criminal policy right through the period '82 to '90, unusually long time". The interviewee therefore indicated how important it is to see the juvenile justice politics of the 1980s as a decade rather than as that part corresponding only with the Hurd years.

Therefore in the opinion of the interviewee, a former chief probation officer involved in innovative policy development and dissemination, Douglas Hurd and David Faulkner constituted the 'top of the tree' under which the practice policy developments occurred during the 1980s.

In sum it can be argued that Douglas Hurd and David Faulkner and the liberal policy values that they carried have been regarded by some parts of the historical memory of the 1980s as the power source of a supportive liberal criminal policy climate which allowed innovative policy ideas (such as minimum intervention?) to develop and become established in the day to day juvenile justice practice.[500] The truth is that neither the content of the criminal policy agenda/rhetoric/logic on juvenile justice nor its function on practice developments have really been examined in a number of writings of the 1990s; despite the fact that the climate factor and the enthusiasm of 'helping' practitioners appeared as issues in some of the papers; only a few considered there to be a need for their examination.[501]

In the next, and final chapter the criminal policy agenda/rhetoric/logic of the 1980s and its interaction with the 'helping' practice microcosm will be examined in order to understand the domination of minimum intervention, which was so critical for the scope of the efficient integrationist practice in the 1980s.

[500] It must be noted that the names of ministers were also mentioned in interviews, such as David Mellor from the Home Office; and John Patten also from the Home Office during the Douglas Hurd period. It must be noted that John Patten (previously as minister in the DHSS) had launched the IT Initiative.

[501] As Godfrey indicated in the *'Lost in the Myths of Crime: The Use of Penal Custody for Male Juveniles'*: "It may be that the decarceration of juvenile offenders became possible only in the context of a particular mood among sentencers – in a different atmosphere [...] This concept of mood is intangible and difficult, but it seems to be a potent factor" (1996:294,95). Godfrey is an example of a writer who strongly implied the need to examine the 'different atmosphere' of the decade.

CHAPTER NINE

THE DOMINATION OF MINIMUN INTERVENTION: A DECADE STEADY AND CONSISTENT CRIMINAL POLICY RHETORIC WHICH LEGITIMISED MINIMUM INTERVENTION AND ALSO ALLOWED INTEGRATIONIST PRACTITIONERS TO UNDERSTAND ITS CRITICAL IMPORTANCE FOR PRACTICE EFFICIENCY

a) The policy rhetoric about the limits of criminal justice and the 'home and school' policy option

In 1982, when William Whitelaw was the first Home Secretary of the first Thatcher government[502], during the *Prison and Borstal Governor's Conference*, Sir Brian Cubbon[503], in his *Opening Address* to the delegates, indicated the following:

> "I believe that there is some progress [...] in accepting the pressures and limitations of the prison service. Let me give you one quotation from a speech in the House Lords on 24 March 1982:
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> 'Finally, may I say that neither police nor courts not prison can solve the problem of the rising crime rate. By the time that the criminal falls into the hands of the police, and more particularly by the time that he reaches court, it is too late. The damage has been done. The remedy, if it can be found, must be sought a great deal earlier'
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> No newly ennobled sociologist; but the Lord Chief Justice, no less" (Cubbon, 1982:3).

Hence, in 1982, Sir Brian Cubbon, in the opening speech, particularly highlighted to his audience **"the viewpoint that sees crime as more important than prisons"** (Cubbon, 1982:3). In other words, in 1982, the issue about limits of the prison system in particular, and of the criminal justice system in general to deal with the problem of crime was indicated as the very issue to an audience of criminal justice professionals.

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[502] Home Office Secretary 1979-83.

[503] Permanent under-Secretary of State.

Two years later, in 1984, when Leon Brittan was the Home Secretary in the second Thatcher government[504], during *The Magistrates Association Annual Sentencing Conference*[505], David Faulkner, in his talk *Objects of Youth Custody*, indicated to the audience the issue of the limits of criminal justice:

> "Unfortunately neither research nor practical experience gives much reason to suppose that sentences imposed in court have any direct or systematic effect on the amount of crime that is committed or on the future behaviour of the offender concerned" (1984:1).

Therefore, David Faulkner, much like Sir Brian Cubbon had suggested earlier, 'again' indicated to a wide criminal justice audience the very limits of criminal justice in relation to crime, and in particular in relation to juvenile offending.[506] At the same time, Faulkner indicated that the solutions should be found primarily somewhere else:

> [A]gain as the Home Secretary made clear on Friday, the critical influences on the level of crime or on the conduct of offenders and potential offenders are to be found elsewhere – in the home, at school, among the offender's own friends and associates or at work if he is lucky enough to have a job" (Faulkner, 1984:2).

Hence as early as 1984, in a talk about the 'objects of youth custody'[507], 'home and school' featured as <u>the</u> area where juvenile offending behaviour should be addressed rather than in the context of the juvenile justice system.

Four years later, in 1988, almost six months after the third successive elections of the conservatives in June 1987, the Home Secretary Douglas Hurd, in his Tamworth speech[508], had the opportunity to talk about the big policy picture concerned with the crime question, through a reference to Lincoln disturbances:

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[504] Home Office Secretary 1983-85. He had been a Minister of State, Home Office, 1971-81.

[505] It was held at York University, 29th July 1984.

[506] It should be noted that in his talk, David Faulkner also quoted the Lord Chief Justice, in the House of Lords on the 24th March 1982 (1984:2).
In the earlier mentioned *Prison and Borstal Governor's Conference,* David Faulkner's talk was titled *The Justice Model: Introductory Presentation* (1982), and it dealt primarily with the 'purpose' of the prison option/system.

[507] Youth custody was a punishing option which had been introduced by the conservative government with the *CJA82.*

[508] The Tamworth speech was given to the Peel Society Dinner to celebrate the bi-centennial of the birth of Sir Robert Peel, Friday 5th February 1988.

"The small riot in Lincoln which ushered in the New Year of 1987 is a case in point. [...] In Lincoln that night and in dozens of similar cities and market towns up and down the Shires since then, we have seen disturbances caused largely by youths who were white, employed, affluent and drunk" (1988).

Douglas Hurd, firstly, raised the question of the police, a very important component of the criminal justice system:

"Where were the police on these occasions?" (1988).

Douglas Hurd answered the question himself:

"They were there of course, under attack. Not, generally, because of any reasoned resentment against the policy but simply because they were handy targets for those seeking violent excitement" (1988).

It was a short answer which, diplomatically, did not overemphasise the role of the police. Hurd did not elaborate further on what the police could do or whether the government and the Home Office, in particular, should have further empowered the police to eliminate those kinds of disturbances. The empowerment of the criminal justice system was not the focus of Hurd's agenda at Tamworth. Instead as Douglas Hurd said:

"Other questions can also be posed. Where were the teachers [?] [...] where were the churches? [...] But above all, where were the parents of these youths [?]" (1988).

In this political and public speech, through a series of questions and answers, the rhetoric of Douglas Hurd therefore de-emphasised the importance of criminal justice as the mechanism to deal with young people's behaviour; whilst, at the same time, it particularly emphasised the importance of other pillars of the social structure, namely 'home and school'.

Therefore, throughout the Conservative period of the 1980s, the Home Office officials, at the policy level and even at the political level, did not consider juvenile offending to be an issue which belonged dominantly to the sphere of criminal justice and, as a result, did not consider it to be a priority issue for the Home Office policy plans[509]. In the present

[509] As an interviewee, a former senior civil servant, has indicated: "the Home Office wasn't particularly concerned about juvenile crime as a problem. It wasn't seen to be a major problem. The impression was that it was reasonably under control and the Home Office was quite content to leave the DHSS to run programmes for essentially welfare and social services, rather than criminal justice".
Similarly, another interviewee, (influential practitioner turned policy consultant) has supported the idea that the DHSS policy involvement in juvenile justice reflected the policy direction of the Home Office **"to be relatively silent partners."** The interviewee further supported this: "I mean

work it is certainly not argued that the Thatcher conservatives implemented this socio-oriented policy for young people[510]. The point is that throughout this period, the de-emphasis of juvenile justice as the critical mechanism to deal with juvenile behaviour was translated into a sentencing policy framework which supported policy practices of 'de facto decriminalization'.

b) The 1980s anti-prison policy level rhetoric

Throughout the 1980s, prison was factually a discredited policy option for juveniles. As an interviewee, former leading practitioner tellingly indicated:

> "The figure of 80% re-offence rate of custody people leaving custody and in two years re-offending, was bad. To be honest with you, I never saw any figures which actually prove that. So many people said that it became fact".

The interviewee's statement practically indicated the existence of an undisputed, persuasive and negative discourse about the prison option - about the utility and the justification of the prison choice – within the microcosm of the juvenile justice world, throughout the 1980s. Importantly, this negative discourse was also present within the policy world throughout this period. With respect to the early 1980s, the examination of the government agenda/rhetoric on the prison/institutional option for juveniles should be focused on the introduction of the *short-sharp-shock* experiment; the publication of the white paper *Young Offenders*; and the enactment of the *Criminal Justice Act 1982*.

[...] I can't think of who at the Home Office was involved, interestingly! It was seemed to be in the background more. That's my impression. I think they just allowed the DHSS to lead".

[510] Indeed, an interviewee, a former senior civil servant, particularly emphasised the 'disappointment' from the non-implementation of a rhetoric which was supported by the policy level and it was also progressively adopted by members of the government: "Among civil servants and professionals there was very general agreement, as you would expect, that the main impact on juvenile offending would come through the programme delivered in schools, addressing problems of mental health, poverty and what later became social exclusion and all those things; [...] try[ing] from time to time to interest ministers in a programme for youth which would bring those together and up to a point we brought them together in what was called 'The Safer Cities' programme. But 'The Safer Cities' programme depended, of course, a lot on the local politics of the particular area where the programme was being delivered and the local priorities as they were seen. So although there was the potential there to develop programmes for young people of a kind which would now be called cross-cutting or inter-disciplinary or partnerships, not much was done with that and the Conservative Government, of course, didn't believe in socially engineering. The memory of the community development programme of the '70s which had been a Labour government initiative which was perceived to have failed was still in many people's minds and whatever we do we mustn't try and do that sort of thing again. So there was no political will to develop social policies for the purpose of social reform. So that was in a way, I suppose, a disappointment".

i) The paradoxical short sharp shock experiment

The *short-sharp-shock* experiment, which was supposed to support the argument about the effect of institutional discipline on juvenile criminal behaviour, was introduced in 1980 and within four years was announced to have failed[511]. As Windlesham indicated:

> "since the findings produced nothing to support the Tory credo underlying the short, sharp, shock, the Home Secretary was left holding a distinctly warm potato" (1993:160).

Therefore the *short-sharp-shock* did not provide the policy argument, to support the institutionalisation option as being a rational sentencing option for juveniles. Instead, the conservative (if not authoritarian) policy paradigm of the *short sharp shock*' was a proven paradigm of institutionalization failure[512].

Furthermore, it is interesting that, as it appeared, at that time, nobody from the policy world really believed in the value of this experiment.[513] It appears that Whitelaw

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[511] A six-page account, about the course of the unfortunate short-sharp-shock, from its origination to its death, can be found in Windlesham's *Responses to Crime Vol. 2*, published in 1993.

[512] As Windlesham mentioned, Leon Brittan responded quickly to the findings of failure of the *short sharp shock*, by abandoning those elements which were popular among the juvenile offenders (drill and physical education) and endorsing "parades and inspections, the 'brisker tempo' and initial restrictions on association and outside activities" (1993:160). As Rutherford explained in his interview: "Leon Brittan wanted to convince Thatcher that he was tough on crime; so, he said although the results of the tough detention centre in terms of reconviction don't tell us much, the other part of the analysis, the qualitative aspects, show that the boys liked marching, so we will give them less marching because that's what they want. But we will do what they didn't like which was meaningless work, so there will be more meaningless work and less marching – some such cynical response of that sort".
It is suggested here that the forceful 'cynical' political decision of Leon Brittan actually reflected the weakness of the pro-institutional (otherwise 'tough on crime') argument during that time. Indeed, as Murray Edelman indicated in his classic book *The Symbolic Uses of Politics*, **"[f]orce signals weakness in politics, as rape does in sex"** (1985:114). While the general accuracy of Edelman's statement can be debated, it can be regarded as particularly accurate with respect to Leon Brittan's political decision in 1984 of on the future of the *short sharp shock.*

[513] In his six-page account Windlesham provided strong evidence of scepticism, if not denial of the conservative political proposal of the *short sharp shock*, from the side of the Home Office officials and of Dennis Trevelyan, the Prison Director General, in particular. Windlesham, himself labelled the *short sharp shock* as **"a defective icon of political ideology"** (1993:161) therefore indicating the mere politico-ideological roots of the proposal. Indeed, the *short sharp shock* had been created by the Conservative Research Department during the opposition years. For a brief but well informed account see Windlesham 1993 pages 157 and 159.

also shared these negative feelings.[514] Furthermore, it is interesting that those from the Conservative Research Department who drafted the relevant proposal opted for a brief, *short* period of confinement rather than a long one, despite the authoritarian language of Margaret Thatcher. This could raise the question over the existence of an unprepared conservative party (or maybe unwilling) to opt decisively for the custodial option for juveniles.

In sum, during the early 1980s, the *short sharp shock* paradoxically fed substantially into anti-institutional argument rather than into the logic of discipline and punishment. Moreover the life history of the unfortunate *short sharp shock* experiment shows that the policy world, at the government level, seemed sceptical of, if not antipathetic to the institutional logic with respect to the management of juvenile offending behaviour. This policy attitude was very much characterised by both the white paper and the legislative process, that led to the enactment of the *Criminal Justice Act 1982.*

ii) The double language of the white paper, Young Offenders, and the Criminal Justice Act 1982

The provisions and the language of the 1980 white paper *Young Offenders*, which paved the way to the *CJA1982*, certainly satisfied the political aspirations of the *law and order* lobby of the Conservative government; including the aspirations of the Magistrates Association who wanted to re-establish their authority against the pro-social work background of the *CYPA1969*.[515] Nevertheless, the rhetoric contained in the *Young*

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[514] Windlesham expressively implied the strong reservations of Whitelaw himself about the rationality of this proposal. Evidence from the historical memory seem to support Windlesham's view.
In 1984 when Leon Brittan as Home Secretary introduced the *short sharp shock* into detention centres, despite the findings of failure; Whitelaw, "then responsible for government publicity said he had only introduced this **'to show the silly blighters that it didn't work'**" (Acres, 1988:9).
This statement of Whitelaw became widely known among senior officials of criminal justice, and as an interviewee, former leading practitioner mentioned: "William Whitelaw was a lovely, cuddly man who was prepared to admit his mistakes – very rare in a politician - and who said that he didn't believe that detention centres were any good eventually, and we all loved him for that".
Also in his memoirs Whitelaw referred to the term *short sharp shock* only once, with no further discussion on the criminal policy value of this proposal (Whitelaw, 1990:195).

[515] See Rutherford (1986:64) who particularly referred to the statement of Ivan Lawrence QC, MP, a *law and order* Tory politician, who strongly welcomed the subsequent Bill.

Offenders' document also satisfied some of those from the policy world who firmly stood against the custodial option for juvenile offending.[516]

Furthermore, during the legislative process that followed, the anti-custodial argument ascended remarkably and was actually incorporated into the final legislation through the amendments of Section 1(4), which introduced the well-known restrictions to the use of the custodial option[517]. In his book *Responses to Crime-Penal Policy in the Making*, Windlesham suggested the existence of long-term policy intentions behind that development which he termed as 'successful and deliberate legislative enactment'.[518] According to Windlesham this 'successful and deliberate legislative enactment' should not be attributed directly to government; but rather towards a circle of policy people, with Baroness Faithfull as the leading person.[519]

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[516] In particular, see the 1989 paper by Norman Tutt *A Decade of Policy*, published in *British Journal of Criminology*, where Tutt skilfully elaborated on the semantics and the aims of the white paper.
In particular, at page 254, Tutt concluded that "[t]hus a White Paper written in the rhetoric of a 'hard-line' actually includes suggested measures apparently aimed at reducing the number of juveniles incarcerated" (1981). At that time, Tutt was Professor in Lancaster, but the policy background of Tutt in the DHSS should not be forgotten, as well as his links with the policy people of the DHSS involved in juvenile justice.
Also see Brown (1981) who indicated the existence of strong double language. As he stressed "to advocate greater of use non-custodial measures whilst at the same time proposing measures apparently designed to ensure an increase in the use of custodial sentences borders on the schizophrenic".

[517] See the accounts of Rutherford (1992:16,7), and Windlesham (1993:165-173).

[518] As Windlesham stated: "The steady decline in the number of young male offenders sentenced to custody which occurred throughout the 1980s is one of the most remarkable post-war achievements of deliberate legislative enactment" (1993:170).

[519] As Windlesham stated: "That it owed so little to the Government, and so much to independent-minded members of both Houses of Parliament was later acknowledged in a generous tribute to Baroness Faithfull by Elton: 'I look at my Noble Friend Lady Faithfull because that touches the part of the 1982 Act which she carried into Section 1 against my advice. I concede now that **she** was right'" (1993:170,71).
An examination of the role of Baroness Faithfull is beyond the scope of the present work; nevertheless a few things which arose from the research conducted should be mentioned. Accoring to one interviewee with an academic background Lady Faithfull was **"dead against institutions"**, a policy attitude which certainly drove her actitivity. Indeed according to another interviewee, criminal policy consultant, "[New Approaches to Juvenile Crime] was chaired by Baroness Faithful. [New Approaches to Juvenile Crime] wanted to campaign for a reduced use of custody for young people and a greater use of more constructive alternative, non-custodial measures for juvenile offenders and that produced a series of publications, it held conferences, it used the media in order to campaign for more constructive ways of dealing with juvenile offenders, including the reduced use of imprisonment and that was also part of the general campaign to try to change the climate in relation to these things".

Nevertheless, the picture of the legislative process leading to the enactment of the *CJA1982* was rather bigger than it first appeared to be. The picture was bigger because of the role of the PAPPAG, (the Parliamentary All-Party Penal Affairs Group), and its chairman Robert Kilroy-Silk a Labour MP, who actively sought the introduction of restrictions in the imprisonment of juveniles, during the legislative process.[520] The picture was also bigger because of the role of the NACRO member Paul Cavadino, who served as secretary to PAPPAG, and according to an interviewee, he drafted the precise wording of the amendments.[521] Moreover, the actual picture seems to be rather bigger than it was

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[520] A detailed examination of the role of PAPPAG in the making of Section 1(4) is beyond of the scope of the present work. For an informed account see Rutherford (1992:16,7). Nevertheless a few things, which arose from the research conducted in relation to PAPPAG and the role of Kilroy-Silk, should be mentioned. According to an interviewee, criminal policy consultant:
"there had been an all party criminal affairs group before but it wasn't very active, it used to meet occasionally. They would have a speaker who would speak to the group about some aspect of criminal affairs but it didn't do much by way of lobbying or campaigning for change and a new MP, Robert Kilroy-Silk – then a new Labour MP – was very interested in the penal system and was keen on forming a group. A charitable trust, called the Barrow Cadbury Trust, or it was then called the Barrow Geraldine Cadbury Trust, was interested in giving some funding to help finance an all party group in the area of penal affairs and NACRO were interested in setting up ... And so were the Howard League for Penal Reform – they were both interested – both organisations were interested in trying to service an all party criminal affairs group. So there was a coincidence of interest among a number of people in setting that up".
According to the same interviewee, the production of PAPPAG was not linked particularly to juvenile crime policy but it covered the whole spectrum of criminal justice: "the first report the group produced was called 'Too Many Prisoners' and it was about the prison system generally, it wasn't specifically about juveniles, that was in 1980. And the second report that it produced was in 1981 called, I think it was 'Young Offenders – A Strategy for the Future' was the title, similar to that. And that was specifically about young offenders. But the group as a whole was interested in penal reform generally, not just about juveniles".
Interestingly as the interviewee indicated both the leading figures of the New Approaches to Juvenile Crime and of PAPPAG, namely "Lady Faithful and Robert Kilroy-Silk were involved in quite a lot of the practitioners' conferences about policy and practice issues relating to young people at the time".
Furthermore, according to the interviewee, the two groups were certainly linked: "Other people who were members of New Approaches to Juvenile Crime from the different organisations involved in it were also involved in lobbying Parliament in support of the kind of proposals that the PAPPAG were putting forward. So there were a lot of links between, you know, the kind of campaigning and lobbying side of this and the practitioner side of it".
As the interviewee suggested **"It was all part of a movement"**.

[521] As the interviewee, a former leading practitioner and later youth justice consultant, stated: "I think Paul [...] helped draft the criteria. I think he was instrumental behind that. He's been Secretary to the All Party Penal Affairs Committee for years and years and years. [...] He was influential in getting amendments to that legislation, which encompassed that criteria". See also Rutherford, 1992:16,7.
Research evidence shows that at that time Paul Cavadino was also secretary to New Approaches to Juvenile Crime, where Lady Faithful chaired, and he managed most of the media publicity, and also spoke at quite a lot of conferences for professional practitioners working with young

suggested, mainly because of the policy behaviour of the Conservative political administration and in particular because of the policy attitudes and the policy behaviour of Whitelaw. Indeed, as Windlesham indicated:

> "in his speech on Second Reading of the 1982 Bill, Whitelaw had stressed the need for a sentencing structure which, while recognizing that custody may be essential, secured that it be used only where necessary – Parliamentary Debates, HC, 16, col.294, 20.1.1982" (1993:168).

Also, importantly Windlesham mentioned that:

> "the Government did not seek to overturn the set-back when the Lords amendments were considered in the Commons, with the result that the guide-lines were incorporated in what became Section 1(4) of the Criminal Justice Act 1982" (1993:169).

Interestingly, with respect the *CJA1982* and the Section 1(4) provision, which contained the Lords amendments, Whitelaw, in his memoirs, assumed a full political ownership:

> "I ensured that Clause 1 of the Act contained the basic principle of my policy. No court should impose any custodial sentence on a young offender unless it was satisfied that no other method of dealing with him was appropriate" (1990:306).

Hence, in relation to the enactment process of the *CJA1982*, which was formally initiated with the *Young Offenders* white paper, it appears that both the Home Office related policy world (parliamentary and other pressure groups) and the Home Office political administration (say the Whitelaw factor) seemed particularly unwilling to support the custodial policy choice for juvenile offenders[522]. As a result, custody, or better

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offenders. Indeed, according to an interviewee, a former chief probation officer involved in policy development, Paul Cavadino was the policy communication person: **"a very influential figure, always on the television, always in the papers, giving NACRO's view"**.

[522] An interviewee, a former senior civil servant, has particularly emphasised the importance of the Whitelaw factor about the state of the criminal justice making in England and Wales during the whole of the 1980s:
"The election manifesto [was] being driven by Margaret Thatcher. Policy was driven until the 1990s by Home Secretaries who were essentially liberals. And what was quite interesting, I think, early on was the position of Willie Whitelaw, Lord Whitelaw as he became, Deputy Leader of the party, as the representative in the Cabinet of the surviving liberal tradition of the Conservative Party, had throughout that period a very powerful influence on the Prime Minister and the Government generally and he had successfully persuaded Margaret Thatcher that it was best to leave the Home Office and criminal justice to the Home Secretary and not to try and get involved in it herself and that position prevailed, I think throughout the Thatcher period in fact".
It must be stressed however that a deeper examination of this issue is beyond the scope of the present work.

institutionalisation in general, was never presented as the policy argument for dealing decisively with juvenile offending. Pro-institutionalization/custody for juvenile offenders was not the logic/agenda /rhetoric of the early 1980s Home Office centred world. Instead the anti-imprisoning argument was.

iii) The anti-custodial argument during the years of Leon Brittan

The anti-custodial argument continuously and progressively prevailed throughout Leon Brittan's period as Home Secretary. Characteristically, in 1984, when Leon Brittan was Home Secretary, in the BBC-Radio-Four documentary *The Massachusetts Alternative*[523], the Tory guest Roger Sims[524] explained the logic of the use of the custodial choice, as it was understood then by the Conservative government:

> "I think what it does mean is that you put youngsters into these institutions as the **absolute last resort**" (emphasis added) (BBC, 1984)[525].

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[523] Broadcasted on the 2nd of May 1984, the radio documentary *The Massachusetts Alternative* considered the example of the closure of all the youth correction institutions which took place in the State of Massachusetts, between 1969-1972. A detailed account about the events before and after the abolition of those institutions can be found in Rutherford (1986, 1990). Rutherford had worked extensively on the Massachusetts model of institutional abolition during the 1970s.

[524] J.P., MP for the Conservatives, formerly the Chairman of the Juvenile Court and member of the Commons Expenditure Committee which reviewed the '69 Act and Parliamentary Secretary to Whitelaw when he was Secretary. Also, according to Rutherford, Sims was one of the two principal authors of the white paper *Young Offenders*. The other was Leon Brittan, then Minister of the State at the Home Office (Rutherford, 1986:64-ftnote).

[525] *The Massachusetts Alternative* radio documentary provides an interesting source reflecting the weakness of the institutionalization argument in England and Wales, in the mid-1980s.
Hence, the presenter Brian Redhead indicated in the opening of the program: "We lock up more young offenders than almost any other country in Western Europe, and we are locking up more and more. [...] Suppose we didn't lock up young people, none but the very worst offenders, what would happen? Well it's not such a revolutionary suggestion, we've thought about it often enough, even if we haven't adopted it" (BBC, 1984). Undoubtedly, in this introductory statement which prepared the audience for the direction of the program, the custodial argument seemed to already be on the defence, whilst, interestingly, the abolitionist one was suggested to have been considered 'often enough', as thinking about abolition was said not to be a 'revolutionary suggestion'!
The radio critique in the relevant newspapers columns is equally interesting. In the *Radio* column of the *Sunday Telegraph*, John Woodforde indicated in relation to the Massachusetts model: "The state has stumbled on a radical approach to juvenile crime which is bound to be of interest to policymakers in England and Wales" (1984).
In the *On Radio* column of the *Sunday Times,* Jill Neville started his comments as follows: "Youths in custody seldom see the error of their ways. They get worse. This plangent fact is backed up by years of study and statistics" (1984).

Clearly and unambiguously, 'prison as a last resort' appeared as the continuing agenda/logic/rhetoric of the Conservative government.

Indeed, in the same year, 1984, David Faulkner, in his talk *Objects of Youth Custody* given at the *Magistrates Association Annual Sentencing Conference*[526], clearly indicated the anti-custodial agenda of the government:

> **"The Lord Chief Justice's view [is] that a custodial sentence should be avoided wherever possible and that if it is inevitable the period should be as short as possible"** (Faulkner, 1984).

At the same conference, David Faulkner went even further in explaining the anti-custodial logic as being based on both pragmatic and theoretical arguments:

> "If a young offender goes into custody, the prison service will do what they can to teach himself discipline and some personal skills, but he will still lose contact to a large extent with any helpful influences which can be brought to bear on his life in the community; he will lose his dignity and be subjected to physical searches, the supervision of his visits and the censorship of his letters; he will lose his identity by being deprived of his possessions and by being required to wear a uniform; and above all he will spend his waking life associating with criminals, being treated as a criminal and inevitably coming to think of himself as a criminal" (Faulkner, 1984).

It was a rhetoric, which not only did not support the custodial choice but in fact it clearly discredited it. This kind of talk was not new for David Faulkner, the Deputy Under-Secretary of State at Home Office. Two years earlier, when Whitelaw was still Home Secretary, in the *Prison and Borstal Governors' Conference*[527], in his introductory presentation on the *Justice Model*, David Faulkner had similarly argued about the limited utility of the custodial choice and the need for 'short sentences'.[528]

In the *On-the-Radio-Week* column of the *Guardian*, Val Arnold-Forster indicated in the middle of a rather long radio critique of the program: "Decarceration is fashionable: the only difference of opinion [in the programme] was in how far sentences should reflect society's desire to see offenders punished" (1984).

[526] The conference was held at York University, 29th July, 1984.

[527] The conference was held at the University of Liverpool, 20th -22nd September, 1982.

[528] In particular, Faulkner at the beginning of his presentation was reported to have indicated the following:
"It is commonly argued that the purpose of a custodial sentence should be one of four things – to protect the public, to deter others, to exact retribution or to rehabilitate the offender. Of these the first applied only in the minority of the cases involving the more dangerous offenders and for the

iv) The Hurd years and the concluding point about the ten years steady anti-custodial logic

During the period that Douglas Hurd was Home Secretary (1985-1989), the anti-institutional argument prevailed continuously, and it certainly intensified. At the legislative level, the *Criminal Justice Act 1988*, further strengthened the imprisoning requirements provisioned in *CJA1982* Section 1(4)[529]; whilst, the *Children's Act 1989* abolished the care order (criminal). At the argumentative level, according to an interviewee, a former criminal policy consultant, the Hurd years should be remembered for the political speeches, which explicitly argued for 'a more sparing use of custody':

> "One of the key junior Home Office ministers was John Patten and the two of them [with Douglas Hurd] made a lot of speeches, essentially arguing for a more sparing use of custody".

The political speeches made by Douglas Hurd and John Patten were not associated merely with juvenile justice, but rather they were associated with the whole spectrum of criminal justice. Nevertheless, as the interviewee particularly indicated the important point was that for the first time the logic of the Home Office political administration regarding the custodial option was becoming clear to those involved in the management of criminal justice. It was a different climate, more supportive for those who believed in the reduction of custody:

> "so the climate was one in which the Home Office ministers were not only persuaded that there ought to be a reduction in the use of custody, they were actually actively going out and selling that, making speeches to that effect and that helped the overall".

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remainder research had not been able to show any convincing link between the type of sentence imposed and its effectiveness in achieving any of the stated objectives. Given the absence of such a link, the way was open for the prison service to take the initiative in offering the courts a convincing prospectus of what might be achieved from a custodial sentence, and in the process – potentially to its own immense benefit – reinforce the encouragement which the Lord Chief Justice and others were giving to a movement towards generally shorter sentences".
It must be remembered that at this particular, early 1980s, conference Faulkner was not the only individual from the policy world to argue against the value of custody.

[529] As Windlesham indicated "[t]he Criminal Justice Acts of 1987 and 1988 were workmanlike responses to an unusually large and diverse number of proposals already accepted in principal by the Government which were awaiting legislation" (1993:195).

The feature of the Hurd years is therefore that the anti-custodial views of the distant policy top were transformed to a rhetoric which openly reached the wider criminal justice audience. In the field of juvenile justice, an example which exemplified this feature of Hurd years is seen in remarks made by Graham Sutton[530] about the domination of the custodial logic in juvenile justice in England and Wales.

At the end of the 1980s, and in particular in 1989, Graham Sutton was reported to have expressed the following view in a practitioners' conference, organised jointly by NACRO and AJJ[531], in relation to the custodial choice for juvenile crime:

> "For over hundred years, penal policy in this country has appeared to focus on custody. If a fine is not enough, custody is said to be the only adequate penalty. Other orders are described as non-custodial penalties and assessed as alternatives to custody. All this reinforces custody in a central position. I believe that this is not helpful. We need to get out of the habit thinking 'custody' and then having to justify not using it. The burden of proof should be the other way round. It is the use of custody that needs to be justified" (AJJUST, May 1989:18).

The remarks made by Graham Sutton were particularly important, as this senior Home Office civil servant openly humiliated the policy logic behind the excessive use of custody. However, the key point is that the rhetoric of Sutton practically constituted the rhetorical peak of a decade of a steady policy rhetoric, which consistently highlighted the limited use/value of incarceration for juveniles. For almost ten years a discrediting rhetoric which saw 'custody as a last resort' represented the policy logic/agenda of a policy world, which extended from surrounding pressures groups to the Home Office senior policy officials and its political administration.[532] The Hurd years undoubtedly openly

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[530] Graham Sutton was a senior civil servant, the Principal in C1 Division, Criminal Policy Department, Home Office.

[531] The day-conference was held in April 1989. For a report about the conference see AJJUST, May 1989:17-19.

[532] Interestingly, in 2006, it was political personalities of this era who are still sided with the principled or socio-liberal viewpoint of criminal justice. In the 2006 Guardian report *Ex-ministers warn of revolt over abolition of prisons inspectorate*, we can read that "A battery of former cabinet ministers, including an ex-home secretary, have accused the government of wanting to abolish the independent post of chief inspector of prisons simply to remove 'a thorn' in the ample flesh' of successive home secretaries" (8.7.2006:6). Among the names of the ex (four in total), are Lord Mayhew, Minister of State at the Home Office, who dealt with the acceptance of the amended Section 1(4) in the wording of the actual *CJA1982* (see Windlesham 1993); and Lord Hurd, Home

identified the anti-custodial rhetoric with the political administration of the Home Office. However it should not be forgotten that the anti-custodial logic/agenda/rhetoric was the dominant issue in the Home Office world for nearly a decade.

Importantly, the conservative rhetoric of the limited use of custody/institutionalization was never associated with a rhetoric which pressed for the concurrent strategic development of an alternative 'helping' system that would effectively manage juvenile delinquency, in place of custody. The conservative rhetoric certainly supported the development of juvenile justice 'helping' modes of intervention for the management of juvenile offending.[533] Nevertheless, the 'helping' modes of intervention did not constitute the strategic framework within which juvenile justice practice (and the 'helping' practice in particular) had to operate. That policy attitude was particularly apparent in the policy directions concerned with both the expansion of cautioning and the employment of the emerging alternative projects.

c) The Home Office policy direction for multiple cautioning rather than cautioning 'plus'

One of the interviewees, a former leading practitioner, was particularly experienced in relation to the development of the 1980s cautioning panels and the application of the cautioning option. Interestingly, at some point during the interview process, the interviewee recalled the strong criticism given by the local Assistant Chief Constable regarding the aim and the objectives of the cautioning option, as it was applied and rapidly developed within their local setting[534]:

Secretary between 1985-89. Lord Brooke and Lord Dubs (from the Labour) were the two other names.

[533] In 1984, in the earlier mentioned radio documentary *The Massachusetts Alternative*, the presenter Brian Redhead observed for the conservative policy rhetoric: "**In 1980** the new government of Mrs. Thatcher also spoke with **two voices**. It resurrected the short, sharp shock, custodial treatment for young offenders, but in a White Paper said that it attached **the greatest importance to the use in appropriate circumstances of alternatives to custody for young offenders**" (emphasis added) (BBC, 1984). Whilst the short sharp shock had actually been diminished, alternative 'helping' interventions remained in the conservative policy rhetoric.

[534] The conversation between the interviewee and the Assistant Chief Constable took place after 1987 and before 1990.

"We cautioned this many you see. That proportioning you know got it up to about 75% and the Assistant Chief Constable got fed up with us; "the job you're doing is not to divert them from the court but to divert them from committing offences so don't bother me with these figures anymore!".

In other words, the Assistant Chief Constable clearly questioned the aims and the objectives of the 'helping' practice, as it was applied in his local setting. The interviewee felt that that observation was particularly valid:

"It was hard because I suddenly thought he's right, he's absolutely right; but it was the government that started this off because they had to produce these figures on a regular basis".[535]

The interviewee, a former leading practitioner, was not wrong to point to the government level in suggesting that effective (say rehabilitative) 'helping' interventions were not the central tenet of the cautioning policy.

i) From the 1980 white paper 'Young Offenders' to the HOC 14/1985

In 1989, in their article *Pre-court Decision-Making in Juvenile Justice*, Davis, Boucherat and Watson strongly implied of this link between government policy and local practice, with respect to the particular kind of cautioning practice policy applied by the leading Northampton JLB. After they examined the stated local policy of minimum intervention and avoidance of 'net-widening', Davis *et al.* indicated the following in connection with the model of the local cautioning policy practice:

"Our observations suggest that the commitment to diversion has been sustained, but that the underlying 'treatment' rationale has long since been abandoned in favour of radical non-intervention"[536] (1989:233).

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[535] The acknowledgment by the interviewee that the senior police officer was right shows how difficult it was for the integrationist practitioners to argue in favour of the 'de facto decriminalization' practice policies. Indeed, the interviewee suggests that it was not their fault that they followed this diversionary practice policy. Nevertheless, the same interviewee clearly believed in the benefits of their diversionary system: "The figure of 80% re offence rate of custody people leaving custody and in two years re-offending [...] was bad. [...]. The government's own figures are clear that the rate is still in the high 70's to the 80's. And, I couldn't understand that, and I still don't understand why it's my scheme that I ran that had a re offence rate of 80% I'm damn sure they would have closed me down (laughs). They are building more prisons and sending more kids to it, where is the logic?".
The contradictions in the policy thinking of the interviewee were also common in the policy thinking of all interviewees with a strong practice background indicating what has been pointed out in chapters six and eight regarding the dependency of the bottom level from the top level attitudes.

Furthermore, Davis *et al.* strongly implied or otherwise left us in the air the feeling that this mode of local non-interventionist cautioning policy practice, which undermined the importance of intervention/treatment, was linked to the policy directions of the conservative government concerning the aims and objectives of cautioning[537]. Their implied view favouring an anti-interventionist policy directed from the top and supporting the expansion of plain cautioning can be found in their brief discussion of two policy documents; the earlier discussed 1980 government white paper *Young Offenders*, and the Home Office circular 14/1985, *The Cautioning of Offenders*.

First, Davis *et al.* indicated **"the influence of the labelling theory on criminal justice policy"**, which was 'reflected' in the 1980 government white paper *Young Offenders*.[538] The second policy document they discussed was the *Home Office circular 14/1985, The Cautioning of Offenders.* Davis *et al.*, in a later stage of their article, indicated the commitment of the government to diversion from the court by referring to the *HOC 14/1985*. As Davis *et al.* stated:

> "'diversion' has become the official government policy for young offenders. Guidelines issued by the home secretary to all chief constables include the statement: 'Chief Officers will want to ensure that their arrangements for dealing with juveniles are such that prosecution does not occur unless it is absolutely necessary' (Home Office, 1985)" (Davis *et al.*, 1989:221).

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[536] Davis *et al.* were particularly unhappy about the expanding local practice policy model of cautioning, which did not employ effective 'helping' modes as the major strategy to deal effectively with juvenile offending behaviour, and achieve therefore diversion from court. As they stated: "Sadly radical non-intervention is uninspiring to the observer" (1989:233).

[537] Actually, Davis *et al.* supported the treatment model of the cautioning diversion as being the right model of cautioning practice policy by reference to the CYPA1969, and did not refer to any conservative government policy document.

[538] In particular, Davis *et al.* related Becker, Lemert and Schur's labelling theory by pointing to the following passage which was included in the government white paper *Young Offenders* (Home Office 1980): "all the available evidence suggests that juvenile offenders who can be diverted from the criminal justice system at an early stage in their offending are less likely to re-offend than those who become involved in judicial proceedings'" (*Young Offenders* paragraph quoted in Davis *et al.*, 1989:220-21).
With this reference, Davis *et al.* implied that the official policy origins of the non-treatment, non-intervention diversionary strategy of cautioning could be found as early as beginning of the 1980s. Interestingly, they did not state clearly the existence of an early anti-interventionist policy level strategy, as it was probably hard to digest that the Thatcher conservative government had built a juvenile justice strategy which had been strongly influenced by the labelling theory and the radical non-intervention principle of Shur. However this issue is beyond the scope of the present work.

Davis *et al.* did not elaborate further on the philosophy of the *HOC 14/1985*. Nevertheless, the reference to *HOC 14/1985* as a policy document, which mirrored the attitudes of the distant top about the direction of the cautioning, was correct.

The *HOC 14/1985* was a policy document which had a considerable impact on the implementation of cautioning during the latter part of the 1980s.[539] The effect of this circular should not surprise, as in general during the 1980s, the Home Office circulars appeared to be instrumental for top-down implementation of policing policies[540]. Interestingly, this particular circular contained a diversionary principle[541], which was only

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[539] It is not an exaggeration to suggest that the policy effect of the 14/1985 circular was relatively similar to the policy effect of the Section 1(4) of the *CJA1982*. Indeed, all interviewees involved in middle level policy management had referred to the 14/1985 circular. There are also a number of papers, which discussed the aims and the effect of the 14/1985 circular from the perspective of an important policy document as regards the development of the cautioning policy practice. See therefore, as characteristic and indicative examples the following: Giller & Tutt (1987), Wilkinson & Evans (1990), Evans & Wilkinson (1990); or, the 1990 paper of Gelsthorpe & Giller, *More Justice for Juveniles: Does More Mean Better?*, which dealt with the effect of the then newly established CPS on juvenile justice. In this 1990 paper, Gelsthorpe & Giller indicated the implementation by the police of **"the spirit of the cautioning guidelines"** of the HOC 14/1985 as a central theme for the CPS.

[540] Robert Sullivan's account about the influence of the circulars on the police forces during the conservative years is particularly relevant and certainly interesting. In his paper, *The Politics of British Policing in the Thatcher/Major State*, Sullivan examined the "sustained effort of the Home Office to gain greater *de facto* control over policing without increased *de jure* accountability" (1998:306). According to Sullivan, Home Office circulars constituted an important part of this *de facto* control: "In the period of Margaret Thatcher's rule, three moves were made to secure [the *de facto*] control for the Home Office. [...] The third move has to do with the increased significance of Home Office circulars in setting policy. Traditionally, Home Office circulars explained and clarified policies or operations whose legal foundations were located elsewhere in Acts of parliament. Beginning in the 1980s, Home Office circulars began to take on an independent significance, and this is because they began to be accepted by the chiefs as authoritative" (1998:309-10).
An interviewee, former senior civil servant, confirmed that indeed the Police did accept them as authoritative, emphasising, at the same time, that the circulars "weren't, of course, expressed so firmly as directions in those days". Instead, as the interviewee said, "they were invitations to consider rather than instructions, as they've now become. And course the power in the Police and Magistrates Court Act for the Home Secretary to set objectives in these matters was pretty, pretty powerful stuff". In relation to this policy implementation attitude see also Tutt and Giller, who even in 1983 implied the type and the role of the 1980s circular: "The Home Office is reluctant or unable to direct the policy of police forces and will only offer guidance by way of circular" (Tutt & Giller, 1983:595). For Tutt and Giller in the early 1980s it was a question of whether this attitude signalled intention or weakness from the side of the Home Office. However, answering this question in depth is beyond the scope of the present work.

[541] "It is recognised both in theory and in practice that delay in the entry of a young person into the formal criminal justice system may help to prevent his entry into the system altogether" (HOC, 14/1985).

a version of the above mentioned paragraph contained in the 1980 white paper *Young Offenders*, which Davis *et al.* had regarded as an 'influence' of the 'labelling theory'. Regardless of whether this paragraph either an influence of the labelling theory on policy, or a pragmatic understanding of the policy people about the value of the criminal justice system, the key point is that the option of prosecution of juveniles was treated much like the prison option, namely its use was restricted:

> "The prosecution of a juvenile is not a step to be taken without the fullest consideration whether the public interest (and the interests of the juvenile concerned) may be better served by a course of action which fall short of prosecution" (HOC, 14/1985).

Nevertheless, the question is whether the **"course of action which fall short of prosecution"** was associated strongly with the concurrent development of 'helping' interventionist modes of cautioning which were particularly attached to cautioning for second offenders ('cautioning plus'[542]). In their article *Police Cautioning of Juveniles,* Giller and Tutt did not see the development of interventionist 'helping' modes as the driving policy idea behind the *HOC 14/1985.*

ii) The philosophy of the HOC 14/1985 through the eyes of Tutt and Giller

In *Police Cautioning of Juveniles*[543], Giller and Tutt suggested that the circular in its forefront philosophy held 'three major policy intentions'.[544] They further suggested that none of these seemed to be associated with the development of 'helping' modes of police cautioning as alternatives to prosecution. Indeed, Giller and Tutt indicated two further policy issues which were contained in the philosophy of the circular, and specified the

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[542] In the 1980s 'cautioning plus' was the term to describe a caution attached to a 'helping' program – see in Evans and Wilkinson 1990:169.

[543] In this article amongst other things Giller and Tutt also provided some background information about the consultative document *Cautioning by the Police: A Consultative Document* (1984) (see pages 367-8). Also as Giller & Tutt indicated this document did not limit its discussion to the issue of juveniles. That was also the case for the *HOC 14/1985.* However, in their work the document was seen only in relation to juvenile justice, as it does in relation to the present work as well.

[544] The three intentions: "to expand offenders' opportunities of real diversion by means of police cautioning; to encourage inter-agency pre-cautioning liaison; to develop greater consistency in decision-making about cautions" (1987:368).

meaning of the first policy intention, which was 'real diversion by means of police cautioning'. The one policy issue they indicated was about the 'net-widening' warning against 'formal caution'. [545] Therefore, 'the danger of net-widening', namely the unnecessary increase of the volume of juveniles processed through the system, was the first issue that complemented the philosophy of the circular.

The second policy issue that Giller and Tutt highlighted concerned the use of a second or multiple caution. They therefore indicated that:

> "The existence of previous cautions or convictions, however, is not to preclude subsequent cautions. 'A second or subsequent caution would only be precluded where the offence is so serious as to require prosecution'" (Giller and Tutt, 1987:368).

Second (or even multiple) cautioning therefore appeared to constitute a mode of formal action that the circular endorsed against prosecution; certainly when employed within the limits posed by the principles of 'net-widening' and 'unless the offence is so serious'[546]. The point is that second (or even multiple) cautioning constituted a mode which supported diversion not only from the court but also from modes of social work interventions. In the present work it is argued that the increase of multiple cautioning was in fact the main policy aim of the *14/1985* circular.

iii) Endorsing multiple cautioning in Laycock & Tarling's research

The 1985 paper by Laycock & Tarling[547], *Police Force Cautioning: Policy and Practice*, provides an important source in understanding that multiple cautioning was an important

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[545] As Tutt and Giller statted: "To achieve the first policy aim the circular warns of the dangers of 'widening the net': '... there is a danger that a formal caution may be used and the juvenile thus brought within the fringes of the criminal justice system when less formal action may have been more appropriate and it should not follow that simply because a juvenile is brought to the police station formal action (e.g. a caution) is required, as against a decision to take less formal action, or no further action at all'" (Giller and Tutt, 1987:368).

[546] As Giller and Tutt indicated in relation to the circular: "Matters to be taken into account in considerations of seriousness include 'whether significant harm has been done to a person, substantial damage has been done or property of substantial value has been stolen.' Offences of homicide, rape, arson, endangering life and serious public disorders are cited as examples of 'very serious' and inappropriate for cautioning" (1987:368).

[547] Principal Research Officers, Home Office Research and Planning Unit (1985:81).

policy aim of the *14/1985 HO Circular.*[548] According to Laycock & Tarling their study constituted a continuation of the 1976 work of Ditchfield, *Police Cautioning in England and Wales*;[549] the very reference of any piece of work of that time on cautioning which indicated issues of 'net-widening' effect the problem of varied police cautioning practice.[550] On these two issues, the study by Laycock & Tarling did not constitute an exception. They indicated in particularl the net-widening effect (1985:82); however, the variation of police cautioning policy rather than the variation of crime patterns was the issue of their study, which attempted to fill the gaps of Ditchfield's study.

Under the subheading *Discussion,* in the final part of the study, Laycock & Tarling provided three policy observations and only one practical policy recommendation. Their observations reflected a particularly pragmatic view of the operation of the juvenile justice system[551] and the variations in police cautioning outcomes. This was because they

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[548] As Laycock & Tarling informed the readers of the *The Howard Journal*: "this article first appeared as an annex to the consultative document *Cautioning by the Police* (Home Office 1984) which sought to develop additional guidelines. These were issued in February 1985 as HOC 14/1985" (1985:91). In other words, this article constituted a document, which had officially informed the Home Office policy on the issuing of cautioning guidelines to 43 police forces in England and Wales. Practically, the piece of work by Laycock & Tarling was therefore directly related to the *HOC 14/1985,* and from this point of view it is certainly interesting to examine the policy spirit of this paper.

[549] As Laycock & Tarling indicated their study **"was designed to fill the gaps"** of Ditchfield's research (1985:84).

[550] See for example, Thorpe *et al.* (1980), Rutherford (1983), Tutt & Giller (1983), Smith (1984). Most of papers of Pratt (1985), (1986), (1989a) contained references to Ditchfield's study. See in particular, the highly critical paper by Pratt *Diversion from the Juvenile Court* (1986) where an extensive quotation by Dithchfield appeared in pages 223-4. Also, Ditchfield was particularly present in the 1981 published study by Farrington & Bennett. In 1981, Farrington & Bennett mentioned that Ditchfield's study was **"probably the major study in cautioning"** (:123). In 1985, Laylock & Tarling supported this view by indicating that "Ditchfield (1976) is the only researcher to have examined cautioning rates for different groups of offenders and the differences between force areas specifically and in any depth since the changes brought about by the 1969 Act" (:83). Therefore, Laycock & Tarling's study was not merely a continuation of the Ditchfield study but also a part of the research debate of that time on cautioning.

[551] "The differential treatment of juveniles and adults is obviously due to policy recommendations" (Laycock & Tarling, 1985:90). They based their finding on the 'fresh data' they presented and they therefore asserted Ditchfield's point.
A further "predominant factor explaining the observed differences between force cautioning rates for juveniles is the type of crime" (Laycock & Tarling, 1985:90). Here, Laycock & Tarling simply accepted the argument of Ditchifield[551], without providing any further evidence.
A second further "predominant factor explaining the observed differences between force cautioning rates for juveniles is the proportion of first offenders in the areas concerned which varies

accepted that the differences will always be there.[552] At the same time, they provided one simple and practical recommendation regarding the direction of the cautioning practice:

> "[T]he detailed examination of policy documents suggests that some forces could increase the use of cautioning of juveniles, **especially by increasing the use of second cautions**" (emphasis added) (Laycock & Tarling, 1985:91).

This recommendation in practice expressed the key point made in their paper; namely the endorsement of the use of cautioning, and in particular through the increase of second cautioning.[553] Therefore, in their paper, which was intended to inform policy, Laycock and Tarling did not provide elaborate recommendations about 'helping' forms of cautioning (such as 'cautioning-plus') as a condition for the expansion of cautioning. They simply endorsed plain cautioning and in particular, an increase in the use of second cautioning, with no reference to any 'helping' conditions-attachments.

iv) Increase of cautioning but no increase of cautioning 'plus'

In the 1990 article, *Police Cautioning of Juveniles: The impact of Home Office Circular 14/1985*, Wilkinson and Evans concluded that: "The circular achieved its aim in a general sense in that cautioning rates increased following its issue" (1990:166). However, in the second 1990 article, *Variation in Police Cautioning Policy and Practice in England and Wales*,[554] Evans and Wilkinson stated that: "In our national survey forces reported that one of the most important effects of the circular was to give them permission to consolidate or develop **multiple cautioning policies**" (emphasis added) (1990:168). [555] In short, the two articles of Evans

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considerably from force to force" (Laycock & Tarling, 1985:90). Here, Laylock & Tarling highlighted a new issue based on consideration of their data.

[552] "Such differences have been narrowing in recent years but are unlikely ever to disappear completely" (Laycock & Tarling, 1985:91).

[553] The paper by Laycock and Tarling therefore, suggested the increase of the second cautions certainly within the limits posed by the warning issue of the "danger of net-widening" and the pragmatic factor of different "types of crime".

[554] Both the articles were based on Home Office funded research which "was carried out in 1987/88 and was designed to assess the impact of the [14/1985] circular and to provide a more general review of cautioning practice in England and Wales" (Wilkinson & Evans, 1990:166) (Evans & Wilkinson, 1990:156).

[555] In relation to 'caution plus' namely "cautions with conditions attached to them such as attending an intermediate group and participating in reparation or mediation schemes" (1990:169), Wilkinson & Evans did not provide any evidence which showed any increasing emphasis on 'caution plus':

and Wilkinson simply concluded that the policy philosophy of the *HOC 14/1985* was what it had originally been considered to be in Tutt-Giller and Laylock-Tarling' accounts.

Recent accounts from the historical memory of the 1980s confirm this view. An interviewee, a former senior civil servant, highlighted as being to increase cautioning in order to delay prosecution the philosophy behind the *HOC 14/1985*;[556] Interestingly, the development of 'helping' interventions was not mentioned as being a critical objective for the increase of cautioning.[557] Instead, as the interviewee stated in particular, the increased use of cautioning in 'a larger number of cases' had to take place **"as part of minimum intervention"**; namely the criminal policy philosophy, which emphasised the reduction of sentencing interventions either of 'punishing' or 'helping' character. In other words, the cautioning policy in the latter part of the 1980s literally constituted the translation of the minimum intervention policy; and therefore contributed to the development of the practice policies of the *de facto* decriminalization. Hence, the construction of social work interventions for juveniles, in order to replace or delay prosecution, was not the strategic issue (perhaps not an issue at all) for the background philosophy of the important policy document, *HOC 14/1985* which simply aimed at increasing the cautioning rate and endorsed the use of multiple cautions.

Furthermore, the development of alternative-to-custody social work interventions within the court phase of the juvenile justice system was not the key issue in the criminal policy logic/agenda/rhetoric of the Home Office.

d) The 'down tariff' framework of sentencing

In a 1986 talk, which was given to the *Magistrates' Association Spring Training Conference*[558], David Faulkner indicated to his audience:

"only three forces [claimed] that ['caution plus'] operated across the whole force area. [...] We tried to assess the proportion of offenders involved in caution plus and the best estimate we could arrive at for the three forces with force-wide provision was 4%" (1990:169).

[556] "I think what was behind it was partly, as you say, to eliminate justice by geography and also to encourage the use of cautioning as an alternative to court proceedings in a larger number of cases".

[557] "[C]autioning was intended to increase overall [and] that [...] cautioning would be more credible, more legitimate, more accountable".

[558] It was held at Ashridge on the 5th April 1986.

"I now come to the question of your own local arrangements for the juvenile justice panel" (Faulkner, 1986).

In relation to this question, Faulkner first highlighted the interest of the Home Office in the development of an 'understanding' between the bench and the ascending 'helping' classes.[559] The need for an 'harmonious' inter-agency environment was therefore the first issue in relation to the 'local arrangements'.

Secondly, and rather interestingly, Faulkner warned the audience about the limits in the use of the alternative 'helping' interventions:

> "There is just one word of warning about all this. Social workers, volunteers and others will be enthusiasts for what they are doing and it will be easy for them to believe and to convince you that if they are providing something worthwhile, the more people that can have the benefit of it the better. You must not get into the kind of cosy relationship where you are using high intervention disposals because you think the offender will benefit from them **if a low intervention disposal will do just as well**"(emphasis added) (Faulkner, 1986).

In other words, within the context of the development of efficient 'harmonious' relations between the components of the juvenile justice local settings, the sentencing priority for the Home Office was placed on the down-tariff approach rather than on the increasing use of the 'helping' interventionist solutions.

Similarly, in 1984[560], in his talk *Objects of Youth Custody*, given to *The Magistrates Association Annual Sentencing Conference*[561], David Faulkner again indicated to the magisterial audience:

> "If the offender can be dealt with in a way which does not involve interfering with the offender's normal life, that should be done and a fine or conditional discharge may be the appropriate disposal. If a more drastic disposal is needed, which will require the offender to make some change in the pattern of his life, then it should be

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[559] As Faulkner indicated, "It is especially important for you to keep in touch with new initiatives by the probation service or the social services or voluntary organisations and to have an understanding with the probation service or the social services or voluntary organisations on the principles which they are following in preparing social inquiry reports and in making recommendations for different types of disposal" (1986).

[560] It must be remembered that in that year Leon Brittan was the Home Secretary.

[561] It was held at York University, 29th July 1984.

a disposal which still enables him to live as an ordinary individual in the community" (Faulkner, 1984).

Hence, 'helping' interventions in the community were suggested as 'drastic disposals' but only 'if needed'; otherwise down-tariff was regarded as the appropriate reaction to juvenile offending.

Hence, since 1984 the sentencing policy rhetoric of the Home Office emphasized the option of down-tariff, whilst at the same time effective social work interventions were suggested as the reserved options for the 'heavy end' cases of juvenile offenders. A year earlier, in 1983, this structure of policy rhetoric was already in place supporting the introduction of the sentencing framework of the *CJA1982*. Policy materials from the *Criminal Justice Act 1982 Conference*, which was probably held in May 1983[562], and which it was attended by a broad criminal justice audience[563], constitute a useful source for retrieving the structure of the sentencing policy rhetoric which supported the introduction of the CJA1982 into the criminal justice world.

In the *Introductory* paragraph of the *Conference Discussion Paper*, the "three themes run through the new young offender sentencing structure" were indicated[564]:

1. "For the majority of young offenders the courts need a satisfactory range of non-custodial options;
2. Custody is a necessary sanction, but as a last resort;
3. Courts need information about the offender and the specific options available."

(CJA1982-CONFERENCE, 1983:1).

Hence, on the one hand, it was the custody theme (remarkably as the second in priority theme) and on the other hand, it was the theme of all the non-custodial options (remarkably as the first in priority theme)[565]. Therefore alternative-to-custody social work interventions

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[562] The exact date of this conference was not retrieved during the fieldwork research phase, and still remains unknown to the author of the present work.

[563] From David Faulkner's address notes it can be assumed that the conference was to be attended by members of "the judiciary and the magistracy, the probation and social services, and representatives of the police, prisons and education service" (Faulkner, 1983).

[564] These 'three themes' constituted the subject of the conference. According to the *Conference Discussion Paper*, in the *Introductory* paragraph it was clearly stated that "the conference might examine these principles and the way the Act fulfils them" (CJA1982-CONFERENCE, 1983:1).

[565] The research paper *Young Offenders and Crime: The Statistical Background to the Criminal Justice Act 1982* by S M Speller, Home Office Statistical Department, which it supported the

were not presented as a separate theme in the *Introductory* paragraph of the *Conference Discussion Paper*[566]. The sentencing policy rhetoric, which supported the examination of the *CJA1982* sentencing options, therefore did not particularly emphasize the alternative interventions, but rather it included them as part of a range of options. David Faulkner's *Address Notes* seem to have further supported this rhetoric[567].

In the *Address Notes* of David Faulkner for the CJA1982-conference, and under the subheading *Appropriate response* the following was stated:

> "A custodial sentence will be the right response in only a small number of cases. In extending and strengthening the range of non-custodial sentences, the Act presents the courts – and the services serving them – **with more choice, and more discretion**" (emphasis added) (Faulkner, 1983a).

The important point here is that alternative 'helping' interventions were not specifically mentioned, while the key-phrase was rather 'more choice, more discretion'. In turn, the range of 'more choice, more discretion' was presented as follows:

> "First there will be cases where only minimal intervention is called for: warnings – discharge, bind over.
>
> Then there will be pure sanctions – fine, attendance centre order. Next there will be those in which the offender is required to make some recompense: the community service order [...] Then there is compensation in its own right: taking precedence over a fine.
>
> Finally, there will be cases needing support and guidance – 'intervention'. For what kinds of offender are probation/supervision suitable? [...] The courts might consider that probation or supervision strengthened in this way offered a positive, realistic

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conference debate, indicated that: "In the light of the high reconviction rates following custodial sentences and the recognition that wherever possible young offenders are best dealt with in the community the sentencing trends revealed in this paper give grounds for concern. The 1982 Act is designed to enable the courts to change the trend by strengthening the range of non-custodial sentences and by minimising the use and length of custodial sentences" (Speller, 1983).

[566] Later in the *Conference Discussion Paper*, 'Supervision and Probation' the two 'influencing interventions' were presented as subject numbered III, after subject number II which was still the all 'Non-custodial options', which included supervision and probation.

[567] As Rutherford indicated in his book *Transforming Criminal Policy* and in particular in *Principled Pragmatism* a chapter which examined the role of David Faulkner in English criminal policy: "David Faulkner took up his key policy-making job at the Home Office shortly after Parliament had enacted this legislation, and when the new sentencing provisions were brought into effect in May 1983 he was at the centre of preparations for the significant changes ahead" (1996).

alternative to custody. That is their purpose" (emphasis in the original) (Faulkner, 1983a).

Hence, the sentencing policy rhetoric in David Faulkner's *Address Notes* did not start with the heavy end alternative 'helping' options. Instead they were mentioned at the end; whilst the policy rhetoric seemed to reserve 'helping' 'intervention' for the heavy end cases, which needed 'support and guidance'. At the same time, the emphasis of the sentencing policy rhetoric was placed on the indication of the existence of a legitimate sentencing framework, which started with a 'warning' option or a 'discharge' option. The 'helping' 'intervention' options were naturally placed within this legitimate sentencing framework. However, interestingly the policy rhetoric did not overemphasize them at expense of the down tariff options. The existence of a balance in importance between all the non-custodial options was much clearer in the second set of notes, *Notes for Opening Address*, of David Faulkner.

In the concluding paragraph of *Notes for Opening Address*, which was also the concluding paragraph of the part sub-headed as *The new policy framework*, it was stated that:

> "For minor offending warning may suffice – the Act preserves the powers of discharge for this purpose" (Faulkner, 1983b:4).

The interesting point was particularly in relation to the 'more serious or repeated offending':

> "For more serious or repeated offending penalties to enable stronger disapproval to be registered are available in the form of fines, attendance centre and community service orders. The Act also builds up the possibility of recompense to the victim of offending through compensation orders" (Faulkner, 1983b:4).

Hence, fines were presented as an equally appropriate option in relation to attendance centres and CSOs. Furthermore, in the sentencing policy rhetoric it was made clear that:

> "Substantial intervention maybe unnecessary where there are few if any previous convictions. At too earlier stage it may indeed have an adverse effect if an offender is treated as a potentially serious offender inappropriately. [...] [T]he range of possibilities which the Act offers for dealing with young offenders under supervision and probation are designed to enable the courts to order substantial intervention where the seriousness and persistence of offending makes it clear that maturing out of offending is unlikely to take place through normal influences without concentrated reinforcement" (Faulkner, 1983b:4).

No doubt, the sentencing policy rhetoric placed more emphasis on the non-custodial down-tariff oriented sentencing framework, than on the substantial 'helping' interventions.[568]

Therefore, throughout the 1980s, the policy rhetoric, explicitly pointed to 'helping' interventions as the alternatives to custody. Nevertheless this was within a sentencing framework which highlighted the legitimate importance of down tariff options. To some extent, it could be supported that substantial 'helping' interventions were actually treated the same as custody; as the last resort!

e) The (criminal) juvenile justice policy during the decade of the 1980s

The long review above has conveyed the existence of a two dimensioned, socio-liberal oriented,[569]conservative juvenile justice policy for a period of ten approximately years. The first dimension was the steady anti-custodial logic/agenda/rhetoric. The decade was characterised by a logic which denied, or even discredited, the value of the custodial option.[570] This logic was amalgamated, first, in the development of an anti-custodial

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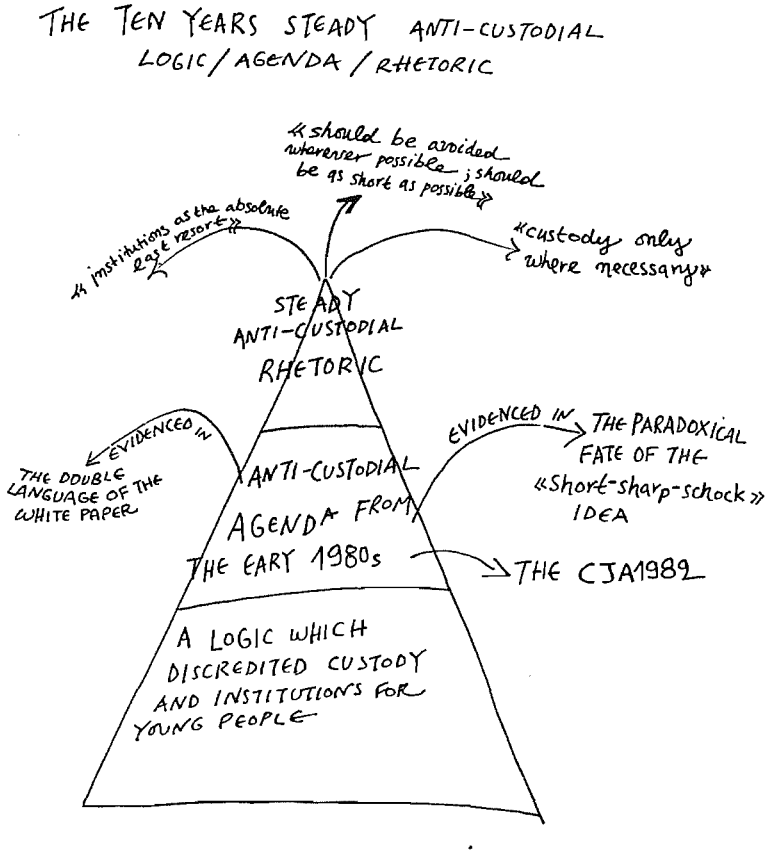
[568] In the words of Faulkner in the *Notes for Opening Address,* the sentencing framework, which as it has been argued emphasized the importance of down tariff options, was the mere translation of a policy philosophy based on the ideas of 'adolescence', and that "most youngsters grow out of offending as part of the process of maturing and settling down into adult life" (Faulkner, 1983b:3)In particular as it was stated in the conclusion part of the *Notes for Opening Address*: "The new structure is based on the premise that juvenile delinquency is often a feature of adolescence. Committing some sort of offences is probably the rule than the exception while growing up. Theft and other acts of dishonesty, vandalism and the like are not necessarily the symptom of potential adult criminality. Most youngsters grow out of offending as part of the process of maturing and settling down into adult life. The sentencing powers of the courts need to help them reinforce this process and avoid action which exacerbates the difficulties of adolescence" (Faulkner, 1983b:3,4).
It was a policy philosophy which was supported by a research paper in the particular conference, *Juvenile Delinquency: The findings of research* by Roger Tarling (!), Home Office Research and Planning Unit. Part of the conclusion of the research paper was as follows: "The research findings briefly reported here show a good deal about crime, delinquency and the expectations of sentencing. Much crime is not serious, a point overlooked in many popular commentaries in which only the most rare and heinous crimes are highlighted [...] The evidence suggests that minimal intervention may be the appropriate response in most cases; for others, a constructive programme in the community may be called for, with a custodial sentence as a last resort for the serious offender" (Tarling, 1983:4).

[569] See Radzinowicz for the trichotomy of the authoritarian, conservative and socio-liberal models in criminal justice (1991:422-426).

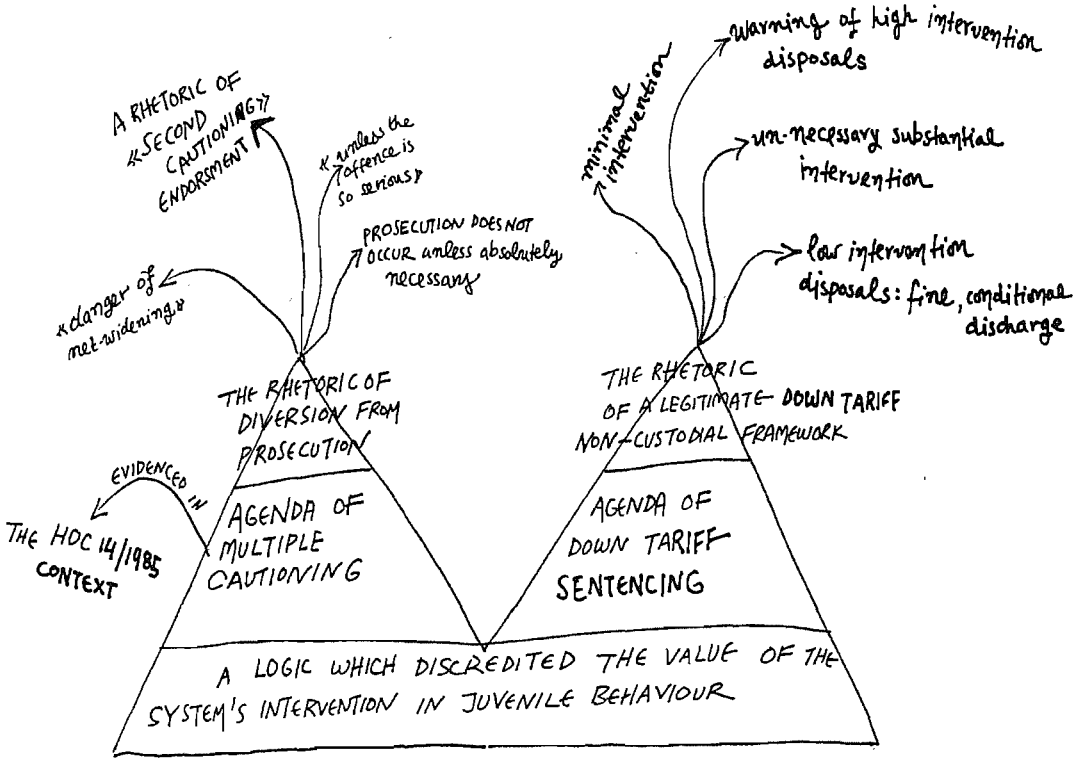
[570] How this logic was developed and sustained within the government policy level is a question which goes beyond the limits of the present research.

agenda, particularly evident both in the paradoxical fate of the 'short-sharp-shock' and the enactment of the CJA1982; and also, in the anti-custodial rhetoric, which expressed the anti-custodial top policy logic and agenda for a period of ten years.



The second dimension was the *de facto* decriminalization which was developing 'in place of custody'. Indeed, during the same decade a different sentencing policy was steadily rising in place of the custodial dominated model of juvenile penal policy. This sentencing policy was dominated by a policy agenda which endorsed the diversionary sentencing practice policies of the *de facto* decriminalization; such as the down-tariff framework of non-custodial options and multiple cautioning.[571] The policy rhetoric, which supported the diversionary sentencing practice policies of the *de facto* decriminalization, concurrently de-emphasized the importance of 'helping' interventions.

[571] The relevant agenda/rhetoric matched the definition of the 'de facto decriminalization' as it was described in the *Council of Europe, Report on Decriminalisation*: "the phenomenon of (gradually) reducing activities of the criminal justice system for certain forms of behaviour or certain situations although there has been no change in the formal competence of the system" (EUROPEAN COMMITTEE ON CRIME PROBLEMS, 1980:14).



THE DECADE STEADY LOGIC/AGENDA/RHETORIC WHICH SUPPORTED DE FACTO DECRIMINALISATION

The policy logic which supported the agenda of the *de facto* decriminalization strongly de-emphasised the value of the juvenile justice system. At the same time it pointed to 'home and school' as the most appropriate context to deal with juvenile behaviour. In the 1980s the name of this policy philosophy was minimum intervention.[572] In the words of a former home office senior civil servant:

> "Minimum intervention as we saw it in the '80s was not just leaving kids alone to get on with it and hope they'll grow out of crime, **it was don't criminalise them**" (emphasis added).

The 1980s *de facto* decriminalization penal policy agenda was therefore based on a logic which denied the value of the process of criminalization and therefore did not highlight the value of juvenile justice interventions; either 'punishing' or 'helping'.

In conclusion, throughout the 1980s, the conservative juvenile justice policy was characterised by the two dimensioned agenda of *de facto* decriminalization-in-place-of-

[572] Minimum intervention could be also referred to as 'minimal intervention' or 'minimum necessary intervention'.

custody; whilst minimum intervention constituted the operating framework of this agenda by de-emphasising the value of criminalization as opposed to the value of socialization which is provided by home and school.

f) The linguistic umbrella for the legitimacy of decriminalisation

The two dimensions of the 1980s juvenile justice policy logic/agenda/rhetoric were substantially mirrored in the NACRO juvenile justice policy rhetoric, which guided the operation of the ascending alternative projects. The NACRO policy documents published by the NACRO/JOT and the NACRO/JCS[573] supported the *de jure* anti-custodial limits contained in the *CJA1982*; and also supported the policy framework of the *de facto* decriminalization.[574] The growth of the practice policies of decriminalization were linked to the existence of this umbrella of policy rhetoric; which was further strengthened by the content of the AJJ rhetoric;[575] and also critically by the language of middle management documents.[576] In particular, this linguistic umbrella provided the necessary legitimization for the development of the bottom level decriminalisation practice policies; as, in practice, it indicated that these practices constituted the legitimate ascending penal system in place of custody. The following quote from Wade's study is particularly revealing of the legitimacy function of the content of middle management policy documents:

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[573] It should be remembered that the NACRO/JOT and the NACRO/JCS were NACRO units involved with juvenile justice. The JOT was initially established to assess the impact of the IT Initiative. Practically, both the units were involved with the informal co-ordination of the ascending integrationist practice therefore constituting an important part of the so-called 'national network'; an issue discussed earlier in chapter five.

[574] The late NACRO publications *'Diverting Young Offenders from Prosecution'* (1992), *'Replacing Custody'* (1989a), and *Greater Manchester Custody Study* (1989c) constitute the peak of anti-custodial/decriminalization publications which had started as early as in the late 1970s. Indeed, the 1977 Report *Children and Young Persons in Custody* constitutes a first NACRO publication which was very close to top policy level 1980s logic/agenda/rhetoric. For an extensive list of publications which supported this logic/agenda/rhetoric continuously during the 1980s see Appendix under the heading NACRO.

[575] See the list in Appendix under the heading *AJJUST.*

[576] Bowed and Steven's (1986a) article and Wade's MPhil extensive accounts provide typical examples of middle management supportive language.

> "Within **most statutory** agencies **written policy documents** are given **high status**, particularly when endorsed by senior management and by council committees. Endorsement by the Joint Standing Committee would make them **powerful documents** that could be used by the unit managers **in any dispute** with local social services managers who might wish to change policy to suit local priorities" (emphasis added) (1996:97).

The content of these powerful documents therefore empowered the 'unit managers', namely the local integrationist practitioners, to argue that the content of their activity undeniably constituted the only legitimate practice policy within their local setting.[577]

However, it should not be forgotten that the content of this linguistic umbrella, a provider of legitimacy power to practice policies, was identical to the philosophy of the policy top for a period of ten years.[578] In short, the policy top held this linguistic umbrella of the decriminalization legitimacy; and it kept it stable for a decade. Indeed, the legitimization function of the linguistic umbrella was never disturbed by the top policy rhetoric; an issue discussed further below.

g) The stability of the argumentative context

i) Turning points for custody and the top policy attitude

For a period of ten years the rhetoric of the government level never really showed strong evidence of support towards the long existing custodial models. The paradoxical fate of the 'short sharp shock', which was discussed above, was certainly a typical case; the communicative support of the policy top for this idea was largely absent.

Another example is that of detention centres when their decline fuelled 'fears' within the practice world that 'custody might rise'. Godfrey indicated that:

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[577] The important issue of the 'endorsement' will be addressed below.

[578] In the 1988 NACRO second consultation paper *School Reports in the Juvenile Court-A Second Look*, the account of Dr. Richard Rathbone JP about the Social Inquiry Reports (SIRs) particularly revealed of the top down power of legitimacy towards the development of the *de facto* decriminalization practice policies:
"[T]he Act's [Criminal Justice Act of 1982] emphasis on and accompanying Home Office enthusiasms for 'diversion' – the keeping of children and young people out of court as well as out of custody – gave reports and those who write them an extended role" (NACRO, 1988:7).

> "A Home Office report in 1985 found that overall receptions of male juveniles had fallen a little, but the distribution of sentences had markedly changed, with detention centre receptions down by 16% and youth custody reception up by 41%" (1996:292).

According to Godfrey, the detention centre decline triggered concern within the practice world,

> "fuelling fears that whilst receptions might fall the juvenile population in custody might rise" (1996:292).

The fears of the practice world simply indicated their concern that a conservative government, initially elected on a 'law and order' agenda, was naturally not expected to be sympathetic to the declining course of the detention centres.[579] It was a negative turning point for the custodial model and the practice world therefore expected that the law and order lobby would attempt to re-adjust the trend in favour of the custodial options. Actually, at this turning point the government level rhetoric did not express any sympathy towards the declining course of this custodial option. The government simply closed down these institutions. The impact of this policy behaviour was critical; the practice concerns greatly decreased. The notable silence of the policy rhetoric at this crucial turning point was perceived by the practice world to be a massive achievement.[580] Furthermore, the top level stance towards a critical policy turning point indicated to the practice world that the development of their anti-custodial agenda was a true policy event; namely a policy event which the policy top accepted. This had a critical communicative effect towards the further development of the anti-custodial activity.

ii) Turning points for the decriminalization paradigms and the policy attitude

At the same time, the practice world also sensed similar feelings, in relation to the development of local paradigms of decriminalisation, for an undisrupted period of ten

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[579] See for example Rutherford, who indicated that in the mid-1980s that: "No-one at that time predicted that within five years detention centres would disappear" (1992:65,fn12).

[580] As an interviewee, a former penal policy consultant, emphasised:
"[Detention centres] were being churned over to other types of prison service establishment but the truth is they were closing detention centres and this was seen as a massive achievement by those involved in terms of the new way of doing things. [...] You got to bear that in mind".

years. Memories from the development of an early radical scheme provide us with an understanding of the interaction between top and lower policy levels and the development of the decriminalization agenda on juvenile justice.

Interviewee P, a former policy consultant,[581] has enthusiastically recalled the development of their local scheme, which was based on the application of practice policies of decriminalization. The interviewee recalled the very early period of the local alternative scheme during the 1980s[582]:

> "The idea was you could do something far more constructive by keeping youngsters in the community, which at that time, well, you might think that's nothing, that's not new, that's, everybody talks about alternatives to custody – they've been in and out of fashion – you say, well, this is an old story but at that time it wasn't. At that time this was [laughs] sort of ground-breaking, sort of earth-shattering really for magistrates to say we're not going to do this. I mean, they should have been sending them to custody if they'd applied normal sentencing principles and the guidance that was around at that time and they just said 'no'. I use the word earth-shattering because at that time you just didn't do things like that. Since then people have done lots of other things but it was a **risky business** and it attracted an awful lot of attention – **official attention.** I mean, I was getting calls from Government departments asking what was going on, why we were not doing this, why we were not doing that" (emphasis added).

In other words, merely starting a scheme like that at that time – the beginning of the 1980s – constituted 'risky' business'; namely, a critical turning point for the future of that scheme. Therefore, defending the creation and the development of that anti-custodial/decriminalisation driven scheme was a critical project. Interviewee P therefore remembers this part of the history of that scheme in particular; namely, how the anti-custodial/decriminalization plans were defended against the government, in order the scheme to survive within the local setting first:

> "I was defending the situation behind the scenes. There were also some very strong personalities up-front [...] There was a number of very, very strong personalities and also, looking back, very powerful people in terms of their own

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[581] The interviewee was an influential middle level policy actor involved locally and later nationally in the development of the reductionist argument, throughout the period of the 1980s.

[582] The local scheme of custodial reduction and development of de-criminalization practice policies had been launched in the very early 1980s; namely, well before the enactment of the *CJA1982* and about the same time as the publication of the 1980 white paper, *Young Offenders.*

networks and their own social spheres, associations, contacts. People who could pick up the phone and talk to those at the top because that was their social milieu [laughs]. [...] [They] could pick up the phone to captains of industry and say I want some money [laughs]. You know, 'I've got a plan', 'I've got a plan for keeping youngsters out of custody'. As it happened, [...] eventually it lent credibility to those people who were prepared to put up money because top people were talking about it and had been discussing it and they'd been having words behind the scenes in other people's ears".

It can be argued that the issue apparent in the memories above is that at the early turning point in the individual life of an alternative scheme, which pursued radical penal options, the policy top was prepared to permit the development of the local penal trends. Certainly, in the opinion of the interviewee P the driver of the development was within a context of outside 'strong personalities' connected to the narrow government sphere. In particular, continuing the memories about the 'strong personalities up-front', interviewee P concluded that actually:

"the context in which something got done was one where people were not prepared to accept the status quo and in some instances not prepared to accept Government policies [laughs] because they were used to challenging it at a very high level".

However, this was only half the truth, at most. The reality was that these 'strong personalities' were able to challenge the 'high level' and create micro-turning points in the present and the future of the juvenile justice system (by suggesting radical plans of de-institutionalization) only because the 'high level' context was prepared to permit radical local penal changes; and not to take some action against them by demanding that the local actors adhere to a strong top-down agenda. Sources from the historical memory of the 1980s strongly support this view.[583] Even interviewee P admitted that particular powerful

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[583] The accounts of other interviewees of middle-level policy background support this view, in respect of the whole decade.
As an interviewee, a former chief probation officer stated: "All I know is that when you've got that kind of permission politically to go back and do things, you can do it. [...] [In the 1980s] if you were convinced that [a plan] was right, especially with young people and your probation committee agreed, you could actually go and do it. You didn't have those battles".
As another interviewee, also a former chief probation officer stated: "The **nicest thing** about working for the probation service in the '80s was that you had **very little direct government interference**. I had a probation committee to whom I was responsible, not the Home Secretary – that's different now of course – and if I wanted to do something and politicians didn't like it, checked with my probation committee. An example of this in the early '80s – the government brought in legislation saying that every probation area should have a day centre run specially for offenders. Now, my boss [...] was already sceptical about whether or not they really were what

'high level' persons were critical for the future of the schemes; they were 'the other thing' in the turning points in the life of those schemes:

> "[Those powerful people] were communicating with what was going on at the highest level, but the other thing was the people at the high level, like David Faulkner, was noticing what was going on. It was being seen at a high level".

"It was being seen at a high level" simply means (in the eyes of interviewee P) that the development of these schemes was accepted/supported within the 'high level' context of policy. Furthermore, the 'high level' was prepared to embrace 'successes'; namely, the mega-turning points in the life of the developing alternative schemes of decriminalization.

Indeed, interviewee P recalled the period of the 'success' of their local anti-custodial practice policies of decriminalization and in particular how these successful local practice policies of decriminalisation were transformed into new successful penal paradigms:

> "What then started to happen was **success**. [...] The idea of success was already attaching to the whole idea that these people were getting a better deal than going to detention centre" (emphasis added).

The point is that these local practice policies of decriminalisation were becoming established within the microcosm of juvenile justice; because during their 'success' turning point, the rhetoric of the policy top allowed them to become integrated parts of the penal argument as it did not disturb the philosophy of these new paradigms. Indeed, as the interviewee particularly emphasised:

> "The **only danger of it all** was if someone came back later and said, oh yeah, juvenile offending's gone through the roof. These people are all re-offending; it's having no effect whatsoever" (emphasis added).

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was needed and he thought it was much better to use existing community facilities which didn't, which weren't specially for offenders and to slot people in there. So, the government order came down: every probation area must have a day centre. Four or five probation areas, including [our area], **said 'no'!** And despite pressure from Ministers and angry letters and so on, they said, no it's not right for us we're not going to do it. And in fact [our area] *never* had a day centre – we always used community-based facilities that were already there. And it was such a varied community, ethnically and otherwise, that we were always convinced that we did much better for people by getting them in their own group. And the probation service had a degree of independence then which is inconceivable now and in fact if you didn't like government legislation and you had a good case, you could actually go against it" (bolded emphasis added).

In other words, what interviewee P is saying that during an important turning point for the decriminalization practice policies the top policy rhetoric did not raise populist concerns/ arguments[584], which could discredit the 'better deal' logic of success.

iii) The absence of populist rhetoric from the context of the top policy level

In general, it can be argued that the anti-custodial/decriminalization argument was gaining ground because of the wide absence of 'populist' concerns/arguments. Indeed, as another interviewee[585] suggested:

> "I think looking back on that period there is [the factor of] the climate. I don't mean the weather, I mean the mood. [How] people felt. People always seem to think 'oh, juvenile crime is a problem' but at that time it had not been talked up to such a great extent. This was before the Jamie Bulger case, it was before persistent offenders and bail bandits in the beginning of the 1990s which marked a sort of change. [...] I think it begun to turn in the end of the 1980s, but in the middle, early and middle part of the 1980s there wasn't a big concern in the newspapers, in the politics. There was a lot of social unrest in the early 1980s, there was riots, but it wasn't focused on juveniles".

Hence the policy top – including the newspapers-world as the interviewee clearly suggested – did not highlight the supposed weaknesses of the ascending decriminalization paradigms by overemphasizing youth crime; and this for a period of ten years. This policy attitude constituted a critical strength for the growth of the developing course of the radical penal paradigms.[586] It was vitally important that the policy top did not use their rhetorical

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[584] The 'common sense' label is being used in the way that has been consistently employed within the framework of the authoritarian and conservative criminal justice rhetoric; the listen to 'ordinary people' idea.
In relation to the authoritarian, conservative and criminal justice model, see Radzinowicz (1991). In relation to the populist model of penal policy making, see Johnstone (2000).

[585] The interviewee had a strong middle-level juvenile justice policy background, during the 1980s.

[586] As the same interviewee, a former juvenile justice policy consultant has indicated in relation to the decriminalization paradigm: "the weakness is that the first question a politician would ask now, [...] 'So what? These are youngsters who, you are telling us, are in the community and not in custody, but they are carrying on offending'". The critical word in this account is the word 'weakness' which shows the dependency of these practice policies from the content of the policy top rhetoric. The absence of this weakness was actually a strength in the development of decriminalization.

power to discredit these paradigms through the adoption of populist simplifications.[587] Indeed if they did, the decriminalization course would be very different; this is because a populist rhetoric would affect the working psychology of the key middle level actors.

iv) The key middle level: able to 'endorse'

Middle level actors, especially those from the 'helping classes' who opted for non-custodial directions, felt able to support the practice policies of decriminalization as they did not have to consider the 'danger' of an official rhetoric, which simplified the issues of public safety and transformed them into a populist rhetoric. The following account by an interviewee, a former probation officer, is very revealing:

> "But you could do it against a background of support and it's a fairly exposed position as a Chief Probation Officer. If somebody under your supervision commits a horrible offence, the first people the television come to are you; isn't this awful? And you have to weigh up the protection issues pretty carefully the whole time. But in the '80s you could do it, you could weigh up the public protection issues with the chances you were taking because a lot of them were chances, knowing that you had support politically."

The attitude of the policy top in avoiding populist rhetorical generalizations, such as the concept of 'public protection', actually lent 'support' to those middle level actors. They sensed that the policy ideas of multiple-cautioning and diversion from custody through down tariff options constituted together a real policy agenda in the field of juvenile justice.

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[587] The account of another interviewee - then a leading practitioner, who evolved to a policy communicator during the 1990s - is very revealing about how politicians by adopting discrediting populist simplifications are able to easily transform them into a policy argument: "There is I think a fallacy [about] multiple cautioning when it went on. There were all these stories that a young person went to court and cautioned 6-7-8 times. Well, that was very, very much unusual. But that was what pre-dominated. There was a story that I was told when Michael Howard was Home Secretary and cautioning was quite extensive and he wanted to reduce the amount for cautioning that was going on. He saw it as a "let off" really - "nothing happened". The fact that it worked was an irrelevancy. He was down in his constituency where he is an MP and he went to a Youth Offending Team, juvenile justice team as it was then, with [X]. I remember this. I think it might have been him who told me. Howard went to some youngsters and said 'how many cautions have you had?' and they lied basically these two lads and told him '4' or something, 'what were they for', 'oh one was for arson'. The Director of Social Services that was there, tried to intervene. This was a Friday afternoon. [Howard] went straight onto the Home Office on Monday morning, (and we know this is right from the Home Office officials), and said 'we should scrap; we should tighten the whole caution thing'. The guidance that says you don't make more than two or three cautions, based on the evidence of those two lads, the arson - he set fire to a field of corn or something. [Howard] just wanted something to be able to say 'right!' So, this is the problem when our legal system gets mixed up with politicians basically and public opinion".

Indeed, the experience of these policy actors makes explicit the fact that at no point in this decade the policy top did return the policy rhetoric back to square-one in relation to the policy options available for juvenile justice. [588] Instead, for a period of ten years middle level policy actors, supporters of 'helping' policy options of decriminalization improved their policy position along with their 'helping' argumentation.[589] Naturally, one interviewee, a middle level actor (former chief probation officer) emphatically stated that:

> "We knew who we were, and many of us used to meet in the auspices of NACRO, in the juvenile crime committee. [...] We knew exactly who we were, and we had **loose forms of communication**, telephone, letters, meeting at conference, swapping ideas" (bolded emphasis added).

In other words, the middle level supporter of a 'helping' decimalization oriented agenda felt that they had formed a policy network able to direct the implementation of a real policy; namely a policy accepted by the top, the 'high level'. This experience was a direct outcome of the policy attitude of the policy top. The policy top accepted/supported

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[588] The understanding of the existence of a steady policy which was not identified with an authoritarian or a conservative direction in this decade is evident in the accounts of interviewees who held middle level policy posts. The account of one interviewee, a former chief probation officer, about the policy content of the decade offered a picture of a developing progressive policy, despite some fluctuations: "My impression is of an optimistic and very good start to the decade, followed by in the mid-80s, maybe 1983? until '85, '86, a rather unsettling period in which there was less progress. Lots of momentum being generated and then the last three or four years of the decade very, very ... very, very positive indeed, with growing momentum and I think that went on to 1992 which is, I think, the turning point year". It must be noted that the interviewee was a strong supporter of socio-liberal policy directions in juvenile justice.
The account of a second interviewee, also a chief probation officer, concealed the existence of a steady policy rhetoric and did not emphasise the value of authoritarian or conservative solutions: "Ken Clarke, Home Secretary in 1993, in suggestion to a journalist [...] re-developed the approved schools in other forms, this time called secure-training-centres. So, in a sense I came back with the Conservative government and likely with the Labour government to where I begun my career in '60s. In other words approved schools re-incarnated, but this time euphemistically called secure-training-centres".

[589] As one interviewee with a middle level policy background, a strong supporter of the anti-custodial/decriminalization oriented agenda particularly stressed: "The people who were fighting at the start just kept fighting and they went higher and higher with their fight in terms of who they were negotiating with. It was the same argument – it was the same people. I was very much involved in the negotiations". This statement is confirmed by several sources of the historical memory of the 1980s which show that throughout the 1980s the middle policy level was heavily dominated by the same names supporters of a different non-custodial future for the juvenile justice system.
However the key issue in the present work is not simply that a number of middle level policy people dominated juvenile justice but that the anti-custodial/decriminalization 'argument' remained the 'same' and undisturbed.

numerous turning points in the life of the decriminalization paradigms and avoided the populist rhetoric.

This was a key organisational trend which impacted, in turn, on the activity of the integrationist practitioners. Indeed, the integrationist practitioners could see that the linguistic umbrella of the policy documents was 'endorsed' by their superior managers.[590] At this point it is relevant to consider the quote from Wade's study, mentioned earlier above. In particular the emphasis now is on the 'endorsement' dimension of Wade's account:

> "Within most statutory agencies written policy documents are given high status, particularly when **endorsed by senior management** and by council committees. Endorsement by the Joint Standing Committee would make them **powerful documents** that could be used by the unit managers **in any dispute** with local social services managers who might wish to change policy to suit local priorities" (emphasis added) (1996:97).

'Endorsement by senior management' therefore appeared to be a key issue for the local integrationist practitioners in order to recognise the real power of a 'written policy document'. In the eyes of the integrationist practitioners, the wording alone was not enough to indicate the legitimacy of the practice policies of decriminalization. The wording had to be accompanied by the ritual of 'endorsement' performed by their superiors middle level actors[591] who could be not only their organizational managers but also academics and policy consultants.[592]

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[590] As one interviewee, a former chief probation officer, mentioned: "I used to come to their conferences, come to their meetings and show support and show the flag" (emphasis added). It is a statement which indicates how freely the middle policy level felt to perform its key duty function, namely the ritual of endorsement.

[591] It is particularly interesting to note how an interviewee, a former leading practitioner, began the story of the development of decriminalization practices in a local setting where the interviewee was employed and played a critical practice role. Indeed, the story starts with a direct reference to middle level sentencing policy actors: "Let me take you back to the late 70s in [our town]. A number of key people were working together. The Clerk to the Justices was one. The Chair of the Juvenile Magistrates was [the other]. [The Chair of the Juvenile Magistrates] [...] (she was a really very splendid lady) cared very much about the young people in her town. She was absolutely convinced that putting children in prison was not beneficial to effectively helping them with rehabilitation.[...] [The Clerk to the Justices and the Chair of the Juvenile Magistrates] made an approach to a Trust, about how they could develop something alternative to prison". The endorsement from these two key people for a different direction was the key issue in the memory of the interviewee.
'these are children, these gruesome skinheads in the 80s, you know, muscles and... and they did look gruesome...these are children, we must not allow them to spend all their teenage years in

h) The importance of the ten years logic/agenda/rhetoric of the policy top

Therefore throughout an evolving ten years period both the policy top and the dependent middle policy level steadily carried the legitimacy of the practice policies of decriminalization. In other words, they provided a legitimate direction to the bottom-level practice world about the practice policies of the *de facto* decriminalization; the down tariff through de-seriousnessization practice policies of the courtroom and the (multiple) cautioning. Therefore integrationist practitioners gradually developed the feeling that the application of those practice policies constituted the implementation of a legitimate policy agenda in the area of juvenile justice. As a result, they were able to argue with empathy about these policies within the context of the local juvenile justice settings. This was a trend which can be observed in sources of the historical memory of the 1980s.

i) From Lord Hutchinson's 'telling story' to the story of 'stealing from a church'

In his book *'Responses to Crime-Penal Policy in the Making'*, and in particular, in the fourth chapter *Conservatives Ascendant*, Lord Windlesham discussed the second reading of the *Criminal Justice Bill* in 1982, as well as the enactment of the actual *Criminal Justice*

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prison, they will never, ever be the sensible adults we want them to be... we need to give them an opportunity to have their childhood, some of which has been nastily lost, and we need to give... she always made me smile... and what the boys need is a bloody good girlfriend!' honestly!!!.... Moreover, the interviewee continued with further similar memories regarding other middle policy level people in order to indicate the key source of the success: "We also had a real turn of good luck, because [the Chief Probation Officer] retired and [a new Chief Probation Officer] was appointed [who] comes from a background of supporting alternatives to custody etc... So we had a real ally in the Chief Probation Officer. It was a very important factor for the [early local paradigm of decriminalization], for securing its future and everything that had happened. Another bit of luck was that in 1982 we had a change of Social Services Director. [The new Social Services Director and the new Chief Probation Officer] are old colleagues".

[592] An interviewee, a former leading practitioner who was heavily involved with the development of the AJJ a campaigning practice organisation, particularly highlighted the key role of the endorsement of the ideas of their organisation by a number of middle level policy actors: "AJJ formed a couple of very important links with other, if you like, Charities at the time, and NACRO was one. Vivien Stern and Helen Edwards, and Paul Cavadino were worth their weight in gold to AJJ, because they would always come and give it at that national platform and so people would come and listen to what they would have to say, not what we had to say. [...] The Howard League was always there, so the other academic that came, Andrew [Rutherford] would always come. [...] They didn't stay all the time, but it gave AJJ a credibility that we as a membership organization, we needed".

Act 1982; which famously in Section 1(4) imposed restrictions upon the use of custodial sentencing for juveniles. In a relevant footnote, Lord Windlesham reminded the reader that the restriction on custodial sentences for young offenders (a kind of down tariff provision) 'was not new';[593] an important remark indeed. Nevertheless, the point that Lord Windlesham particularly wanted to emphasise was that the restrictive to custody provision of *the Power of Criminal Courts Act 1973* had not ever really been applied. In particular, in the same footnote, Lord Windlesham quoted the 'telling account' of Lord Hutchinson of Lullington, who described the relevant sentencing making process in a local magistrates' court setting:

> "Debating the Criminal Justice Bill 1982 in the House of Lords a leading member of the Criminal Bar, Lord Hutchinson of Lullington QC, gave a telling account of his experience of this provision in the Magistrates' courts: "What happens in magistrates' courts very often is that the clerk, after the magistrate has sentenced the person to imprisonment of some kind, looks up and simply says: 'No other method appropriate?' The magistrate nods and then that is entered on the record. It becomes pure formality. Exactly the same thing has happened with not sentencing first offenders to prison. Again you have to state your reasons and once again off goes the person to prison and the clerk says: 'Seriousness of offence?', and the magistrate nods, and down goes 'seriousness of offence'." *Parl. Debates*, HL 431 (5th ser.), col.948, 22 June 1982" (1993:168fn.65).

A very different story, concerning the application of the custody criteria of Section 1(4) of the *Criminal Justice Act 1982* in a local court during the 1980s, has been provided by an interviewee, a former leading practitioner who also served as a magistrate during that time. As the interviewee mentioned:

> "I remember sitting in a retiring room, arguing with my colleagues about the criteria, which I knew quite a bit about. I mean I am not a lawyer, but I know that part of the law reasonably well and I have studied it. And then wanting to send somebody to custody who I considered was relatively a minor offence - I know the exact offence; I can remember vividly ... it was stealing money from a collecting box in a church. My two colleagues felt that it was a very serious offence; it was stealing from a church. Well, as far as the criteria was concerned, it was not

[593] "The restriction on custodial sentences for young offenders was not new as the Power of Criminal Courts Act 1973, consolidating provisions formerly in the Criminal Justice Act 1948 as amended by the Criminal Justice Act 1961, prohibited a court from sentencing a person aged seventeen but under twenty-one to imprisonment unless it was of the opinion that no other method of dealing with him was appropriate" (1993:168 fn.65).

> serious. It was one other offence I think, a fair shop theft that it was not serious enough to satisfy the criteria. And I argued and argued and argued and I point-blank refused to go back and announce the sentence. It went on for two hours I think, and everyone was wondering what was going on, I refused to go out and announce it because it didn't satisfy the criteria anywhere near. Eventually we got the Chief Clerk down and he supported what I was saying and then I went out to announce it".

The two accounts depict two different court processes. The level of argumentation about the seriousness of the offence constitutes the striking difference between the two processes. In the first one, the process of considering the seriousness of the offence had become 'pure formality'. Practically, it was a process where the question of seriousness was not considered. The second process was particularly argumentative. The particular magistrate was there to 'argue and argue and argue' for 'two hours' in support of the 'minor' character of the offence; actually in support of the non-seriousness of the offence. Therefore, the working climate, wherein the concept of seriousness was considered, constituted the main difference between the two processes.

The point is that the working climate of the second story's courtroom was very much a reflection of the anti-custodial/*de facto* decriminalization agenda which was supported by the policy top; and endorsed by a number of middle level managers. The interviewee who was the dissenting magistrate, was able to argue intensively for about two hours, not only because 'he knew quite a bit about the criteria'; but also because questioning the seriousness of the offence was a particularly legitimate process during the 1980s. Indeed, the 1980s penal agenda of the policy top supported it; a considerable number of crown courts decisions had been in favour of de-seriousnessization; the Chief Clerk, a local superior mechanism for the control of legal concepts, endorsed the view of the interviewee. In contrast, the climate of the 1970s does not seem to have provided such a clear top down policy direction towards de-seriousnessization.[594] Indeed, the relevant wording in the provision of the *PCC1973* was not sufficient to support an argumentative working climate within the courtroom in favour of the non-seriousness of the offence. During the 1970s the relevant provision was part of a more complex interventionist oriented rhetoric.

[594] The policy climate of the 1970s is certainly beyond the limits of the present work. Nevertheless an account about this climate can be found in the first chapters of the *Out of Care*, where the existence of a nebulous policy direction after the enactment of the *CYPA69* is supported.

The different top down policy direction was therefore the critical factor behind this transition in the working climate of the courtrooms; where one was able to 'argue and argue and argue' against the seriousness of 'stealing from a church'.[595] However one issue remains; the fact that in the second story, the magistrate/integrationist practitioner 'knew the law reasonably well and had studied it'.

ii) 'Minimum Professional Standards' and a juvenile justice practitioner's letter

One could certainly counter-argue that the strong point of Lord Hutchinson's 'telling account' was that it indicated the existence of a locally manipulated decision making process; that in that courtroom there wasn't really anyone to raise her/his voice and consider deeply the non-seriousness option. Instead, in the second story there was a magistrate, who also was an integrationist practitioner; who had therefore developed a deep understanding about the professional value of the decriminalization practice policies; and therefore felt confident and powerful enough to argue in favour of a down-tariff direction with respect to the offence of 'stealing from a church'. In short, it was the experience of the particular professional who put into fore the perspective of the Section 1(4) and the perspective of the 'de-facto-decriminalization'. The example of a juvenile justice practitioner's letter is an exemplary example of integrationist practitioners' feelings regarding the degree of their contribution to the domination of a different philosophy within the local juvenile justice contexts.

In particular, a juvenile justice practitioner's letter written in 1989 was a response to the 1989 article published in *AJJUST, 'Alternatives to Custody – Establishing Service Access Criteria & Minimum Professional Standards'*, written a few months earlier by Steve Hodges and Dave Miller, practitioners and members of the management committee of the AJJ. In their article, Hodges and Miller stated that:

> "If the abolition of custody for juveniles is to be realised, and the achievements of the last ten years are to be consolidated and built upon, then **non-custodial**

[595] This conclusion is in accordance with the accounts of several interviewees which noted that the policy top is directly responsible for the generation of the penal climate within the local justice juvenile settings; namely the idea that the punitive or non-punitive direction of a courtroom was directly linked to the logic/agenda/rhetoric of the policy top. This issue was reviewed at the end of the previous chapter.

sentencing options need to be clearly defined, credible and respected by the Courts and the community" (emphasis added) (1989:13).

To this end, Hodges and Miller considered that:

"[t]his requires the development of national standards governing 'service access criteria' and 'minimum service standards'" (1989:13).

According to Hodges and Miller:

"'Minimum Service Standards' define the minimum service that will be offered to those in receipt of it" (1989:13).

Hence, Hodges and Miller argued for the need of top policy design, which would specify and cement the minimum scope of 'helping' intervention. In other words, Hodges and Miller emphasized the importance of top policy design towards the constant implementation of minimum intervention in order for the 'helping' practice to remain viable and dominant within the local juvenile justice sentencing making processes.[596]

This emphasis on top policy design (the standardization and formalization of the 'de facto decriminalization' strategies) was the very issue that the juvenile justice worker from Solihull was concerned with in his response letter:

"Dear Editor,

Can I start by saying that I agree fully with the setting up of a minimum standards for Criminal Supervision Orders, and that the standardisation of service by the caring professions, I am sure, will have some impact on 'Justice by Geography', and extending the non custodial tariff.

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[596] The interest of Hodges and Miller in the top design of Minimum Service Standards was clearly linked to their concern about the professional viability of alternative substantive interventions. As Hodges and Miller stated in their article, notably under the subheading *Extending the Tariff*, "The last seven years has seen the development of Juvenile Justice projects in most parts of the country. [...] **As new projects with an uncertain future, they have been under pressure to 'prove' their viability within a short time period**" (emphasis added) (1989:14). In the opinion of Hodges and Miller it was therefore critical that integrationist practitioners would greatly utilise the lower-tariff sentencing options rather than resorting to their imaginative substantive interventions in order 'to prove their viability'.
Indeed, in the same paragraph, Hodges and Miller pointed in particular to the utilisation of the sentencing framework through the imposition of Minimum Service Standards: "The development of clear service standards for Supervision Orders, can only bolster confidence in local provision and requirements. In addition to this, however, they provide an opportunity to make greater use of the range of non-custodial disposals" (1989:14).
At the end of their article Hodges and Miller reminded the that **"[t]he A.J.J. is actively seeking to establish a debate around these issues, and welcomes comments"** (1989:14).

However, as a practitioner I have found myself confronted with a number of situations in court which a standardised Supervision Order on its own would have done little to help. **In short, I feel that even if Supervision Orders do become standardised, magistrates need to be aware of our basic philosophies for practice.**

It was interesting to note in the article that the only point dealing with information exchange between Social Services and the bench was point 15.

'In court, the report author or departmental representative should be present to speak (about) the report if required...'

There must be regular dialogue with magistrates to assert our philosophy [...].*AND*

At the very least, regular meetings with magistrates provide them with an analytical framework to sentence from, whether they agree or not, at best it may have some influence on sentencing patterns" (emphasis added) (AJJUST, October 1989:25).

In practice terms it was a letter which disputed the effectiveness of top-down standardised solutions and clearly pointed to the critical role of the integrationist actors who, as owners of the practice process, were able to effect the wide application of the decriminalization practice policies. The juvenile justice practitioner from Solihull reminded to the two AJJ committee members, Hodges and Miller, of the fact that the emergence of the integrationist practitioner/strategist of the 1980s constituted an irreplaceable structural mechanism able to influence the sentencing process towards minimum intervention.[597]

Hence the juvenile justice practitioner's letter essentially supported the view that the top down policy logic/agenda/rhetoric was instrumental for setting a positive policy climate; but had not effect whatsoever on the ability of practitioners to understand the value of minimum intervention. They were the owners of this philosophy only because it was their choice to engage themselves with complexity. This view separated the development of the wealth of practice experience from the choices of the policy top; it separated the practice intentions, the process of dealing with complexity and the success question from the juvenile justice policy choices of the top. Hence, the top was responsible for allowing practitioners to become ground strategists (as it was argued in chapter five); the top was also responsible for constructing the much needed working

[597] Lea and Rawlinson's 1989 article *'Good practice needs good campaigning'* should be better seen as having the same view as its base of departure.

climate for the application of the decriminalization practice policies. Nevertheless, the process of understanding was solely a ground level process; and one could further argue that the process of understanding could be only influenced by academic research as long as this research was connected with the day-to-day issues that the integrationist practitioners dealt with.

Nevertheless, the example of the effectiveness rhetoric presents a different perspective on the effect of the criminal policy choices on practitioners' ability to understand the needs of their profession.

i) An interesting trend in the practice rhetoric of the 1980s

i) The example of the welcome speech in the 1988 AJJ conference 'In Place of Custody'

In 1988 Pauline Owen, the chairperson of the AJJ, warmly welcomed the various delegates to Association's successful conference, *'In Place of Custody'*. The welcome speech, as published in *AJJUST*[598], provides us with the main axons of the integrationist practice rhetoric. Rather predictably, discrediting custody constituted a main part of the Association's rhetoric.[599] The emphasis was also placed on the idea of decriminalization.

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[598] The welcome speech of Pauline Owen was published in the June 1988 *AJJUST*, under the title *'Rendevous at Malvern – A Welcome from the Chair'*. It must be remembered that Pauline Owen belonged to the early 1980s generation of integrationist practitioners. She had first been employed as staff of the alternative to custody *Woodlands Project* at Basingstoke, with Chris Green, from Lancaster, as director.

[599] In the beginning of her welcome speech, Owen briefly reminded to the audience of the anti-custodial aim of the AJJ since its establishment:
"The Association was formed in 1983 due to the mounting concern over the continuing use and abuse of custody for juvenile offenders. Some five years later, the Association continues to express the concern of practitioners and academics from the field of social work and the Law as well as the Magistracy at the excessive use of custody in this country" (1988:1).
The custodial concept appeared almost in every subsequent paragraph of the welcome speech where it was consistently discredited. Hence in the very beginning it was indicated that:
"Britain currently imprisons more juveniles than any other European Country" (Owen, 1988:1).
Or, it was stated to the audience that:
"[T]his country [...] still uses the ultimate custodial sanction all too easily" (Owen, 1988:1).
Or, it was reminded to the audience that:
"Our custodial institutions continue to produce [very high reconviction rates]" (Owen, 1988:1).
Or, it was concluded that:
"[C]ustody does little but to create a future rod for own backs" (Owen, 1988:1).
Or, it was suggested that:

Indeed, Pauline Owen particularly reminded the audience of the long standing aims of their Association:

> **"The Association promotes the aims of Diversion, Decriminalization, and Decarceration"** (1988:1)[600].

Nevertheless, out of the three concepts, 'decriminalization', in particular, was the concept that Owen indicated to the audience as the suggested policy 'cornerstone' in 'place of custody':

> "If we are to look to society to rehabilitate young people convicted of 'grave crimes' we must have as the cornerstone of our practice the issues embraced within the concept of decriminalization" (Owen, 1988:1).

Furthermore, Owen talked openly about the practice policy of down tariff through de-seriousnessization,[601] which materialised the agenda of decriminalisation.

Remarkably, in the welcome speech of the significant AJJ conference titled *In Place of Custody*, the efficient integrationist 'helping' practice was not at the forefront of Owen's speech. It was not mentioned as the cornerstone of an alternative juvenile justice direction, which would replace the custodial ideology. Instead, Owen was economical and careful with her words regarding the value of the alternative programs and of the value of

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"The use of containment for serious offenders within Local Authority provision as a replacement for custodial disposals in Prison Department establishments" (Owen, 1988:2).
Finally, and rather importantly, in a rather lengthy paragraph Pauline Owen raised the issue that custody had actually to prove its value - the use of custody had to be justified:
"Given the horrific reconviction rates of Custodial Institutions why de we continue to use a system that so obviously fails the community, parents, victims and the young offender?" (1988:2).

[600] It must be mentioned that the first *AJJUST* issue, March 1984 had in the front title the slogan: *"Divert! Decriminalise! Decarcerate! We need a national voice"*. As an interviewee, a former leading practitioner and heavily involved with AJJ, mentioned: "We were for Diversion, Decriminalization, and Decarceration, the three D's".

[601] In front of "Clerks to the Justices, Magistrates, Crown Prosecutors and elected members of Local Authorities" (and of course in front of integrationist 'practitioners and managers'), Owen clearly de-escalated the seriousness of most of the amount of juvenile crime and consequently argued for the de-escalation of the responses that it should attract: "9% of those receiving custody aged 14-16 had not previous criminal convictions. [...] It must also be remembered that very few of the young people had convictions for violence. [...] There are also those young people who, regardless of what the courts impose, do not seem willing/able to turn away from committing petty offences. [T]he Association would never advocate containment for the less serious offender" (1988:1).

efficient 'helping' interventions, in general.[602] She supported the further application of the 'effective community-based disposals' only briefly, and with careful words[603]; and she referred, briefly again, to what can be gained at the local level.[604] This was all that was mentioned, (about the efficient 'helping' practice) in the welcome speech of a successful 'helping' practitioners' conference, where delegates from the entire juvenile justice system were to discuss about the new penal modes 'in place of custody'.[605] Indeed, there was not even a brief reference to statistics, which arguably could have shown that community choices, actually, effectively diverted a number of juveniles from crime; and as a result had a positive impact on the community. Four years earlier the picture was very different as regards the AJJ rhetoric about the value and the importance and the effectiveness of the alternative 'helping' programs; namely with regards to the perception of their job.

ii) 1984: The practice rhetoric on 'helping' effectiveness

Only four years earlier, in March 1984, in the first page of the first issue of *AJJUST*, under the heading *'Divert! Decriminalise! Decarcerate! We need a national voice'*, the rhetoric about the alternative to custody programs had a prominent position in the text that manifested the *raison d'etre* of the newly formed AJJ. As it was stated:

> "The Association for Juvenile Justice has been brought into being in order to promote appropriate responses to offenders and their victims. The Association intends to demonstrate that **reforming** the juvenile criminal justice system would

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[602] The following short sentence was the most powerful of Owen's accounts about the alternative helping practice: "this country [is] leading the field in ideas associated with community based supervision" (Owen, 1988:1); 'leading the field in ideas' not in results.

[603] Interestingly the main argument was not that the community-based disposals were more efficient, more effective and more economic when they were compared to custodial provision but rather that "Custody is inefficient, ineffective and uneconomic when compared with community-based disposals" (Owen, 1988:2).
Also, Owen suggested that "In an era where financial accountability and costs effectiveness are paramount, it is now **more** appropriate than ever for us to establish effective community based services, which have at their a simple and clear approach to the management of juvenile crime" (emphasis added) (1988:2). In other words, efficient 'helping' was not a panacea and it was supported on the grounds of relative better value; *more* appropriate, not *the* appropriate.

[604] She simply stated that: "In partnership, statutory agencies and the voluntary sector **can** offer the Community a number of imaginative resources" (Owen, 1988:1); very careful wording indeed.

[605] Also see Owen (1989) where in the one page INTRODUCTION the mere interest in decriminalization is highlighted.

> dramatically reduce the need to lock up young people **whilst offering better protection for society**.
>
> The Association is being sponsored by a group who **all have substantial experience of providing alternatives to custody for young offenders**. Their **aim** is to develop and promote the systematic provision of community alternatives to custody and care for young offenders, to lobby for legislative change and to publicise research findings on the practice and **effects** of sentencing" (emphasis added) (AJJUST, March 1984, **1**:1).

Undeniably the pro- alternatives rhetoric of the text was strong. The direct association of alternative programs with crime reduction effectiveness was also there; "offering better protection for society" and "publicise research findings on the practice and effects of sentencing". In the next page of the journal, the alternative programs constituted an important part of the stated 'aim' of the association along with the ideas of *'Divert! Decriminalise! Decarcerate!'*[606]

Undoubtedly, the orientation of the rhetoric contained in the first page of the brief 1984 manifesto was different to the 1988 welcome speech *'In Place of Custody'*. In 1988, decriminalization was clearly *the* cornerstone policy; the importance of the alternative 'helping' practice was understated; and the effectiveness of the alternative 'helping' programs was not highlighted. In 1984, decriminalization was in the AJJ rhetoric; but it was not alone. The importance and the effectiveness of the alternative 'helping' practice occupied a considerable, and rather dominant part within the Association's rhetoric. The AJJ people believed in these concepts. Certainly, the differences reflected the existence of a transition in the Association's rhetoric: The transition from the perception of the effectiveness of the 'helping' interventions as being important to the perception of the effectiveness of these interventions as being rather unimportant. This transition in the policy perceptions of these practitioners was highly relevant to the high level attitude towards the question of effectiveness.

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[606] The aim of the Association was mentioned in page two of the same *AJJUST* issue, under the heading *'AIM AND OBJECTIVES OF THE AJJ'*: "to develop and promote community provision consistent with Diversion, Decriminalisation, and Decarceration for young offenders" (AJJUST, March 1984,**1**:2).

j) The consistency of the high level policy attitude and the weakening of the effectiveness question

As it was suggested earlier in this chapter, from the perspective of the minimum intervention logic, which was the operating framework for the 1980s decriminalization agenda of the policy top, the critical policy issue was the denial of the supposedly critical importance of the criminal justice context; while, for a period of ten years 'home and school' were seen as the natural context to deal with those problems. In short, crime reduction was not seen as a predominantly criminal justice issue. Throughout the 1980s, the policy top adopted a very consistent approach towards the logic of minimum intervention. Indeed, as it was demonstrated above the idea of diversion was not confused with diversion from crime. In other words, diversion from crime was not set as a condition for the diversion from prosecution and custody. The endorsement of 'multiple cautioning' rather than of 'cautioning plus' was strong evidence of this consistency. Reserving innovative interventions for very serious cases and understating their importance against the preferred down tariff approach was further evidence of this consistency.

Perhaps the strongest evidence of the policy top consistency towards minimum intervention was the absence from the epicenter of the policy debate about the criminology of effectiveness, which measures criminal policy interventions against crime reduction. Indeed, ideas which placed the emphasis on program effectiveness as a condition for diversion did not represent the dominant policy question. This doesn't mean that the program effectiveness was not an issue for the Home Office; it merely means that the effectiveness logic was not part of the dominant minimum intervention logic of the policy top. And rightly so, as a strong focus on the question of the effectiveness of the various criminal justice interventions in changing young offenders' behaviour away from crime would be particularly inconsistent with the 1980s minimum intervention logic. Indeed, emphasis on program effectiveness would bring in from the back door a strong interest in interventions like 'cautioning plus' and alternative to custody programs, which were not in the centre of the policy logic of the 1980s.

The result was that the 1980s consistent minimum intervention logic/agenda/rhetoric practically weakened the policy assumption which linked juvenile justice practice interventions to juvenile crime reduction.

k) The critical impact of the weakened effectiveness question on practice process

The weakening of the consistent minimum intervention policy logic was sensed largely within the bottom practice level. As an interviewee, a former influential consultant[607] clearly indicated:

> **"The evidence, the effect was not seen to be such an important issue. There was [this] feeling. [...] It was not empirically tested the effectiveness question. People didn't pose this question."**

The account of the interviewee clearly points to a 'feeling' about the unimportance of the 'effectiveness question'; while it also demonstrates effectiveness as a question which was not often asked; it was outside the practice-policy debate. In other words, according to the interviewee, during the 1980s, within the juvenile justice context, the concept of effectiveness represented no more than a weak and unimportant criminal policy logic.

The implication of this weakness was the liberation of practitioners from the tyranny of the effectiveness question.[608] The meaning of this liberation from the effectiveness logic at the practice level is made explicit in the account of an interviewee, a former leading practitioner. The account was concerned with the locally ascending efficient integrationist practice of which the interviewee was particularly proud:

> "**The results were not that much different, but we** were actually **trying** to get people to mend their ways quite actively rather than just sitting in an office telling people what to do" (emphasis added).

This account incorporated two interrelated meanings; first the interviewee's very strong feeling that their increasingly efficient work was a very important trend. This was a legitimate feeling, based on memories of numerous examples of exceedingly improved

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[607] The interviewee saw himself as an 'intermediary' between policy and practice people.

[608] The following account of an interviewee, a former leading practitioner, certainly exemplifies the tyranny of the effectiveness question over the morale of the 'helping' practitioners: "When Thorpe and Co. were doing their research which started with residential care and at the same time were looking at IT. They were trying to quantify and evaluate it. The people on the ground were very nervous about the evaluation because it meant that their work may be found out to be a waste of time, so they kept coming up with things like 'we may not have stopped them offending totally, but the offences he is committing now are no way near as serious as he had committed before'. They also used to say 'during the period that he was involved in the scheme he did not offend'. They could say it was only after he left that he started offending again. So a huge question was left in the air".

'helping' practice which were replacing bureaucratic 'helping' practice locally.[609] The second meaning of the above account was that effectiveness could not constitute the

[609] During the interview the interviewees particularly recalled and emphasized the story of an early 1980s "probation officer who was very kind but very traditional: would do anything for anyone if they were on his case and if they were co-operating with him". The interviewee felt very strong about the story of this probation officer because it represented the kind of situation that the interviewee was encountering almost every day in the early 1980s; namely, a working atmosphere which was "very authoritarian and was not just in probation, Social Services would be doing very similar things."
As the interviewee mentioned, in the early 1980s, this Probation Officer was supervising a youngster about 13 years old, not a difficult youngster, not committing very serious offences, and "he talked to me about it because I was seen as a bit of an expert and he said 'what I cannot understand is: why this youngster won't do what I tell him to do?'". In particular, the interviewee remembers that the Probation Officer mentioned that: "he had done a bargain with the youngster, that if the youngster kept out of trouble for the next three months, then [the Probation Officer] would do something specific in return".
The interviewee asked him: "So what did the youngster do?"
The Probation Officer replied: "The next day, the youngster went out and committed an offence".
As the interviewee pointed out to him: **"Yes, that is how some minds work at that age"**.
As the interviewee further explained (to me): "[The Probation Officer] was trying to deal with youngsters as if they were absolutely rational, mature adults. We had to talk about why that sort of incentives does not necessarily work with that age range and they will in fact do the opposite to test you out. What [the Probation Officer] also said to youngster was that 'if you do not do what I want you to do then I will recommend custody'. And he did, because he said he gave his word that he would do it and if he breaks his word now in the negative sense then he will never have his respect. Of course I could see his point, but [the Probation Officer] should never have got into the position of offering him the incentive or the threat in the first place".
My immediate question to the interviewee concerned the different possible way of dealing with this juvenile. In other words what they, the integrationist practitioners would do? How they would treat the case? What was the content of the efficiency driven agenda? The answer of the interviewee was based on the story of a different efficient practice policy, which actually replaced within that local setting, what was seen as: "very traditional, very authoritarian [practice of probation officers who] did not like working with people that provoked inconveniences, like turning up at the wrong time, committing offences when your are told not to".
The interviewee therefore recalled the case of one of the team leaders working with a young man called Andrew Andrews: "really nice chap who was adopted as he was rejected by his adoptive parents and then put into care, getting into relatively minor offences, such as shoplifting and then onto theft and then onto burglaries, very prolific eventually".
In other words, it was a supervision case of a young offender similar to the one that the Probation Officer was dealing with some years earlier. The interviewee therefore remembered that: "[The team leader] came into see me one day and said that he had real problems with Andrew, he had stolen a replica handgun. Andrew was worried because he had realised he had overstepped the boundaries quite a bit and he was anxious because he had let his foster parent down, he wanted to return the replica to them. [The team leader] of course was worried about that and the fact that Andrew being a typical juvenile had realised he was in a bit of trouble and had thrown it into the bushes".
The interviewee remembers that as regards the very old and recurrent problem, namely the 'inconveniences' of a young offender, the team leader would initiate a very different response: "[The team leader] had been trying to find the replica all evening and so even though they couldn't find the replica handgun, [both the team leader] and Andrew then went back to the foster parents and faced up to things and said: 'look, I was the one that stole it; we have looked for it but we cannot find it'".

measurement of what was being achieved; the interviewee disassociated efficiency from effectiveness. This was an important disassociation.

The implication of this disassociation was not that the local integrationist practitioners became indifferent about the effects of their 'helping' innovations on the young offenders' behaviour; not at all.[610] Liberated from the criminological conditions and assumptions of the effectiveness logic which assumed the ability to achieve immediate long term results on young people's behaviour; local practitioners were able to focus on different questions more relevant to the process of dealing with the complexity of juvenile justice business.[611] This is clearly reflected in the account of an interviewee, a former senior probation officer:

According to the interviewee: "[that was] probably the difference with the [old probation officer] who wanted to do these things but had set up this ridiculous contract". Hence, the 'difference' was that the second practitioner chose to get engaged with the 'prolific' juvenile and the 'administrative inconveniences' he caused; than sitting at an office and trying to correct the youngster's behaviour through a 'ridiculous contract'. Furthermore, the second practitioner was prepared to push actively the 'prolific' juvenile towards a responsible stance, such as 'facing up to things'. It was indeed an astonishing transformation of 'helping' practice intervention.

[610] It is very interesting to read accounts of the interviewee which show an interest in effective 'helping' practice. One account was about 'helping' interventions/programs: "I looked at diversion programmes in New York city and some of there work on drug rehabilitation and some work they were doing on literacy and there use of volunteers to tutor people to get them back to school. It was these sort of placements that were most important to me than the standard one which was telling you how to be a social worker really". Therefore, programs which diverted from behaviour which is labelled as criminal were the interviewee's main interest.
Furthermore interest in 'success' was the central idea of the next account given by the same interviewee: "we were not then doing what most agency people do of 'you tell me what you did yesterday'; that was for other people to watch for and for us to hear about successes from the point of view of 'I had a really good day yesterday, this is what I did' rather than 'Mr Smith tell me why you spent so much time out of the office last week'. We were all doing it in different ways, [...] but we were all trying to energise people". Energising the team towards success was therefore important in the particular local efficiency driven practice.

[611] In the opinion of another interviewee, an academic and former member of the Lancaster group, the absence of the effectiveness question from the policy debate had a critical effect on the bottom level 'helping' practitioners. In particular, according to the interviewee, in order to understand the effect, the issue first to be mentioned is about the position of the 'helping' practice within England and Wales: "rehabilitation and welfare [have] always been marginal [within the English criminal justice system]. I think that people have always felt vulnerable".
According to the interviewee-academic undermining the effectiveness question of the 'helping' practice was critical for the working psychology of the 'vulnerable' 'helping' practitioners. In particular, the interviewee provided a personal account of the effect of the 'nothing works' idea during the 1970s: "I was still a probation officer then; [there was an] eagerness to accept that nothing works, because in a sense I think it retrieved people of responsibilities. 'Oh well, if nothing works, [no] crime reducing effect, and that applied to probation, and applied to prison so we would continue to try to work with humanity and to care for people and so on, but thank goodness we will

"Everybody then said, how, how did we get to this position? Why are some young people in trouble?"

Therefore, the focus on whether a young offender should be processed further into the system prevailed over the focus on the effectiveness of the system. They were able to consider whether there was necessity for heavy interventions, daring to take risks and learn the importance of penal minimalism through success. Indeed, as an interviewee, a former leading practitioner, emphatically stated:

"We took a lot of risks, 90% of the time the risk paid off"

Certainly, most of the risks 'paid off' because the different action which was taken in a number of local settings was not only efficient and pragmatic but also legitimate. The outcomes were under the protection of the steady legitimacy umbrella.

Nevertheless, the critical condition which changed the focus of integrationist practitioners and allowed them to take 'a lot of risks' against the perception of the 'helping' practice effectiveness was the consistency of the policy top in relation to the minimum intervention logic; which did not set effectiveness as the iron condition for 'helping' success; but instead intentionally weakened the logic of effectiveness.[612] Hence the policy top which had allowed integrationist practitioners to become the ground strategists, (as demonstrated earlier in chapter five) also allowed them to acquire a different perspective from the effectiveness one. It was the perspective of careful

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not be judged on whether we actually reduce crime or not. So I think there was, in a way among practitioners, more acceptance of the nothing-works message than you might have expected".
In this account, based on personal experience, the interviewee implied that the absence of the effectiveness question had a similar function during the 1980s; namely that integrationist practitioners welcomed the lack of a strong effectiveness rhetoric due to their vulnerability within the 'punishing' dominated local settings. This is certainly a dismissive account regarding the content of the 1980s practice which disregarded the efficiency of those practitioners and their professional zealousness, this has been mentioned in a number of writings.

[612] If the effectiveness question was dominant it would drive integrationist practitioners to the opposite direction; namely towards the widening of the limits of the 'helping' practice efficiency, which practitioners naturally considered to be the sole important issue for their success. As an interviewee, an academic, and former member of the loose Lancaster group has indicated the Lancaster agenda, namely the 'de facto decriminalisation' agenda and the minimum intervention philosophy, was not necessarily welcome by practitioners:
"When we first started arguing for diversion, we were bitterly attacked by social workers because it appeared to be an attack on them. I mean, you know, you stand up to a group of social workers and say, 'you're very nice, well-intentioned people but actually what you do is make people worse' – you don't win many friends".
This first hand account shows precisely the natural tendency of those practitioners to believe in the effectiveness of their 'helping' practice. An interesting account about this tendency can be found in the first chapter of *Out of Care*.

'consideration' before processing a young person deeper into the system; a perspective which was clearly in the repertoire of the top policy intentions.[613]

Therefore, the criminal policy of minimum intervention had a direct effect on practice development by directing the understanding of practitioners and setting the conditions for professional pragmatism and the making of the mosaic of efficient integration. The consistent minimum intervention logic/agenda/rhetoric of the policy top was therefore critically behind the ownership of the minimum intervention value by the integrationist practice, which was critical for the sustainable success of the 'helping' practice efficiency.

l) Concluding notes

The domination of minimum intervention constituted an integrationist practice trend for the very simple reason that it was directly relevant to the 'helping' practice question for efficiency and integration. The application of the decriminalization practice policies which ensured a limited operational scope were directly relevant to the sustainable development of the mosaic of integrationist efficiency. Minimum intervention constituted a concept which undeniably became understood within the practice process of **'change-success-dealing with complexity'**; a process responsible for the development of the mosaic of integrationist efficiency. As a result integrationist practitioners can correctly be considered to be the owners of the minimum intervention value.

Nevertheless, the domination of minimum intervention, an important trend in practice philosophy which is responsible for the direction of the juvenile justice of the 1980s, cannot not be understood without looking at the effect (either direct or indirect) of the policy top logic/agenda/rhetoric. In chapter nine the emphasis was on this dimension of the domination of minimum intervention.

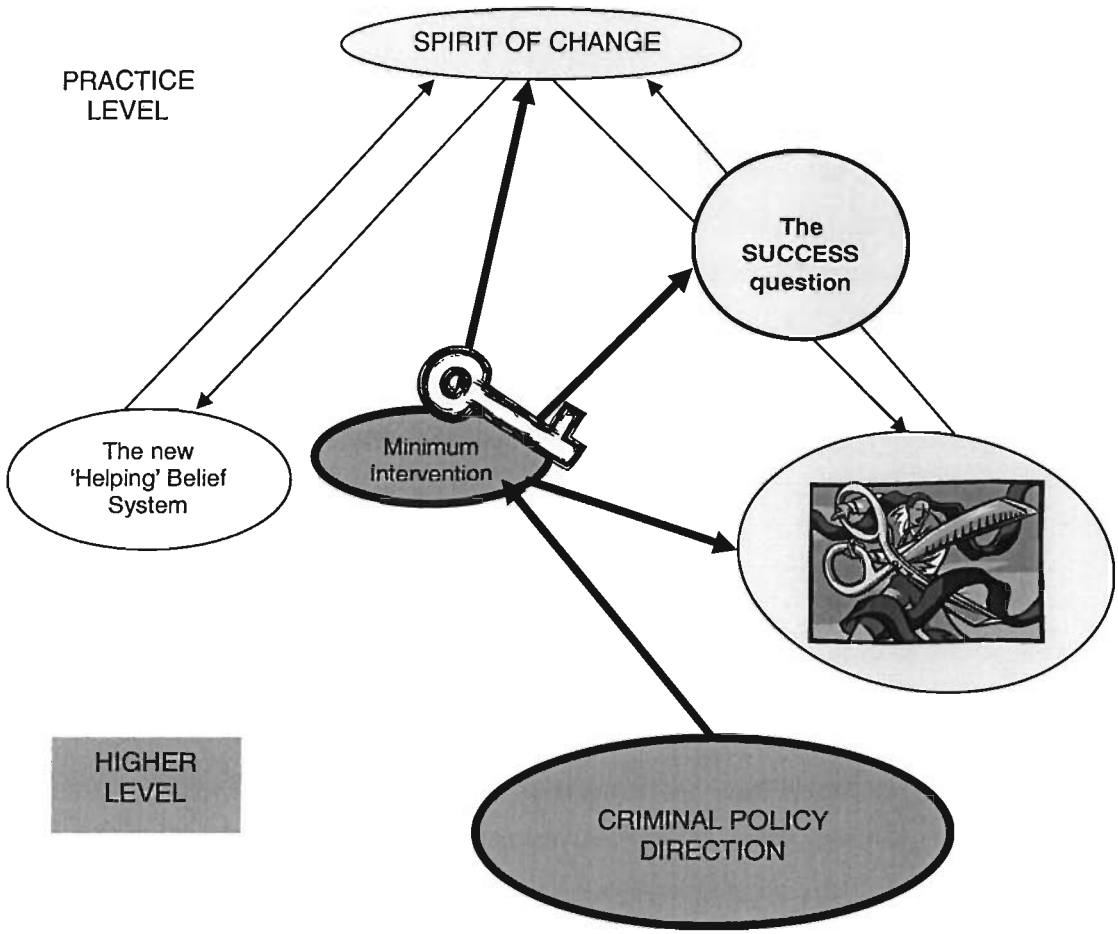
In the first part of chapter nine the policy logic/agenda/rhetoric of the policy top was examined. The examination demonstrated the existence of a ten years steady

[613] See for instance the wording in HOC, 14/1985 with respect to the decision to prosecute: "The prosecution of a juvenile is not a step to be taken without the fullest consideration whether the public interest (and the interests of the juvenile concerned) may be better served by a course of action which fall short of prosecution". The condition for 'the fullest consideration' constituted a clear policy intention of the law. This was also reflected in the wording of the Section 1(4) of the *CJA1982*.

logic/agenda/rhetoric. This logic/agenda/rhetoric pointed away from custody and towards the practice policies of de facto decriminalization. In other words, the policy top logic/agenda/philosophy was dominated by the policy philosophy of minimum intervention which emphasised the importance of the socialization process as against the importance of the criminalization process.

As it was later argued in the same chapter, a further characteristic of the 1980s minimum intervention policy philosophy was its conceptual consistency. This consistency was exemplified by the absence of the criminology of effectiveness from the epicentre of the policy debate. The weakening of the criminological assumptions of effectiveness reflected the consistent limited interest of the policy top in the worldwide effectiveness of the juvenile justice system.

The 1980s criminal policy on juvenile justice as summarised above was particularly critical for the domination of minimum intervention by affecting the process where minimum intervention was understood and supported. The simple process diagram below depicts this critical influence of the policy top.



The 1980s criminal policy direction as it was demonstrated earlier contributed to the practice process through the steady umbrella of legitimacy. The practice spirit of change which included minimum intervention was legitimate and as such was endorsed by middle management. Also success taking place within the limits of minimum intervention was legitimate and as such was endorsed by middle management. Hence, integrationist practitioners dealing with complexity were able to 'argue and argue and argue' in favor of decriminalization within local juvenile justice settings. This was the one contribution of the policy top which was concerned with the construction of a positive working climate.

It was also argued that the absence of the effectiveness question in the 1980s criminal policy direction affected critically the practice process of understanding. The absence of the effectiveness question indicated to practice that effectiveness did not play a dominant part in the process of change. The spirit of change was therefore not driven by great expectations. Also the absence of the effectiveness question indicated to practice that

lack of effectiveness was not a reason for a professional failure. Therefore liberated from the tyranny of the effectiveness question, the bottom level integrationist practice managed to achieve the pragmatic levels of efficiency. Naturally they felt particularly optimistic in light of this.

In other words, the consistent minimum intervention logic of the policy top liberated the bottom level thinking and allowed integrationist practitioners to understand the critical impact of a minimum scope upon the increase of professional efficiency. From this perspective the domination of minimum intervention was not linked solely to the political legitimacy offered by the policy top. The domination of the minimum intervention was also linked to its inherent value: to impact critically on the increase of professional efficiency. Indeed, minimum intervention became a dominant practice philosophy because it was a policy choice which increased practice efficiency.

The domination of minimum intervention: A top policy choice which increased bottom level practice efficiency

The account of an interviewee, a former senior probation officer, demonstrates clearly that the 1980's positive working climate was based on practitioners 'genuine feeling' that they were able to 'do something':

> "The 1980s were a decade of co-operation, as well as optimism. There was a genuine feeling if we all got together and pooled that knowledge, we could actually do something about it and we actually did. So despite the fact it might seem nostalgic, it was **a very good working decade**" (emphasis added).

This 'genuine feeling', which dominated the practitioners of the 1980s,[614] was a direct outcome of the policy top choices which **"created a space in which to act".**[615] Indeed, the

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[614] Interviewees of practice background expressed in their account this genuine feeling of achieving successful practice. Characteristically, one interviewee, a former leading practitioner indicated the following: "I think I knew it instinctively. I think I had a kind of a professional conversation with myself, that I was joining something that was going to be cutting edge, really at that time; there was nobody that was going to do any better".

[615] In the opinion of Edelman, the 'political setting' provides the logic towards the 'solution of the problem'. According to Edelman this logic creates the space wherein administrative organizations will act; in the words of Edelman, **"The laws create a space in which to act"** (Edelman, 1985:103).

policy top invested consistently in a policy choice which allowed those dealing with complexity to set pragmatism as the framework for the success of their efficient integrationist intentions.

CHAPTER TEN

THE TWO LEVELS OF HISTORICAL EXAMINATION, GROUPS OF CONCLUSIONS, AND THE KEY CONCLUSIONS

a) Research focus, research questions, and an examination of the sources of the historical memory of the 1980's

i) The research focus

Throughout chapters two to nine, the domination of minimum intervention at the practice level constituted the research theme of the present work. It was this theme which set the research boundaries of the present work. The result of this was to exclude a number of important issues regarding the juvenile justice policy of this period from the scope of the present work. Therefore, why or how the conservative government adopted a juvenile justice policy which appeared inconsistent with the law and order rhetoric of Margaret Thatcher; or whether the juvenile justice policy did or did not affect the crime rate during this period were research issues outside the boundaries of the present work. Instead, the research focus was clearly on the domination of minimum intervention, and strictly from the practice level perspective.

ii) Research questions and the two levels examination

Throughout chapters two to nine, *whether*, *why* and *how* minimum intervention dominated the practice level during the 1980s_constituted the set of questions which directed the research project. In order to consider this set of questions the present work employed a wide range of sources from the period of the 1980s; termed the historical memory of the 1980s. The examination of the historical memory of the 1980s through the three-fold set of questions took place on two levels; the level of so-called facts, and the level of so-called dynamics.

At the level of facts examination the research analysis attempted to consider the *whether* question; namely *whether* the minimum intervention was really dominant at the practice level during the 1980s. However, the actual scope of the *whether* question was

naturally wider, exploring the existence of all dominant practice philosophies during the 1980s.

At the level of the dynamics examination the research analysis attempted the consideration of the *why* and *how* questions; namely *why* and *how* minimum intervention became dominant at the practice level during the 1980s. In particular, the consideration of the *why* and *how* questions developed a deeper analysis of the sources of the historical memory of the 1980s, which explored the set of dynamics behind the emergence of the 1980s minimum intervention practice penal philosophy.

As a result it can be argued that through the two levels of examination the sources of the historical memory of the 1980s were extensively searched and critically considered. This provided a number of findings, observations and conclusions which are presented below.

b) Observations, Findings and Conclusions from the Facts Examination of the practice level

At the level of facts examination the research has provided a number of observations, findings and conclusions concerned with the question *whether* minimum intervention became dominant at the practice level; or better *which* were the dominant practice philosophies during the 1980s; and *what* kind of transitions occurred in the orientations of the practice level activity during the 1980s. All the relevant observations, findings and conclusions have been summarised below from number 1-28.

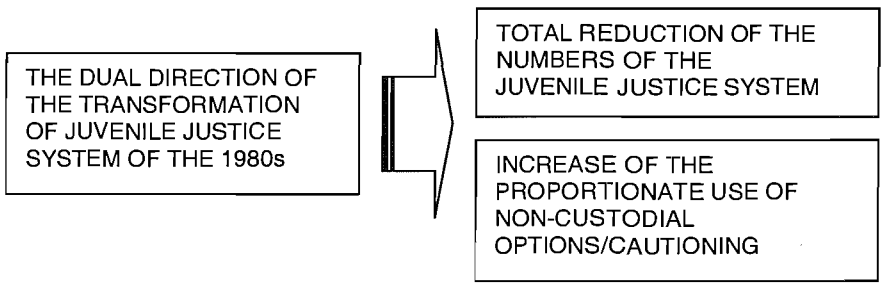
i) Observations, findings and conclusions from the analysis of ten years statistical information - points 1,2.

1. The analysis of the 1980s juvenile justice statistics (institutional options, non-custodial options, known-offenders, cautioning, prosecution, guilty found) showed that two major transitions occurred:

- the transition from the big numbers of the early years to the small numbers of the late years of the 1980s for every sentencing option, at every stage of the juvenile justice process;

- the transition in the use of non-custodial options/cautioning: non-custodial options gradually gained considerable ground within the courtroom sentencing process, whilst cautioning increased its importance against prosecution.

2. From the perspective of the present work the twin statistical transitions amalgamated the transformation of the juvenile justice system of the 1980s towards a dual direction,[616] featured in the following diagram:



ii) A discussion of the accounts of the 1990s writings in relation to points 1, 2

The analysis of statistics and interpretations about the statistical course of the 1980s juvenile justice system, which provided the findings and observations of **1 and 2**, has contributed to a model picture of the direction taken by during the transformation of the juvenile justice process. This type of analysis was missing with respect to this period; and it was certainly missing from the accounts of the authors of the 1990s. Indeed, almost all of the authors approached the juvenile justice process as a fragmented system by giving emphasis only to the statistical course of single disposals; or to the statistical course of single stages of the process. The authors focused upon the life of some of them and particularly on the community-based sentencing. Therefore accounts of a number of disposals, especially of those comprising the broad non-custodial sentences, were missing from these studies. Similarly, detailed studies on the pre-court phase (cautions and prosecution) alone, and studies on the courtroom phase, are missing from these accounts. Indeed, some of the authors merely focused upon the statistical developments of cautioning for the period of some years concluding therefore a steady increase in the use of cautions.

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[616] This finding was very close to Rutherford's conclusion that the change occurred 'virtually at every stage of the process' - a 'sea change', which became evident "in the number of 'known offenders', the shrinkage of the court caseloads and the reduced severity of sentencing practice" (1992:11).

However, this conclusion does not fully reflect the statistical 'reality', as the analysis in the present work has persuasively argued. Certainly a number of authors considered the decrease in the number of known offenders in an attempt to see the developments of the pre-court phase and courtroom phase from a common angle. However the analysis of the known offenders' numbers terminated at the *guilty found* stage. The authors failed to see that the relationship between prosecutions and guilty found was changing, at the expense of guilty found, as the years progressed; a statistical event discussed in the present work. Therefore all the 1990s authors failed to address what Rutherford referred to; namely, the existence of the 1980s picture of 'de-escalation' which occurred 'at virtually every stage of the process'. In contrast the present work has addressed this in detail, thereby providing the basis for argument regarding the dual direction of the transformation of the juvenile justice process during this period of time.

iii) ***Observations, findings and conclusions about the content of the 1980s juvenile justice practice policies during the 1980s policies - points 3-7.***

3. In chapter four, the relevant examination revealed the existence of what has been named as the mosaic of the efficient practice integration. The mosaic included developments which were concerned with the widening and deepening of the professional efficiency of the juvenile justice practitioners during the decade of the 1980s such as:

- the practice policies of information collection and monitoring of the numbers of young people processed within the juvenile justice system;
- the practice policy of constructive engagement with young people who were dealt with by the juvenile justice system;
- the employment of various types of community programs aiming at the better management of youth offenders.

The mosaic has also included developments which were concerned with the efficient integration of those practitioners during the 1980s such as:

- the practice policies of systematic participation in inter-agency meetings;
- the practice policies of organised and improved participation in the courtroom process;

- the practice policies of improving the understanding among the different professional components of the juvenile justice process;
- the tendency to understand the function of the local juvenile justice settings; and
- the tendency to contribute to the improvement of the operations of the juvenile justice settings.

4. From the perspective of the present work, the existence of the mosaic of efficient integrationist practice indicated the existence of a strong ethos of professional efficiency. In other words, within the local juvenile justice settings the integrationist practitioners of the 1980s were the active bearers of a strong philosophy of professional efficiency. This professional efficiency was amalgamated in the development of those settings, as the mosaic has persuasively shown.

A methodological commentary on points 3,4

The methodological tendency of the present work to re-consider its own conclusions demanded an exhaustive examination of the sources of the historical memory of the 1980s. This further examination revealed a number of findings with respect to the content of the 1980s practice policies. Indeed, the present work has shown that the mosaic of integrationist efficiency was not wholly representative of the dominant juvenile justice practice policies employed in the 1980s.

5. In chapter seven, further examination of the integrationist practitioners practice policies has shown that the application of the de facto decriminalisation practice policies[617] was an equally important part of the integrationist practice developments of the 1980s. Within the court-room process, the greater use of the efficient alternatives to custody was not the only objective of the day-to-day integrationist practice. Furthermore, at the court room level, resorting to down tariff options through de-seriousnessization was an important part of the philosophy of

[617] The definition of de-facto decriminalization can be found in the *Council of Europe, Report on Decriminalisation*, where 'de facto decriminalization' was defined as "the phenomenon of (gradually) reducing activities of the criminal justice system for certain forms of behaviour or certain situations although there has been no change in the formal competence of the system" (1980:14).

integrationist practitioners. Similarly, at the pre-court level, attempting to divert young people from prosecution through multiple cautioning and not through cautioning-plus[618] constituted an important part of the integrationist practice philosophy. In sum, at all stages of the juvenile justice process the wide application of the practice policy of down tariff, through de-seriousnessization, constituted the day-to-day materialisation of a strong practice policy of de-facto decriminalisation. This practice policy was dominant at the level of integrationist practice.

6. The present work has suggested that the domination of practice policies of de-facto decriminalization reflected the existence of a 1980s practice philosophy. This philosophy was embodied in a concept then known as minimum intervention[619]. In particular, reflecting upon the evidence that shows a wide use of the de facto decriminalisation practice policies at every stage of the penal process of the 1980s juvenile justice; the present work considered the minimization of the scope of the juvenile justice process to constitute the meaning of minimum intervention for the 1980s practice philosophy.

7. The present work has therefore concluded that professional efficiency (integrationist efficiency) and minimum intervention constituted the dominant practice policy orientations of the integrationist practice philosophy during the 1980s.

- The 1980s practice ethos of professional efficiency (integrationist efficiency): the view of juvenile practitioners about the need of better practice performance by doing more things better; and the view about the need of belonging within the local juvenile justice settings by gaining the confidence of their major participants (magistrates and the police) and by appreciating their role.
- The practice philosophy of 1980s minimum intervention: the view about the need for a reduced scope for all the stages of the juvenile justice process.

[618] Cautioning plus was the form of cautioning which was combined with program intervention.

[619] Or minimal intervention or minimum necessary intervention.

iv) The transitions that occurred at the juvenile justice practice level – points 8-10.

8. The present work has observed that the mosaic of the integrationist efficiency, which embodied the language and the ethos of professional efficiency, constituted a transition with respect to the practice developments in juvenile justice. In other words, the elements of this mosaic (as they are described in point 3 and detailed in chapter 4) developed and progressively became established during the 1980s.

9. Similarly, the philosophy of minimum intervention, which embodied the practice policies of de facto decriminalization, constituted a transition in practice penal philosophy which also existed during the 1980s. In other words, the elements of this penal philosophy (as described in points 5,6 and detailed in chapter 7) developed and progressively became established during the 1980s.

10. Therefore according to the present work, during the 1980s, the field of juvenile justice experienced a dual transition with respect to the professional and penal orientations of the practitioners from social work background. This applies to those whom the present work has named "integrationist practitioners".

v) A discussion of the accounts of the 1990s writings in relation to points 3-10

In the present work, finding the practice content and the practice orientations of the 1980s was seen as one important stage of examination. The facts examination provided a plethora of evidence and a very precise and descriptive account about the practice and the dual practice orientations in juvenile justice. This type of analysis, which is summarised in the findings, observations, and conclusions of points **3 to 7**, was certainly missing from the writings of the 1990s. The 1990s writings indicated the critical role of practitioners in relation to the direction of the juvenile justice system, and thereby provided accounts about the practice orientations of the 1980s.

Indeed, in his relatively short account, Rutherford referring to practice philosophy primarily mentioned the 'focus upon process' (1992:23,4) and secondarily the emergence of a 'new anti-custody ethos'(1992:25). Discussion of a professional ethos of practice efficiency-and-integration were absent from his account. At the same time the meaning of the 'focus upon process' was not extensively described. Similarly, again in a relatively brief account, Gelsthorpe and Morris (1994) described the existence of a practice level

pro-youth ethos only, which impacted upon the direction of the juvenile justice system.[620] Allen, who also indicated the critical role of practice activity for the sentencing developments of the 1980s, mainly implied rather than described the anti-custodial ethos of the 1980s practice[621]. Meanwhile, issues of efficiency, integration, de facto decriminalization and minimum intervention were not addressed as part of the juvenile justice practice content/orientations. As a result the accounts of Rutherford, of Gelsthorpe and Morris and of Allen, which indicated if not highlighted the role of the 1980s practice, did not adequately discuss the content/orientations of practice activity.[622]

Wade's MPhil differs; it is a long and detailed study on practice development within a particular juvenile justice setting during the 1980s. Wade provided memories showing that the anti-custody ethos and in particular a tendency to keep juveniles outside the formal interventions of the system were important features of a new local 'radical' practice. At the same time, Wade provided a further feature of this new local 'radical solutions' practice of the 'helping' practitioners, which was the tendency to work efficiently within

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[620] "Towards the end of the 1980s, practitioners appeared to be in the ascendancy in controlling, from the ground, what happened to juvenile offenders and there was [...] a 'successful revolution' in terms of ameliorating an apparently harsh governmental response to juvenile offenders by 'managing' to keep many of them out of the system. The figures on the use of custody and residential care reflect this success" (Gelsthorpe and Morris, 1994:983).

[621] "[T]he effective reduction of custody for juveniles in many parts of the country has been due in no small part to the energy, enthusiasm and the commitment of practitioners and managers 'on the ground' – the 'alternatives to custody' movement has developed an almost crusading zeal, articulated most strongly in practitioner led groups such as the Association for Juvenile Justice and the National Intermediate Treatment Federation. This 'anti custody ethos' has recently been described by Rutherford (1989)" (1991:49). The 'commitment' of 'practitioners on the ground' and the 'crusading zeal' of the 'alternatives movements' more implied than described the existence of a dominant anti-custody ethos.

[622] Certainly this is not a negative critique of the three accounts. What is clarified is only the limits of these accounts. As it was mentioned already in the introductory chapter one the writings of the 1990s did not contain in-depth accounts but rather the coverage of issues which they considered important. The particular accounts certainly fulfilled this objective. Rutherford's account directed the focus considerably upon practice activity indicating therefore an important perspective about the understanding of this period. Also, Rutherford attempted a preliminary examination by interviewing individuals from practice and policy involved in the developments of the 1980s. He was therefore the first to survive parts of the historical memory of the 1980s. On the other hand, Gelsthorpe and Morris touched a wide number of issues concerned with the 1980s developments showing therefore the complexity in understanding a period of change. Furthermore their account is supported by an extensive list of references sources, certainly a great help for any future researcher with an interest in this period. Finally Allen, whose objective was to review probable causes behind the reduction of custody, provided valuable statistical analysis and a presentation of a number of issues that live in the historical memory of the 1980s.

the local setting; a working philosophy which was paramount in the working culture of those local juvenile justice practitioners (:36-7), and a paramount issue in her study. Wade summarised the philosophy of this local group as follows:

> "The ethos of this group of social work practitioners was clearly anti-custody/anti-institutions was based on principles of minimum intervention, but their strategy and tactics were based organisational theory and systems management ideas" (1996:37).

Wade therefore mentioned the existence of three distinctive levels within the practice value system; the practice ethos, the practice principles, and the practice strategies and tactics. The point is that the philosophy of minimum intervention was not sufficiently described (or analysed) in Wade's study despite the fact that a number of memories contained evidence of a minimum intervention philosophy. Undoubtedly, the presentation of local practitioners' efficiency and integration ethos was the strongest part of her study. However, overall Wade did not provide a modelled descriptive account about the philosophical directions of the local practice capable of indicating what form of practice activity represented efficiency orientations and minimum intervention orientations respectively.[623] From the perspective of the present work therefore the weaknesses of Wade's study is the lack of a detailed grouping of the characteristics of the practice content and orientations during the 1980s.[624]

The facts examination, which provided a plethora of evidence and a very precise account of the dual practice content and orientations (summarised in the findings, observations, and conclusions of points 3 to 7), has certainly filled these gaps in the history of the 1980s juvenile justice practice. The facts examination has undoubtedly offered a modelled description of the content and the orientations of the 1980s juvenile justice practice activity. It was this activity that a number of 1990s authors considered to be critical for the transformation of juvenile justice.

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[623] This is particularly evident in the concluding *Framework for successful juvenile justice schemes* presented in page 120 of her study. Under the umbrella heading *Culture*, Wade indistinctively included a number of the features of the practice philosophy of the 1980s without specifying what philosophical orientation these features represented. From the perspective of the present work, some of these features belonged to the efficiency-and-integration credo; and some to the minimum intervention credo. Nevertheless such taxonomy cannot be found in Wade's concluding *Framework*.

[624] Nevertheless, undoubtedly Wade's study constitutes an important bearer of the sources of the historical memory of the 1980s juvenile justice; and this is something which makes this study particularly valuable.

With respect to the transitions that occurred in the 1980s juvenile justice practice content and orientations, (points 8-10) it must be noted that all the above authors, implicitly or explicitly, suggested the occurrence of a transition in the 1980s practice philosophy. In particular, Rutherford and Wade explicitly suggested that the practice orientations mentioned in their studies had emerged only during the 1980s.[625] Despite the fact that the present work differentiates from the above studies about the 1980s practice content and orientation, it certainly agrees with the transition-idea; namely that during the 1980s practitioners moved towards a new activity content which was amalgamated in the emerging and dominant orientations of professional efficiency and minimum intervention. Nevertheless, the present work has taken the research to more detailed level by trying to understand the reasons behind those practice level transitions. This was attempted in the dynamics examination of the sources of the historical memory of the 1980s.

c) The Dynamics Examination: The Cycle of Practice Development

The focus of the present work was to explore the domination of minimum intervention from the perspective of the practice level. Nevertheless, the findings of the fact examination which revealed the existence of the mosaic of integrationist efficiency (an important transition in the juvenile justice practice policies of the 1980s) widened the focus of the present research towards the exploration of the ascendance of the practice philosophy of integrationist efficiency. Therefore, at this point the research question was not *how* and *why* minimum intervention and the decriminalization practices became

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[625] In 1989, in his paper *'The mood and temper of penal policy: curious happenings in England during the 1980s'*, Rutherford indicated the transition in the anti-custodial ethos of the juvenile justice practitioners: "The creation of this climate, at the local level, reflects the powerful anti-custody ethos that has been imbued by social workers working with young offenders. In **sharp contrast** to the situation less than ten years earlier when social workers routinely recommended care and custodial dispositions (see e.g. Thorpe *et al.* 1980, p.74). The **new ethos** takes the form of an absolute dissent from sentencing juveniles to custody (emphasis added) (Rutherford, 1989:29). Similarly, describing the change in attitudes and practice was certainly Wade's interest. As Wade indicated: "This dissertation will argue that, [...] part of the explanation also lies in the change of attitudes and practice amongst practitioners in local systems; social workers, police, prosecutors, court personnel and magistrates" (1996:4). No doubt, Wade focused, in particular, on describing the development of the new attitudes and practice of the juvenile justice practitioners of social work background of her local setting.

dominant at the practice level, but rather *how* and *why* efficient integration became the working ideology of the practice level. The relevant examination of a number of sources of the historical memory of the 1980s led us to the conclusion that a cycle of practice development existed, an important cycle for the practice level life of the 1980s.

i) The conclusions about the cycle of practice development

11. In chapter six, practice trends, traced from the sources of the historical memory of the 1980s, were thoroughly examined and revealed the existence of a cycle of practice development. This cycle of practice development was concerned with issues such as practice intentions, practice culture, practice achievements, and practice success. In particular, the analysis of several sources indicated the existence of four critical phases of the practice development cycle. These phases supported the ascendance of a philosophy of efficiency and integration;

- the personal input phase: the analysis of this phase showed the existence of bottom level practitioners intentions for professional advancement through committed participation and quality work within the local juvenile justice settings;
- the professional process phase: the analysis of this phase revealed the development of the day-to-day self-learning process of crafting professional efficiency and successful participation within the local juvenile justice settings;
- the professional outcome phase: the analysis of this phase showed that through the accumulation of experience and knowledge, due to the development of the self-learning process of crafting professional efficiency, bottom level practitioners became the juvenile justice specialists of the 1980s;
- the feedback phase: analysis of this phase showed that the appreciation of the value of specialisation from other participants of the local juvenile justice settings constituted the critical phase. Indeed, this phase indicated that the committed day-to-day work led to the achievement of professional advancement. In other words, it indicated to the bottom level practitioners the successful fulfilment of their professional intentions. The feedback phase was therefore critical because through the success feedback the bottom level practitioners were reassured that investing in the self-learning process of crafting specialisation was a correct

professional choice, which satisfied their pragmatic concern of professional success.

12. Therefore the cycle of practice development in the 1980s directed the choices and creativity of a number of bottom level practitioners towards efficiency and integration. Additionally, the cycle of the 1980s indicated to those practitioners that becoming efficient components of the local juvenile justice settings was the appropriate professional choice. Undoubtedly, the rich mosaic of the 1980s integrationist efficiency, the product of the cycle of practice development, reflects the strong belief of these bottom level professionals in the significance of what they were doing.

ii) Indication of the importance of conclusions 11, 12

Conclusions 11 and 12 were critical for the research progress as they shed light on an important process of practice life, the cycle of practice development, which was strongly associated with the professional creativity and the professional advancement of the juvenile justice practitioners of the 1980s (the integrationist practitioners). The identification of the existence of this cycle, (an outcome of the dynamics examination), demanded that the ascendance of the minimum intervention decriminalisation practice policies had to be considered with the cycle of efficiency-and-integration development.

d) The Dynamics Examination: Practice development and the criticality of minimum intervention

In chapter seven the relevant dynamics examination considered this linkage and at the same time revealed this linkage as a critical factor behind the ascendance of minimum intervention at the practice level. The present work has shown the interdependence of the two philosophies in practice thinking, and argued that a strong symbiotic relationship existed between minimum intervention and efficient integration during the 1980s.

i) Conclusions about the link between efficiency and the minimisation of the practice scope

13. In chapter seven a widely supported belief was presented, that the development of professional efficiency of integrationist practice was a linear trend of independent development. This view was detected in accounts of the historical memory of the 1980s which explained the statistical trends of the late 1980s solely through the development of efficient practice. Memories of interviewees who were leading practitioners, and particular articles published in the 1980s, suggested (either explicitly or implicitly) that the transformation of local juvenile justice sentencing processes towards greater use of the cautioning process and greater use of alternatives to custody was critically linked to the development of a practice philosophy for professional efficiency. Indeed, these sources of the historical memory of the 1980s practically argued that within a number of local settings integrationist practitioners increased their efficient activity and managed to increase the value of the cautioning option against prosecution in the eyes of the police (the value of specialisation). The police therefore opted for a greater use of cautioning (success). Similarly, it was also argued that integrationist practice increased efficiency and therefore the value of the alternative to custody options in the eyes of local magistrates (the value of specialisation). Then, they confidently abandoned custodial solutions (success). In short, the more efficient they were becoming, the more they enjoyed success, and therefore the greater their efficiency.

14. From the perspective of the present research the first problem with this view was that it considered integrationist efficiency to be a linearly increasing professional performance which was always able to deal efficiently with those processed in the system. The second problem was that it seemed to leave decimalisation practices outside the internal dynamics of the practice level. The third, and most critical, problem was that accounts in other sources of the historical memory of the 1980s practically questioned the linear development of integrationist efficiency.

15. The in-depth dynamics examination reconsidered this linear development and distinguished the dependency of the development of practice efficiency from decriminalisation practice policies. From the perspective of the present work the successful development of integrationist efficiency was not a linear independent event, but rather part of the internal dynamics of the 1980s integrationist practice.

The internal dynamics of the 1980s integrationist practice focused on the association of the practice policies of decriminalisation with the successful development of the cycle of professional development.

16. In particular, the limitation of the numbers of juvenile offenders through the downwards application of the definition of seriousness was critical for the quality of the integrationist practitioners interventions. Indeed, dealing with large numbers of juveniles would jeopardise the success of integrationist efficiency; as big numbers would exceed the capacity of practitioners to engage efficiently with juvenile offenders. Instead, smaller numbers allowed better focus (the development of integrationist efficiency); and, as a result, the smaller numbers sustained professional success. Therefore, the philosophy of minimum intervention, namely the application of the decriminalisation practice policies throughout the juvenile justice process (cautioning and courtroom phase), constituted an inseparable part of the professional success of the integrationist practice of the 1980s.

17. Therefore, through the dynamics examination the present work has claimed that the ascendance of minimum intervention at the practice level was synonymous with the compatibility of the two concepts (efficiency and minimum intervention) in the practice level thinking.

ii) Conclusion 17: the professional understanding of the meaning of minimum intervention

The present dissertation has argued that the de facto decriminalisation practice policies had to be connected with the development of the professional choices of the integrationist practitioners. It is an important argument in the present work that there was a distinctive understanding of minimum intervention at the practice level: the professional understanding of the meaning of minimum intervention; namely that the practice policies of decriminalisation primarily supported the professional needs of the integrationist practitioners (achieving efficient levels of practice and therefore achieving professional advancement). As a result this dissertation is arguing that this professional understanding of decriminalisation was critical for the domination of minimum intervention at the practice level. Essentially, it is questionable whether the 1980s decriminalisation practice

policies would have been established as a dominant part of the 1980s practice philosophy had they not matched the developing climate of practice efficiency and integration.

Conclusion 17, an outcome of the dynamics examination of the present work, leads to two further observations:

18. The dominance of minimum intervention at the practice level during the 1980s cannot be disassociated from the other practice developments; namely, from the sustained development of the mosaic of integrationist efficiency. Decriminalisation practice policies and integrationist efficiency had a strong symbiotic relationship during the 1980s which paved the way for the development of both (an issue which was not understood in sections of the research and theory context of the 1980s).

19. The argument about the existence of a professional dimension of the practice philosophy of minimum intervention questions the significance of the anti-custodial and pro-youth ethos (an issue raised in a number of 1990s writings) for the dominance of the philosophy of minimum intervention during the juvenile justice course of the 1980s.

These two key observations are discussed below in relation to the context of the 1980s thinking as it has survived in the historical memory of this period.

e) Conclusion 18 and the negation of the symbiotic relationship during the 1980s

It must be noted that in the 1980s, the perception that the two philosophies were incompatible was present within both the academic and research context. On the one hand, those who sided with the negation of the value of the juvenile justice system in dealing with young people had difficulty in seeing the need for efficient juvenile justice practice. On the other hand, those who believed in the need for efficient and effective juvenile justice practice regarded with scepticism the practice philosophy of minimum intervention; namely the practices of the de facto decriminalisation. The incompatibility of the two philosophies was addressed briefly in different parts of the present work. In the first part of chapter five, where the contribution of the loose Lancaster group was addressed, the difficulty of some academics to support the compatibility of the two concepts was stated. In particular, it was efficiency which was seen to be incompatible with the values of the social work practice; and as it was stressed that part of the contribution of the Lancaster

school was in supporting and legitimising this compatibility. Nevertheless, in chapter seven where the academic contribution to the ascendance of the minimum contribution was discussed, it was stated that members of the loose Lancaster school gradually distanced themselves from the premises of minimum intervention by emphasising the critical importance of program efficiency. Here the relevant debate will be revisited in order to stress the distance of theoretical discourse from the practice developments of the 1980s.

i) Negation from those who supported decriminalisation

During the 1980s, John Pratt constituted a representative example of an anti-institution academic who strongly opposed the ideas of the emerging discourse of integrationist efficiency. In three successive papers *'Delinquency as a Scarce Resource'*, (1985), *'Diversion from the Juvenile Court'* (1986) and *'Corporatism: The Third Model of Juvenile Justice'* (1989b) John Pratt developed a clearly polemic stance against the ideas of integrationist practice; what he called 'corporatism'.[626] Pratt clearly and unambiguously attacked and attempted to discredit all of the following: the ideas of the Lancaster school; the shining example of Northampton; the emerging language of the integrationist practice; and finally, the emerging juvenile justice specialist. In the first article Pratt predicted that the introduction of new policy options would simply widen the juvenile justice net. His pessimistic prediction was concerned with the diversionary policy option of cautioning:

> "[M]ost of the empirical research on the use of cautioning as a form of diversion from court speaks of its net-widening and inflationary consequences. Furthermore, recent tendencies to *formalise* the cautioning process would seem likely to bring about similar consequences" (1985:98,9).

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[626] "[J]uvenile justice policy in the last decade **should not** just be characterised by the 'short, sharp, shock' clichés of the incoming 1979 Conservative administration, **nor** by the growth of the community alternatives to this fostered by the social work community. Instead, when we put the entire package together that now exist together, perhaps the byword for recent developments should be **'corporatism'**: 'the prevention of juvenile delinquency is not the prerogative of any single agency' the Home Office Circular 211/78 claimed. And we can now find both an over-lapping of different agencies involved in delinquency management (such as police, probation, social services, education and careers service) and of the various sectors of the social field that they represent. **Perhaps one of the best examples here are the Northamptonshire juvenile bureaux which employ full-time 'a social worker, probation officer, youth worker, teacher and police officer and [are] administered by a management team consisting of local managers of the represented"** (emphasis added) (1985:97).

His pessimism was also concerned with any further policy option introduced during the first years of the 1980s:

> "One of the consequences of the recent extension and refurbishment of the juvenile justice tariff may be that clients will be found from other areas of the juvenile population to fill up places" (1985:103).

In this article, Pratt presented his pessimism as both a warning and an invitation for a debate for the future of juvenile justice:

> "[A]ll I have attempted to do here is to serve up an opening agenda for debate, rather **than make categorical statements and prognostications**" (emphasis added) (1985:105).

Nevertheless, in the second article Pratt made 'categorical statements and prognostications' about the introduction of diversionary mechanisms and the efficient participation of social work practitioners within the juvenile justice process. The ideas that emerged from the University of Lancaster were the target of Pratt's analysis:

> "The title [of Centre of Youth, Crime and Community, University of Lancaster (1984) publication *'Diversion – Corporate Action with Juveniles'*] not only describes the strategy that has been devised, dependent on incorporating each interested agency into juvenile justice decision-making, but in addition, draws our attention to the nature of the legal process which administers it: a combination of the formal and informal, of the private dispensation of justice and publicly recorded adjudication of guilt. Diversion takes place from a court into a court of another kind, whose hallmark is efficiency rather than formalised justice. [...] The transition in the site of decision-making (from the court to the court/tribunal admixture) corresponds to a shift in the form of legal process in operation (from a gesellschaft-type with its emphasis on rights and due process, to a bureaucratic administrative model with its emphasis on efficiency and public policy.) One of the consequences of this shift has been to extend and disseminate the orbit of juvenile justice decision-making. Is the development of this inflationary spiral simply an example of good intentions continuing to go wrong, continuing to leave a legacy of 'unintended consequences'? "Can we not see here a consequence rather than a contradiction?" (Foucault, 1977, p.22). A consequence that continues to drive the route of penal reform, a consequence that unites, as indicated earlier, all shades of the political and penological spectrum." (1986:229).

Pratt's account above constituted a 'categorical statement and prognostication' about the expansion of the scope of juvenile justice, the **"inflationary spiral"**. Pratt's account was

based on his understanding of the meaning of professional efficiency within the context of juvenile justice.

As can be seen from the above account, according to Pratt professional efficiency was identified with the expansion of the professional scope through the **"combination of the formal and informal"**. In the opinion of Pratt the result of the widened professional efficiency of the system actors would only **"extend and disseminate the orbit of juvenile justice decision-making"**. In other words, in Pratt's eyes the increase and widening of professional efficiency was an unlimited activity. From this perspective it can be reasonably argued that it was impossible for Pratt to accept that the emerging widening of professional scope of the 1980s efficient practitioner/system could have a symbiotic relationship with the philosophy of minimum intervention. Indeed, his third article Pratt extensively presented evidence which supported his view of the unlimited efficient expansion of the system against any restriction which could be imposed by the framework of the justice model; namely the philosophy of minimum intervention:

> "[T]he juvenile justice specialists have a far more enlarged role **than would have been possible** under the strict application of a justice model format which minimized such social work intervention" (emphasis added) (1989b:250).

Pratt reached the same thesis as in his previous articles, that a symbiotic relationship between integrationist efficiency and minimum intervention wasn't possible[627]. This was, as it is also argued in the present thesis, because of Pratt's perception of the existence of such a thing as unlimited efficiency.

Certainly, in his 1989 talk to the British Criminology Conference in Bristol, Pratt distanced himself from his previous 'categorical statements and prognostications'. The tone of his talk was far from the tone of his previous three articles, despite the fact that he retained his view of the use of the juvenile penal system as being a method of controlling youth behaviour. In the opinion of Pratt, explicitly stated at the conference, juvenile justice had taken a 'pragmatic' turn:

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[627] It should be noted that this conclusion was also a clear reference to the Lancaster school agenda (the justice model) which Pratt regarded as a disservice to the need for a human direction in juvenile justice policy: "Instead of a shift from the inhumanities and injustices of the institution, we find these features of the carceral system now being reproduced in the community in those projects that are supposed to be *alternatives* to the institution. *This is not to say that such developments are inevitably and always unhealthy.* But what we should try to separate out are humane objectives from their inhumane effects which in the current context, allegiance to justice model rhetoric helps to obscure" (1989:252).

> "I want to suggest that on the basis of the Anglo-Welsh evidence, [...] the punishment of juveniles has taken on a rather different shape. Its strategies are much more *pragmatic*" (1989a:67).

It was a remarkable change of opinion for somebody who raised the rhetorical question **"Can we not see here a consequence rather than a contradiction?",** thereby rejecting any idea that a philosophy of efficiency could conflate with a philosophy of minimum intervention. Nevertheless, this is not the only important issue in Pratt's paper. Another interesting issue is the extensive reference to the context wherein Pratt's earlier pessimistic statement and prognostication originated.

In particular, Pratt indicated in the beginning of this article that with the incoming of the Conservative government "there was no shortage of possibilities about what *would* be the future of this particular punishment system and the form that this mode of social control would take" (1989a:64). One of the widely supported possibilities was that "punishment 'plain and simple would no longer be sufficient in itself to maintain control over delinquent youth and something more pervasive and encompassing was needed"; namely, control in the community (1989a:64,65). That was what Pratt thought of as possibility as well. Importantly Pratt provided us with an interesting account about the origins and the reasoning of this view. In particular Pratt informed us:

About the 'bloc':

> "One the one hand, there was what might be called the Foucault (1977)/Cohen (1979) bloc, borne out of a marriage of the threads of their respective and highly influential contemporaneous works. Despite one or two notable criticisms (see particularly Bottoms 1983), adherents to this position asserted that major changes were taking place or were about to take place in the social control of delinquency and youth crime, with the most significant site of control now being 'in the community'." (1989a:64).

About the theoretical idea from where their view about the possible 1980s developments in juvenile justice originated:

> "What, by and large, had been taken from Foucault were the aims and scope of his analysis of 19th century punishment – seen as transforming 'the soul' of individual offenders to produce: "the obedient subject, the individual subjected to habits, rules, orders and authority that is exercised continually around him and upon him and which must allow to function automatically in him" (Foucault 1977, p.129)." (1989a:64).

About the reformation of the original idea in order to meet the developments of the juvenile justice entering the 1980s:

> "However, in current penal developments, this form of social control was seen as being dispersed from the institution in to the community at large. Thus when the institutional sector came to be mentioned, it was usually in terms of the shift away from this that was supposed to be taking place, or that, as the boundaries between respective segments of the criminal justice system were becoming more blurred with this 'dispersal of discipline', so the institution was becoming indistinguishable from the community based alternatives to it." (1989a:64).

About the problems of the neo-Foucauldean ideas and the theoretical attempts to redress them:

> "Although the exact reasons for these supposed changes were not always spelt out, there were attempts made to link them with the onset of mass youth unemployment or irregular part-time work as the future for school leavers and the general atmosphere of social crisis that this engendered. That is, take away the possibility of regular work and a major feature of the *normalisation* process of young people is also removed. This would necessitate new developments in the social control of the young. [...].
>
> In the light of this, it was thought that punishment 'plain and simple' would no longer be sufficient in itself to maintain control over delinquent youth. Something much more all pervasive and encompassing was needed. Thus it was claimed that: "we may have entered a new stage in the operation of control and predicated on a refurbishment of disciplinary training. This for the most part, is being undertaken in the community, or in projects linked to community involvement (Pratt 1983, p.356)."" (1989a:65).

Pratt's account shows that automatism and determinism influenced the development of the ideas he supported in his earlier articles. The automatic adoption of the main ideas in Foucault's work in order to consider the policy analysis needs of the 1980s juvenile justice was one problem. The single emphasis on the language of the 'dispersal of discipline' and suggesting that "social control was seen as being dispersed from the institution in to the community at large" constitute characteristic examples of automatism in the theoretical attempt to create direct analogies between Foucault's ideas and the policy options of the 1980s. The second problem was the determinism in the workability of the neo-Foucauldean ideas. The deterministic prognostication of the future outcomes of the new practice policies, with an emphasis on the certain expansion of different forms of interventions, appeared to be a problem in the neo-Foucauldean policy analysis. Furthermore, the self-persuasion for a pre-determined social crisis was a critical deficiency. From the perspective of the present work, this determinism limited the

understanding of the practice policy trends that were taking place during the 1980s. In particular, the tendency for a deterministic explanation of the 1980s trends limited the ability to look at, and understand, the practice internal dynamics of this decade; namely, the emergence of integrationist efficiency as a critical practice experience. Therefore, the perception of the existence of unlimited efficiency went hand in hand with a limited understanding of the dynamics of the practice context. In other words the negation of the possibility of a conflation of practice efficiency with the practices of decriminalisation was based on a limited understanding of the practice internal dynamics. Interestingly, some of those from the academic world who supported the 1980s emergence of practice efficiency seemed to suffer from a similar limited understanding of the practice internal dynamics; and as a result, from a negation of the symbiotic relationship between efficiency and minimum intervention.

ii) Negation from those who supported efficiency

In their 1981 article' *Police Cautioning of Juveniles in London'* Farrington & Bennett concluded the following:

> "[O]ur research in London suggests that (a) the introduction of the police caution caused a great increase in the number of officially processed juveniles, and (b) after allowing for the important factor of juvenile attitude, police cautions were no more successful than finding of guilt in preventing recidivism. Cautions probably succeeded in diverting 10-13 year-olds from court appearances, but diversion of 14-16 year-olds probably has not happened. Taking all these results into account, the adoption seems to have had more undesired effects. [...].
>
> If the Home Office wishes to divert juveniles from court appearances, it would be desirable to choose a method of diversion which has been proved to be effective. A diversion scheme has had some success in reducing recidivism is that carried out in California by Binder, Monahan and Newkirk (1976), largely based on contingency contracting within the families of arrested juveniles. [...].
>
> The present research, admittedly based on small number, suggests that the introduction in London of police cautioning for juveniles produced a widening of the net rather than diversion, and that police cautions were no more effective than court appearances in preventing rearrest" (19891:134).

The above account suggests that Farrington & Bennett were strongly interested in diversion from court. Nevertheless, their understanding of diversion from court was dissimilar from the decriminalisation practice of the policies of diversion which were developed during the 1980s. The diversionary philosophy of Farrington & Bennett concerned the improvement and expansion of interventions; and certainly did not consider the philosophy of minimum intervention and the practices of decriminalisation as part of the efficient development of diversionary practice policies.

It is clear from the above account that, from the perspective of Farrington & Bennett, diversion from court was identified with the reduction of the young offenders' recidivism. In particular, Farrington and Bennett considered diversion from court to be achievable only through the development of efficient and effective interventions which would divert young people from crime. This is explicit in the above account: **"If the Home Office wishes to divert juveniles from court appearances, it would be desirable to choose a method of diversion which has been proved to be effective."** In other words, this was a philosophy which valued the constant investment on the efficiency and effectiveness of interventions; based on the belief that constantly improved interventions will definitely impact on offending behaviour. Undeniably, the underlying perception of this philosophy was the belief that the development of practice efficiency and effectiveness can be constant and unlimited. Therefore investing in the search for efficient and effective interventions was the only desirable policy for Farrington & Bennett. During the 1980s, Farrington was not particularly involved into the juvenile justice developments[628]; nevertheless a similar kind of thinking was present within practice debate.

In 1987, in *'The Myth of Up-Tariffing in I.T'* published in *AJJUST* Mike Nellis supported the argument that good and efficient practice interventions applied widely within the juvenile justice system could be synonymous with the reduction of custodial numbers for young people.[629] At the same time, as it appears from the spirit of this article, the

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[628] One of the interviewees particularly involved in practitioners' training and conferences indicated that during the 1980s, "Farringdon was never invited by practitioner groups, as far as I know."
Similarly an another interviewee, a senior civil servant indicated the lack of influence of Farrington in Home Office during the 1980s: "I think Farrington's ideas on intervention were probably less influential at that time [...] I think it may be fair to say though, may be true to say, that Donald West was on the whole better known in the Home Office and the Whitehall world than David Farrington."

[629] It must be certainly mentioned that the article of Nellis *The Myth of Up-Tariffing in I.T.*, generated a relevant correspondence through the pages of *AJJUST*. Sue Ross (AJJUST, September

employment of decriminalisation practice policies was not a critical part of practice development. In the opinion of Nellis, good practice alone could vanish any negative effects; such as net-widening, an issue with which the preventative interventions of the 1970s were identified. As Nellis indicated:

> "With good systems management and clear policies, any potentially negative effects of preventative work could easily be 'designed out' (Nellis, 9:1987).

In the opinion of Nellis the efficiency of the decision makers alone was enough for the improvement of the sentencing process:

> "All that needs to happen to avoid up tariffing is for magistrates (and SER writers) to understand how preventive and heavy end work differ and to be willing to act on this understanding" (Nellis, 10:1987).

Therefore, it can be argued that in the opinion of Nellis the improvement of the efficiency of the juvenile justice practice of the 1980s was a self-sustained process and there was no need for any symbiotic relationship of the improving efficiency with the practice policies of decriminalisation; and moreover with the philosophy of minimum intervention. Indeed, in this article, Nellis was firmly against the philosophy of minimum intervention. Nellis was keen to prove that the view of the Lancaster school about the 'up-tariffing' problems of preventive work, namely the problems of the extensive early interventions, (so the need for a philosophy of minimum intervention) was simplistic, if not wrong. Nellis pointed to the lack of evidence which supported the existence of an up-tarrifing syndrome due to the existence of practice interventions – hence the title of his article *'The Myth of Up-Tariffing in I.T'*. His intention was to reinstate the legitimacy of wide social work interventions (within the context of juvenile justice) which, he believed, had been unfairly discredited by the Lancaster argument of the 'up-tariffing' effect. Indeed, as Nellis indicated:

> "[T]he myth of up tariffing could now be abandoned with impunity. The case for alternatives to custody never rested fundamentally on a case against preventive work, and now that alternatives are firmly established as models of practice there is no reason (resources permitting, and with good systems management) why preventive work should not be regarded as an equally valid, if substantively different, form of I.T. [...] The drastic solution to the supposed of up tariffing which have occurred in some

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1987:5-6), and Danny Boils (AJJUST, December1987:22-23) staged a fierce attack against the argumentation of Nellis denying therefore strongly that good and efficient practice could have an eliminative impact upon custody and the wider use of similar institutions.

places – the abandonment of preventive work altogether hiving it off to other sections of the SSD or to voluntary organisations are indeed instances of overkill" (1987:10).

Nellis further supported the pro-interventionist argument by indicating the humanistic value of social work interventions:

> "The case for undertaking preventive work obviously must depend on something more that the simple demonstration that it need not, after all, have deleterious consequences[.] [...] To offer help to such youngsters in regard to problems of personal development, in shabby and oppressive environments is neither as trivial nor as risky as some adherents of the alternative to custody movement have made it seem. It is admittedly not always done well and in such circumstances it may do more harm than good, or it may simply do nothing, but that in itself does not invalidate the principle of offering help to adolescents well before they are at risk of losing their liberty. Preventive work should not be measured by reconviction rates – and for that reason I would prefer it to be called 'promotional work' as its rationale ought not to be the prevention of anything. The promotion of self esteem, personal responsibility and concern for others is valuable in its own right, all the more so if it is part of a broad community development strategy to help disadvantaged youth in general. Any reduction of forestalling of offending that results from this (and it is neither built in nor guaranteed) is merely a bonus; it ought not to be an aim or an expectation, although it can be a hope" (underlined emphasis in the original) (1987:11).

Undoubtedly, the above account shows the importance of the program perspective in Nellis' thought. The point is that this strong program perspective did not allow Nellis to consider the importance of the philosophy of minimum intervention for practice development. It was difficult for Nellis to consider a policy philosophy called minimum intervention whilst his primary intention was focused at the opposite direction; namely, the expansion (in other words the maximization) of social work interventions within the context of juvenile justice. Apparently minimum intervention did not fit into Nellis' policy thought. Instead, for the program enthusiastic Nellis the idea of constantly improving practice efficiency better fitted his argument for the expansion of program intervention:

> "[I]n this brief conclusion I can only hint at how the difficulties of preventive work – and there were others apart from the supposed difficulty of up tariffing – might be overcome. To begin with, the term preventive has undoubtedly outlived its usefulness, but the activities which it usually denoted can easily be justified with minor or non

offenders on humanitarian grounds, so long as they are done well" (underlined emphasis in the original) (1978:11).

In short, improvement of the quality of the practice of program interventions (**"so long as they are done well"**) constituted a sufficient condition to eliminate problems of inefficiency. In other words it can be concluded that in Nellis' article the negation of the symbiotic relationship between efficiency and the practice policies of decriminalisation was more than evident.

The point is that Nellis negation did not derive from an understanding of the 1980s practice internal dynamics. His argument seemed to be singularly informed by his self-persuasion of the criminological value of social work interventions; and not by an interest in understanding the bottom level activity. Therefore, the negation of the symbiotic relationship between efficiency and decriminalisation went hand in hand with a disregard of the internal dynamics of the practice context. Similarly, as it was argued above, Pratt's negation of the possibility of a conflation of practice efficiency with the practices of decriminalisation was based on a limited understanding of the practice internal dynamics. Therefore the 1980s perception of the incompatibility of the two philosophies was linked with a limited understanding of the practice context, and in particular the context of the integrationist practice.

f) Conclusion 19: The 1980s anti-custodial/pro-youth ethos and the framework of professional understanding

In their writings a number of the 1990s authors indicated the anti-custodial or pro-youth ethos of the 1980s juvenile justice practitioners as being the driving force behind their day-to-day philosophy. In *'Out of Jail: The Reduction in the Use of Penal Custody for Male Juveniles 1981-88'* Rob Allen indicated in his short account the 'crusading zeal' and the 'anti-custody ethos' of the practitioners of the 'alternatives to custody'.[630] Pitts, in the *'End of an Era'*, indicated, in a similarly short account, the 'crusade' of the 1980s juvenile

[630] "[T]he 'alternatives to custody' movement has developed an almost crusading zeal, articulated most strongly in practitioner led groups such as the Association for Juvenile Justice and the National Intermediate Treatment Federation. This 'anti-custody ethos' has recently been described by Rutherford (1989)" (1991:49).

justice 'workers'.[631] In *Juvenile Justice 1945-1992*, Gelsthorpe and Morris did not use the term 'crusade'; nevertheless their short account of the 1980s practice retained the same spirit and tone as the two previous accounts.[632] Also, Wade's MPhil study indicated in a number of passages the existence of the anti-institutional, pro-youth ethos within the juvenile justice unit in Hampshire.[633]

Rutherford's account was more analytical. In his 1989 paper, *the mood and temper of penal policy: curious happenings in England during the 1980s*, Rutherford considered the 'confluence' of five features which somehow contributed to the 'sea-change' in the juvenile justice of the 1980s. 'The local nature of the reforms', 'reform thrust on the coal face', 'focus on process rather than programme', 'inter-agency collaboration' comprised four of the features on his list. The fifth feature was what Rutherford called 'the anti-custody ethos':

> "The creation of this climate, at the local level, reflects the powerful anti-custody ethos that has been imbued by social workers working with young offenders. In sharp contrast to the situation less than ten years earlier when social workers routinely recommended care and custodial dispositions (see e.g. Thorpe *et al.* 1980, p.74). The new ethos takes the form of an absolute dissent from sentencing juveniles to custody. The position extends beyond a refusal to recommend custodial sentences to the courts, encompassing a broad campaigning role with respect to custody" (1989:29).

Therefore all the above accounts, either short and descriptive or long and relatively analytical, highlighted the existence of a special anti-custody/pro-youth ethos within the bottom level practitioners. This ethos was said to be 'new' and 'powerful'. Importantly, the tone of the above accounts implied that this new special ethos was the critical driver

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[631] "For many juvenile justice workers in the 1980s the Intermediate Treatment Initiative was a crusade. It strove to deliver children and young people from the prison and restore them to their families. This goal was achieved, where it was achieved, by instituting interagency bureaucracies" (1992:143).

[632] "Towards the end of the 1980s, practitioners appeared to be in the ascendancy in controlling, from the ground, what happened to juvenile offenders and there was [...] a 'successful revolution' in terms of ameliorating an apparently harsh governmental response to juvenile offenders by 'managing' to keep many of them out of the system" (1994:983).

[633] "This small band of between ten to twelve [I.T.] practitioners, most of whom were of similar age and experience, had a very strong anti-custody and anti-institution ethos" (Wade, 1996:36). "The ethos of this group of social work practitioners was clearly anti-custody/anti-institutions was based on principles of minimum intervention, but their strategy and tactics were based organisational theory and systems management ideas" (1996:37).

which fuelled a crusading practice attitude which attempted (and succeeded) in keeping young people outside prison, or even outside the juvenile justice system. This was an important consideration as it treated the development of juvenile justice practice in the 1980s as the outcome of a powerful moral purpose; and not as the outcome of an internal process of professional development.

The interviewees, former leading practitioners, certainly provided a sense of moral purpose in parts of their accounts. In parts of their accounts, a moral dimension in the aims of their professional activity was evident. The pro-youth attitude was evident in the thinking of an interviewee, a former leading practitioner:

> "These are people who are testing out the boundaries. [...] There has to be some tolerance of people growing up."

Anti-custody/pro-youth ethos was also evident in the account of another interviewee, a former leading practitioner:

> "9 out of 10 kids experiment with breaking the law. Some of them who break the law, get caught and are poor, get severely punished...you just had to say 'it is not the right way of treating tomorrow's generation.'"

At the same time the pro-youth account of another interviewee, a former leading practitioner, revealed a strong emotional view about the problem of subjecting a young person to the formalities of court proceedings.

> "If you work with children you see that they are a very volatile product to work with. [...].In the courts, you have got all these various actors, this poor little soul sitting in the middle not understanding a word of what's going on".

Furthermore, in the account of another interviewee, a former leading practitioner, the pro-youth attitude was suggested as a driving force behind the day-to-day successful engagement with young offenders;

> "You couldn't do it just because you got a social work qualification. [In the project] we had all three of us enjoyed being with young people, and some of them were ...right bastards! That was our challenge. All of those kids have a warm side to them. [...]. Call me naïve, but I did believe that those kids had a side to them, that if we engaged with them we could find out what they can do. That was going to change what was happening for them."

Similarly, according to another interviewee, a former leading practitioner, the anti-custody ethos was the driver, which fuelled practice enthusiasm:

"They went into the job, because they didn't want young people to be locked up, they thought it was wrong. So, it wasn't just a job, you wanted to do it, you wanted to reduce the number of young people in custody. People like that were very enthusiastic."

Analysis of these kinds of accounts of the interviewees provided a pattern of thought, which is presented in a rather abstract form in the table below:

The strong interest in young people – a moral purpose	**The anti-custodial ethos – a moral purpose**	**The enthusiasm – the result**
They didn't want young people to be locked up. - It wasn't just a job, you wanted to do it.	They thought it was wrong. - You wanted to reduce the number of young people in custody.	People like this were very enthusiastic.

This pattern connects the interest in young people with the interest in the reduction of custody and finally with the psychology of practitioners. The pattern suggests that a moral purpose for the favourable adjustment of the position of young people in relation to the criminal justice was the primary source of the working enthusiasm of these practitioners. It was the power source which generated the enthusiasm of the 1980s practitioners in carrying forward their pro-youth agenda against custody. Following this pattern of thought it can be suggested that the strong pro-youth/anti-punitive morality of the 1980s juvenile justice workers was the power source which generated the mosaic of the efficient integration; and, critically, established minimum intervention and decriminalisation as the dominant practice policy of the 1980s juvenile justice.

This pattern of thought is evident in Gelsthorpe & Morris's short descriptive account where they said that:

"Towards the end of the 1980s, practitioners appeared to be in the ascendancy in controlling, from the ground, what happened to juvenile offenders and there was [...] a 'successful revolution' in terms of ameliorating an apparently harsh governmental response to juvenile offenders by 'managing' to keep many of them out of the system" (1994:983).

Similarly this pattern of thought is evident in Pitts's account:

"For many juvenile justice workers in the 1980s the Intermediate Treatment Initiative was a crusade. It strove to deliver children and young people from the prison and

restore them to their families. This goal was achieved, where it was achieved, by instituting interagency bureaucracies" (1992:143).

Both accounts placed the emphasis on the existence of a 1980s moral enterprise (working **"against harsh governmental response"** or **"[to] restore [children and young people] to their families"**) which caused the domination of minimum intervention at practice level. The idea of professional developments was seen as a necessary side effect (if not the necessary evil) which supported the moral enterprise (see above the phrases, **"by 'managing'"** and **"by instituting interagency bureaucracies"**). Therefore these accounts limited the practice internal dynamics of the 1980s only to the existence of a practice moral enterprise, (or, in their words, **"crusade"**), which was generated by practitioners' powerful moral judgements on the use of punishment on young people.

The present work has considered this approach to the 1980s practice internal dynamics as simplistic and certainly monolithic; as it limits our understanding of the domination of minimum intervention during the 1980s at the practice level. From the perspective of the present work, moral self-persuasions were not seen as sufficient enough to produce the domination of minimum intervention, a decriminalisation concept, at the 1980s practice level. In fact, accounts of the early 1980s, which were based on the 1970s experience of social work within the juvenile settings, always acknowledged the problem of the 'helping' intentions in supporting the expansion of the system. Thorpe *et al.* were certainly sceptical about the 'child saving' crusades within the justice system.[634] In the opinion of Thorpe *et al.* the expansion of the 1970s juvenile justice system was related to

[634] As early as in 1980, Thorpe *et al.* argued about the problem of placing the idea of a moral purpose enterprise in the forefront of our understanding of the juvenile justice process. Between pages 15 to 18, Thorpe *et al.* reviewed the wide institutionalisation that followed from the initiatives of 'child savers', a story dating back to mid-19th century. Even more, the case of the 1970s practitioners (modern child-savers) was particularly in the mind of Thorpe *et al.* Based on the rather negative experience of the past decade of juvenile justice practice Thorpe *et al.* indicated the following: "the child care services eventually joined the ranks of the significant definers and [...] became in practice more punitive than the probation service – not necessarily because they were punitive on principle, but primarily because they had a license to collect information about families even before their children were in trouble. By the mid-1970s they had developed and were in control of very large numbers of institutions to which delinquents could be sent" (Thorpe *et al.*, 1980:5-6). It was a clear warning of the dangers of a not properly considered moral enterprise of helping children despite the non-punitive intentions of the 'child-savers'. It was a warning about the inefficiency of moral self-persuasions.

the unclear 'helping' intentions of the 1970s bottom level workers.[635] The account of Thorpe *et al.* was not the only that stated this problem in the early 1980s.[636] The view that 'helping' interventions could place young people deeper into the system certainly survived in the memory of the leading practice in the late the 1980s;[637] as well as towards the end of the 1980s when the reduction of the juvenile justice system was explicit.[638] Moreover, it was the wide and thorough historical examination of the 1980s experience which placed the emphasis away from the criticality of a 1980s moral purpose as the driver behind the domination of minimum intervention. Indeed, the above accounts, especially those of Gelsthorpe & Morris and Pitts did not approach the sources of this period in detail. Their interpretations of the evidence of the 1980s were not based on a wide and thorough examination. On the contrary, and certainly interestingly, the case of Rutherford seems to be different.

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[635] The story of a social worker who "returned to the office from court angry that a child had been found not guilty of an offence" characteristically exemplified how the loose Lancaster group viewed the problems of the social work practice of the 1970s. As Thorpe *et al.*, indicated the social worker was angry "not because of her feelings about the offence but rather because, believing that the child would plead guilty, she had prepared a social enquiry report in which she had argued for a care order[;] [and] [s]he was angry because the 'not guilty' finding had denied her access to the child and his problems" (1980:92). In the eyes of the loose Lancaster group the well intentioned 'child saver' practitioner had confused welfare needs with the criminal justice interventions. Therefore from the perspective of Thorpe *et al.* the overexpansion of the juvenile justice system of the 1970s was partly related to the 'helping' intentions of the day-to-day social work practice.

[636] The same warning was tellingly expressed in the title of the 1982 paper of H.A. Thomas (Assistant Chief Probation Officer, Nottinghamshire) *The Road to Custody is Paved with Good Intentions*; a direct reference to child-saving intentions (a moral purpose for a number of juvenile justice practitioners) which in practice turned into the expansion of punitive solutions.

[637] Sue Ross, a leading practitioner of the 1980s, indicated that "Social Work intervention, whether it be for 'preventive' or 'heavy end' reasons (by which I suppose he means providing alternatives to custody), is ALWAYS intervention in a client's life by a statutory agency. [...] It is always clientising, criminalising and has the potential to 'up the stakes' in terms of how the child is seen by society and the Courts" (AJJUST, September 1987:5).

[638] Dennis Jones, in the brief article *the Rise and Fall of the 7(7) Care Order*, published in *AJJUST* in the 1990, argued that in the 1970s "it seems that social workers [under the provisions of the 1969Act] became very interventionist, placing masses of children in residential care and provoking a crisis in the 'Observation and Assessment centres'" (1990:5). Jones linked the very interventionist practice to the social work reform intentions coming from the period prior to the 1969 Act: "the heads of the Approved Schools [...] considered that their demonstrated failure to 'reform' young offenders was due to the fact that they got the offender too old, too late and for too little a time. The reorganisation of local authorities, together with the abolition of direct committal from the courts to the schools allowed the heads to put their ideas into practice [...] The 7(7) Care Order for 10-13 year olds was a crucial mechanism for this" (1990:5).

Rutherford was the first to explore the reasons behind the trends of the 1980s. As mentioned earlier his relevant 1989 paper *the mood and temper of penal policy: curious happenings in England during the 1980s* concluded the existence of a confluence of five 'features', including the anti-custody ethos as the fifth one. Interestingly, in his later publication, *Growing Out of Crime: the New Era*, Rutherford excluded the anti-custody ethos (and the anti-custody campaigning) from the five-features-list. In his preliminary examination the anti-custody ethos was moved to the conclusions-part of his preliminary research and was presented more like an outcome of the 1980s practice rather than as a cause. Indeed, Rutherford placed the anti-custody ethos as part of 'a sea-change in the working ideology' of practitioners which in the words of his interviewee Rob Allen was the development of an 'occupational culture'. In particular as Rutherford indicated:

> "The essence of the sea-change was neatly expressed by Rob Allen: "Juvenile Justice workers developed an occupational culture. They had a zeal, an enthusiasm for working in a particular way."" (1992:26).

Therefore Rutherford included the powerful 1980s anti-custody ethos as part of a developed occupational culture; in particular part of **"an enthusiasm for working in a particular way"**. In other words, in his second and more detailed study, Rutherford rightly observed the existence of a bigger picture with respect to the practice landscape of the 1980s course. The description of this bigger picture of a 1980s occupational culture was the main issue in the other important study of the 1990s; namely Sue Wade's MPhil thesis.

Sue Wade was also quoted above as one of the 1980s writers who indicated the anti-custody ethos as being one of the three main characteristics of the practitioners in a particular local setting. Minimum intervention and organisational and systems management were the other two.[639] A careful reading of Wade's study shows that the anti-custody ethos was not particularly discussed, nor analysed. Indeed, Wade primarily described the detail and the content of a new local occupational culture rather than the development of a local moral enterprise which was based on the pro-youth self-persuasions of the local practitioners. In fact, the content of this new occupational culture is what a number of sources of the historical memory of the 1980s have provided us with;

[639] "The ethos of this group of social work practitioners was clearly anti-custody/anti-institutions was based on principles of minimum intervention, but their strategy and tactics were based organisational theory and systems management ideas" (Wade, 1996:37).

namely a juvenile justice specialisation where the development of anti-custodial interventions was its one (but certainly not the only) dimension. This was observed by the present work in the analysis of the 1980s practice philosophy.

Indeed, the present work observed numerous sources which indicated the pro-youth/anti-custody dimension of the 1980s practice. For example, through the pages of the Initiatives (the journal of the NACRO), leading practitioners addressed questions of 'reparation' with emphasis on **"interesting work"** and also on the parallel need for **"social education"**;[640] whilst they suggested a form of supervision which considered **"essential"**; the need of **"support"** by **"encouraging the positive elements in a young person's life"**.[641] Pages of *AJJUST* accommodated articles with ironic comments on conservative policy papers;[642] or articles from the day-to-day practice airing the anti-custody/pro-youth ethos.[643] School reports also did not escape the strong critique of the *Just Welfare* column

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[640] In the brief paper *Starting new projects takes time,* published in *Initiatives*, Steve Johnson of the Sandwell Project in West Midlands described their reparation oriented program: "Each programme has three phases: 'induction' which involves a publicly visible service, (such as removing graffiti or repairing the effects of vandalism) and 'indirect reparation' (which involves more interesting work, for example, renovating canal boats for community use). Interspersed throughout the programme will be ten sessions of social education, in which we confront issues directly related to offending, such as law and rules and why we have them" (1984:3).

[641] John Errington of the Hilltop Project in Ilkley provided through the pages of *Initiative* a very interesting account about the intense supervision oriented program of Tracking: "Why Tracking? Court related schemes, which attempt to provide a credible alternative to custody, need to offer an adequate level of support and supervision to offenders as and when they are sentenced by the bench [...] Whilst monitoring a young person's movements is essential in this kind of scheme, the tracker's time and effort can be most profitably directed towards encouraging the positive elements in a young person's life" (1984:3,4).

[642] Through the pages of *AJJUST*, Jones made his ironic comment on the summary of a DHSS Social Services Inspectorate report concerned with local authority Children's Homes in England.
Summary conclusion of the report: "It is clear that these parents are unfit to look after children, have neglected the children's health and development, placed them in at risk situations and showed a lack of interest in their current well being and future needs. I would not hesitate in recommending that the Childhome children are taken into 'care'."
Jones' expressive comment: "..... which is where we came in .....!!".
(Jones, 1986:17,18).

[643] The case of Hart's article in *AJJUST* is characteristic, as the pro-youth orientation was particularly evident in several passages. Hart an IT senior social worker dealt with the case of 'Peter' "charged with an offence of arson [...] valued at £112,000".
Hart's comments on the young offender: Peter was "educational handicap (classified as being educational sub-normal), and of limited intelligence".
Hart's comments on the sentence imposed: "We were surprised and shocked by the severity of the sentence, - 3 Years Detention under Section 53.[...] I recall quite distressing scenes immediately

of the *AJJUST* when pro-youth attitudes did not prevail over their logic.[644] Lyon's mid-1980s fieldwork study on one alternative to custody project showed that young people were treated as project participants, and they were in the epicentre of positive oriented practice.[645] This pro-youth attitude was observed not only in Lyon's study, but was also apparent in other sources of the historical memory of the 1980s; a typical example is John Blackmore, Principal I.T. Officer at Hounslow Council. In his 1987 advertising article *Intermediate Treatment-A Realistic Alternative to Custody,* Blackmore wrote expressively about the **"'human face' of I.T.".** [646]

One issue with all these 1980s pro-youth/anti-custody accounts is that they were usually part of wider accounts which combined the 'helping' language with the 'punishing' language of the 1980s. These wider accounts accommodated the stereotypes of the two contexts, such as the constructive language of social work intervention with the

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after the sentence was imposed. The ensuing months were to have a devastating effect on Peter and his parents. He was taken to the local H.M. Remand Centre some ninety miles away from his parents. Here he had to be removed to the hospital wing for his own protection."
Hart's comment after the Detention Order quashed in the Court of Appeal and replaced with a supervision order and a ninety day 'Intermediate Treatment' requirement under Section 12(2): "Peter was overjoyed at being released and his parents were equally pleased. The outcome helped to restore some faith in human nature and the justice system."
(Hart, 1987:31).

[644] In the *AJJUST* column *Just Welfare* the content of a school report was present while a strong pro-youth comment followed:
Passage from the school report content: "He had bullied and physically abused other pupils of both sexes and by his disruptive behaviour deprived others of their chance of education. His attitude was one of a total disregard for the authority of school and its values and to the last showed no feelings of remorse or conscience about his actions. His very manner has been one of arrogance and intolerance towards others and a rejection of the help offered by staff."
AJJUST comment bringing into attention the young offender's side: "If you have not already guessed, this stroppy youngster had committed an offence of violence that was clearly school related. George, having persisted to hover around the school after expulsion, is an angry young man. His home is not too good and George and his brothers get bashed a bit by Mum's co-habitant(s)" (AJJUST, April 1987:3).

[645] "Comments by users, both past and present, illustrated their surprise and pleasure at the way in which project staff interacted with them, summed up by one young person who said 'it was quite fun over there'" (Lyon, 1991:193).

[646] Again, in the case of Terry, a 16 year old offender of 'disruptive' behaviour charged for domestic burglaries, the pro-youth attitude aired over accounts on Terry's potential, as the following: "Although he'd been a bit hesitant about helping at the project for mentally handicapped children, once he found out that the children valued his presence every week and the energy and fun he brought with him, he decided he'd like to carry on once his I.T. contract had finished 'then I'd be a proper volunteer, wouldn't I?' And he did for several months later" (Blackmore, 1987:4).

responsive and intense, individual-responsibility-oriented language of criminal justice. Therefore Blackmore, in the case of 'Terry'[647], also mentioned that: **"the I.T. staff [made] it clear that they expected him to honour his part of the agreement"** (1987:4); or, that, **"Terry got the message"** (1987:4). This language of individual responsibility was combined with a language, which indicated the intelligibility of constructive engagement in dealing with 'Terry's' offending behaviour: **"once [Terry] found out that the children valued his presence every week and the energy and fun he brought with him, he decided he'd like to carry on once his I.T. contract had finished 'then I'd be a proper volunteer, wouldn't I?' And he did for several months later"** (Blackmore, 1987:4).[648] This combination was evident in numerous sources of the historical memory of the 1980s where pro-youth ideas appeared to go hand in hand with intensive responses.[649] What was really the meaning of this co-existence? Could someone argue that the pro-youth ethos of those practitioners was not actually as strong as other sources have maintained? How could one interpret the accounts in the sources of the historical memory of the 1980s?

The present work has searched for those facts in the rich historical memory of the 1980s and attempted to interpret their underlying dynamism in the way that best appealed to a reasoned perspective.[650] According to the present work the perspective which can reasonably approach and understand the meaning of these accounts is the perspective that

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[647] See previous footnote.

[648] This form of language combination could be observed in all the examples contained in Blackmore's article. Therefore, in the case of Mike and Steve both aged 15 who went before the court on a robbery charge the programme which presented and actually accepted by the court comprised a 6 month period of supervision. The two languages could be recognised in Blackmore's account. He indicated intense programme provisions which "involved twice weekly attendance at a centre for group and individual work on the impact and consequences of the offence on themselves, their families and the victim." At the same time, the pro-youth tendency became apparent in the passage about Mike's community project for the demolition of an unsafe greenhouse: "Not only did Mike embark upon this excuse for legalised vandalism with gusto (ably assisted by our C.S.V. supervisor!), but he made such a good job of it that he was offered some extra (paid) work later" (Blackmore, 1987:4).

[649] See the following characteristic passage of an IT local programme: "Of 28 hours spent in our Centre each week, 16 are spent in work sessions but the other 12 are more relaxed and involve, for example preparing and eating lunch and general recreational activities" (Goggins, 1985:3).

[650] The present work certainly agrees with the very expressive view of Carr that "History consists of a corpus of ascertain facts. The facts are available to the historian in documents, inscriptions and so on, like fish on the fishmonger's slab. The historian collects them, takes them home, and cooks and serves them in whatever style appeals to him" (1987:9).

acknowledges the existence of a practice professional course which was developed throughout the 1980s; rather than the perspective of a moral self-persuasion of what-is-right-and-what-is-wrong which therefore clearly drove the activity of practitioners during the 1980s. Indeed, the idea that these practitioners clearly believed that custody was wrong and that being pro-youth was right, and therefore crusaded for the pro-youth solution, bypassed the practitioner's need to find out the meaning of **what** was pro-youth within the context of juvenile justice. Understanding the existence of this need for these practitioners is important because then one could easily realise that moral self-persuasions about the validity of the pro-youth solution did not constitute a sufficient arsenal for action.[651] Therefore, between the belief in a pro-youth solution and the development of an actual agenda of solutions there was something; and this something was what the present work has revealed, namely the professional course of the 1980s; a dynamic course evident in the underlying layers of the apparent over-activity of the 1980s integrationist practitioners. This professional course was responsible for the 1980s accounts which contained varied combinations of the pro-youth language with intense language; combinations which reflected the varied concern of those actors about the success of their professional course.

Indeed, in a number of sources the intense language was at the expense of the pro-youth ethos. The presentation of the LAC (83)3 Barnardo's projects in the 1989 DSS Conference "*Programmes for Young Offenders*" is a typical case.[652] In the example of

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[651] The dilemma of what we can pragmatically to do is evident in the account of a former leading practitioner, who undoutdly had strong moral objections about the value of the prison option:

"I think it comes from the fact that we start from premise that if you lock somebody up it will brutalise them, it would tend to make them more criminal rather than less. Then we have to deal with that because we say 'we don't like locking people up'. And so people say 'so what are you going to do with them then?, how are you going to protect society? how are you going to protect other young people?'"

[652] "[Barnardo's] programmes are designed to: Challenge offending behaviour; be credible with courts.
Barnardo's IT projects have attempted to meet these demands by including the following elements in all their programmes:
Programmes are tailor-made to meet the needs of the individual young offender. They address the unique context of the offence and the problems facing the offender which may be leading to offending behaviour.
Programmes address the concerns of the court – programmes are not a soft option. They place expectations of attendance and compliance with the order upon the young person. Programmes include a reparative element to address physical or emotional harm caused by the offence.

this presentation the interpretation-question is about the underlying meaning of the use of a strong pro-'punishing' language in the presentation of those practitioners. Was it a practice language which represented problematic practice beliefs/practices which undermined the pro-youth ideal? In the eyes of King, yes; this language was the representation of a failing juvenile justice practice ideology; an ideological failure.[653] However, was ideology the primary issue of the 1980s juvenile justice 'helping' practice? From the perspective of the present work it wasn't; while the presentation of the Barnardo project practitioners has been seen as a representative case of a professional IT presentation, which attempted to successfully address a varied policy context. Indeed, the question for the Barnardo project practitioners was how to establish the alternative-to-custody interventions, which were developed under the auspices of the IT Fund, in the eyes of a varied policy context. In other words, the presentation interests and concerns of these people were clearly professional, rather than ideological. Similarly, the overstating of anti-custody orientations, (evident in a number of accounts), was a reflection of practice professional development rather than of ideological/moral self-persuasion. This can be inferred from the analysis of other relevant accounts.

Characteristically, an interviewee, a former leading practitioner, indicated the practice policy empathy with the reduction of custody, in a particular local setting:

> "If the social enquiry report was not recommending or custody alternative didn't get it, I'd investigate that, I'd find out why; was your program lousy, was the Bench particularly right-wing or whatever. [...] If areas had very high levels of custody, we'd invite the Magistrate's to a presentation, we'd tell them what we were doing, we'd show them their custody figures".

What is the meaning that could be inferred from this account? Could it be argued that this account represented the driving force behind the 1980s powerful anti-custody ethos? Did

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Programmes challenge offending behaviour – to examine reasons for behaviour, to consider consequences, to find alternative strategies"
(NACRO, April 1990:29,30).

[653] In his article *The Future of the Juvenile Court*, King indicated "Recently developed social work practices of not providing or offering limited social enquiry reports, proposing offence-orientated intermediate treatment programmes as an alternative to custodial sentences or participating in cautioning committees all operate very much within the framework and spirit of a justice ideology. They may be mitigating the harshness of the repression, but they are not in any way undermining the philosophy of individual responsibility or the rationale of the tariff. Nor are they offering anything that resembles a rival ideology to that of justice" (King, 1990:13).

these local practitioners develop a crusade as a result of this ethos? Certainly this would be the interpretation of some of the 1990s authors. From the perspective of the present work the account strongly embodies the fruits of a process of professional development in action. The interest in the social report recommendation and the sentencing outcome; the investigation of what went wrong; the questions about the ideological attitudes of the bench and the program quality; the monitoring experience; and the audacity to invite magistrates and analyse the custody figures, all primarily reflected the wealth of 'helping' professional experience with respect to the roots of the pro-custodial sentencing process. The 'helping' group of these local practitioners, who aimed at the displacement of custody from the sentencing repertoire of this local setting in favour of the brand name of the 'alternative' program, acquired a deep understanding of the existence of a successful professional process of custody displacement. In turn, this successful process **was** the root of the local practice empathy, which was a professional empathy.

Therefore, from the perspective of the present work, both the above examples were adequately interpreted through the common perspective of the process of successful professional development which took place during the 1980s. Indeed, the varied concepts of these accounts have been adequately attributed to the same genitor, and have been seen as part of the same genealogy. This shows that even the anti-custody concept of the 1980s had a professional root of understanding, as did the intense program language. This does not mean that the present work does not recognise the existence of moral self-persuasions about the problem of custody and the need to be pro-youth. Strong moral judgements about the problem of custody probably, if not certainly, existed.[654] Nevertheless it was the

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[654] All interviewees provided a credible anti-custody account which indicated the problems of the custodial intervention. Probably the most successful account was provided by an interviewee, a former leading consultant with experience in the courtroom process. As the interviewee mentioned:

"There is a value judgement in whether someone should go to custody. There is a judgement to be made, which is not just about how serious the offence is. You know, it depends how you apply your own values to the situation to have to deal with objectively. It is again something that people don't see a lot of. The kind of decision-making that goes on in relation to court is often not based on any reason or sense or is unsupportable, really. It's, you know, nip it in the bud kind of philosophy. Nip it in the bud – all those kinds of words or *short, sharp shock* you hear that kind of attitude. You hear it may not be, it may be that this person might commit offences not commit offences but one of the things you can be sure of if they're in prison they're not committing offences anywhere other than in prison. So, it's a kind of potted philosophy. Sentencing goes on with this kind of potted philosophy about a lot of which is not, not supportable if you scratch the surface. It's about easy solutions. It's about, how to describe it? – it's a kind of working culture thing that you get in all organisations but you get it in the judiciary as well. There are ways of dealing with situations, which get you off the hook of having to make a proper decision by using a nice short

professional development context of the 1980s practice which gave meaning to these ideological or moral views. The professional process of practice development provided the professional, pragmatic answers to the **what**-question, which the 'helping' practitioners had to answer in relation to the meaning of anti-custodial/pro-youth practice within the context of juvenile justice. It was a long professional process of practice development which started differently in the life of the individual workers;[655] and always included a collection of valuable professional experience regarding the kind of interventions they should apply and the kind of support they could enjoy.[656] Therefore, the many years of involvement which these practitioners had with the professional complex environment of a juvenile justice setting taught them how to perform professionally within such environments. Moreover it taught them the professional meaning of concepts such 'pro-youth', 'efficient pro-youth practice', and 'efficient and integrated pro-youth

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phrase like, obviously they can't be running around offending if they're locked up. It doesn't deal with the longer term problem of they've got to come out sometime and [laughing] probably going to be worse at that time."
The account indicates therefore the shortcomings of custody nevertheless, it also important that it implies also its policy advantage within a sentencing context which is **'about easy solutions'**.

[655] "My background is youth work. I spent 12 years training as a full time youth worker in 1961 and spent 12 years running youth clubs. Then I came over to Social Services, when Intermediate Treatment started in 1973" (an interviewee, former leading practitioner).
"I did my social work course in Coventry, a good Social Work Department. One of our tutors was very, very keen on direct work with young people.[...] I wanted to work with young people. [...]I picked all [of my work placements] to be intermediate treatment in London" (an interviewee, former leading practitioner).
"I went to America on a scholarship where I looked at some of the work on juvenile delinquency. I looked at diversion programmes in New York city and some of there work on drug rehabilitation and some work they were doing on literacy and there use of volunteers to tutor people to get them back to school. It was these sorts of placements that were most important to me" (an interviewee, former leading practitioner).

[656] "[In] 1980 and 1981 they allowed me to work almost as a youth worker for one day a week. [...]. We used to go out for the whole day and do activities. It wasn't terribly planned and was activity based and we hadn't got into the modern progressive methods that they had already got interested in. It was quite basic stuff but it was trying to see these youngsters as people with development needs, needing a consistent adult who wasn't going to threaten them or give them stupid incentives. [...]. I worked with some social services people who were also thinking the same thing and who had also gone through the same sort of feelings of disillusion about their colleagues work with juvenile delinquents and most of these people would come into it to work with youngsters rather than to be social workers, one was an ex police officer and one was an ex teacher. So they had similar reasons as to why we wanted to work with young people, we were all based in statutory agencies and had to pay attention to what our agencies wanted but at the same time we carved out some space for ourselves to work in one day a week, it was a very good way of doing things. It was completely frowned upon by our agencies, so I'd got my team to agree that I could do it one day a week as long as I didn't bother them with it" (an interviewee, former leading practitioner).

practice'. [657] In short, the professional development process shaped the meaning of efficient and integrated 'helping' practice which, in turn attempted to reduce the custodial punitive solutions during the 1980s.

In conclusion, from the perspective of the present work, during the 1980s, the development of the practice professional ethos was more significant than the pre-defined practice anti-custodial ethos. The professional process shaped the anti-custodial/pro-youth ethos of the 1980s. As a result it seems difficult to argue, as some of the 1990s writers argued, that a single anti-custodial/pro-youth ethos was the critical factor behind the domination of minimum intervention. The 1980s anti-custodial/pro-youth ethos was an integrated part of the 1980s ascending professional ethos, and as such strongly interacted and contributed to the domination of minimum intervention and decriminalisation practice policies of the 1980s. Therefore the practice philosophy of minimum intervention and the broad application of the practice policies of decriminalisation were not primarily linked with an anti-custodial/anti-institutional empathy. The integrationist practitioners of the 1980s were not primarily driven by anti feelings but rather by the positive feeling of professional success; namely the success of their interventions within the process of juvenile justice.

g) The professional understanding of the meaning of minimum intervention the one key point of the present research

In looking for the reasons behind the domination of minimum intervention at practice level the present work has argued for the existence of a professional understanding of minimum intervention at the practice level. This professional understanding was characterised by the symbiotic relationship of decriminalisation and integrationist efficiency in the collective mind of the 1980s integrationist practice. Furthermore, the thesis of the professional understanding has minimised the critical significance of the anti-custody/pro-youth ethos, and therefore considered the ambition for professional success of those pro-

[657] A former leading practitioner remembers what issues concerned the writing of the reports in the 1970s and the 1980s: "The quality of the court reports twenty years ago was just awful. Social workers were recommending that children go to prison, they were recommending that they don't come out the other end, there was no understanding of family circumstances, or drugs or alcohol or poverty. So it wasn't surprising that the custody rates for kids were shooting up."

youth practitioners as the critical factor in understanding the value of the decriminalisation practice policies for themselves.

Therefore, in the important question posed by Rutherford **"how do particular sets of values find expression in the work of criminal justice agencies?"** (1994: 1) the present work, in relation only to the minimum intervention of the 1980s, has suggested that the process of professional development, the 1980s cycle of practice development, was critical for the understanding of the value of minimum intervention. As it is stated in John's book *Analysing Public Policy* **"by being the way in which people frame questions, give meaning to the world and propose solutions, ideas have a life of their own"** (1998:157). Paraphrasing John, the thesis has concluded that through the development of their own professional process, practitioners discovered an important professional meaning in the development of minimum intervention, and therefore the idea of minimum intervention became dominant in the practice life during 1980s. This conclusion was inferred from the appreciation of the value of the internal dynamics of the practice world.

However the present work has considered the interplay between the practice world with external contexts in order to understand further influences in the domination of minimum intervention at the practice level. The reason for looking at the influence of these contexts was not only based on the premise of modern organisational theory (which always indicates the need to appreciate the external influences on the life of an organisation). The main reason was the history of the 1980s itself. Indeed, the historical memory of the 1980s contains numerous accounts about the influence of some academics and other organisations on the direction of the juvenile justice practice of the 1980s. Therefore it was imperative that both the facts examination and dynamics examination be extended to the contexts of academic research and middle policy management. The relevant conclusions and observations are presented and discussed below.

h) Observations, findings and conclusions about the contribution of the 1980s national network, middle management, and the academic influence.

i) The national network and middle management

20. The facts examination indicated the existence of the 'national network' which was unearthed directly from the historical memory of the 1980s. Components of the 'national network' seemed to be:

- particular sections of NACRO dealing with juvenile issues, the JOT (established in 1983 by the LAC83(3) DHSS IT Initiative) and the JCS;
- the practitioners organised campaigning organisation of AJJ (from 1984 onwards); and,
- the training-orientated NITFed (mainly in the first part of the 1980s).

21. The facts examination has shown that the 'national network' supported and distributed to the juvenile justice practitioners a twin agenda of ideas which covered:

- the need for practice efficiency (research and monitoring) and practice integration (inter-agency panels and gaining confidence of the other participants of the system) within the local juvenile justice settings;
- the need for diversion from institutions and the need for greater use of cautioning.

22. The facts examination has indicated that the above issues were supported by several middle level policy managers; namely, Chief Probation Officers, Directors of Social Security and Chief Constables. It must be noted that the present work particularly indicated the support of the middle level policy to the latter set of ideas concerned with the diversion from institution and the use of cautioning. With respect to the former set of ideas the middle level seemed to particularly support the development of inter-agency panels within the local juvenile justice settings.

ii) The academic influence

23. With respect to the academic influence it has been concluded that the transition to clear practice rhetoric of integrationist efficiency encrypted the academic legitimacy. The academic communicative activity of the loose Lancaster group

offered this to the fragmented practice innovations and ideas in the early 1980s. The academic communicative activity supported the leading practitioners who were searching for a 'legitimate style' of work, and a legitimate practice policy discourse which believed in efficient and integrated practice. The leading practitioners could therefore clearly propagate that to be efficient and part of the system was compatible with the pro-youth values of the social work profession. It was an important transition in practice policy rhetoric of that time, and occurred as a result of the academic contribution.

24. Examination of sources of the historical memory of the 1980s also demonstrated that the academic activity contributed to the modification of the transition to the recognition of the need for a reduced scope for juvenile justice practice. In particular, by introducing a number of theoretical issues into the self-learning process of crafting efficient integration, the academics/researchers managed to establish minimum scope and the means to achieve it as integral parts of the discussion about the content of the efficient juvenile justice practice of the 1980s.

25. Accounts of the historical memory of the 1980s therefore suggested that the academic contribution to practice evolution could be seen as both significant and instrumental because they addressed the professional needs of the practice context which were driven mainly by the need to achieve success. Similar accounts suggested the 'leadership' or psychological 'leadership' view about the impact of the academic influence on the learning course of the 'helping' professionals. Hence, the transition to minimum intervention and to the dominant ascendance of the 'helping' practice of the 'de facto decriminalisation' were seen both as the outcomes of a process, where the leading role of the ideas and the rhetoric of the loose academic group was of paramount importance. However the present work has explored the limits of this view.

26. An examination of the sources of the historical memory of the 1980s has shown that a number of juvenile justice practitioners believed that there was a lack of academic 'leadership' during the latter part of the 1980s. Their views more or less echoed the views of the wider practice context. Therefore any account, which supports the 'leadership' contribution of the academic activity in the transition to the practice policies of de facto decriminalisation, should take into account that the

physical presence, or the argumentative impact of this activity was, for various reasons, practically absent during the latter part of the 1980s.

27. The 'national network' exercised considerable power over the day-to-day development of a practice policy discourse. Examination of a number of sources has shown that they were important in providing practice views with a national supportive space for the development of a technical language; and at the same time they were instrumental in sustaining the direction of the practice policy discourse towards the need for efficiency, integration and decriminalisation practices.

28. The function of the middle policy level naturally impacted on the psychology of the bottom level juvenile justice practitioners who actively attempted to introduce the practice policies of de facto decriminalisation. Indeed, the examination of sources from the historical memory of the 1980s has shown that several senior managers steadily endorsed the innovative 'helping' activity of groups of juvenile justice practitioners. As a result, the integrationist practitioners steadily developed the feeling that the application of those practice policies constituted the implementation of a legitimate and successful policy agenda in the area of juvenile justice. In other words, they felt that a successful juvenile justice practice which was based on the framework of de facto decriminalisation was a legitimate professional success. As a result, they were able to argue about these policies within the context of the local juvenile justice settings. This can be observed in sources of the historical memory of the 1980s.

29. With respect to the influence of these surrounding close environments in the domination of minimum intervention at the practice level, the overall conclusion of the present work is that their influence was significant but not critical. Indeed, from the perspective of the present work the practice cycle of professional development was the critical factor.

i) A discussion of conclusion 29: The limits of the external contribution

The contribution of the above policy players (loose academic group, 'national network', senior managers) should be limited to particular aspects of policy development; namely the organisation of the introduction and legitimatisation of the concept of minimum intervention within the practice context. These policy players/participants who were close

to the 'helping' practice microcosm of the 1980s (either because they intended to be close, such as the loose academic group and parts of the 'national network'; or because they had to be close, such as the senior managers and parts of the 'national network'[658]) played an important role in the organisation of the practice discourse within the practice context during the 1980s. The theoretical authority of the academic group was important for the introduction and legitimacy of the decriminalisation ideas into the practice context. The theoretical authority of the academic group was also important for the legitimacy of efficiency and integration within the practice debate of the early 1980s. The senior managers with the hierarchical authority were also important for the legitimacy of the de facto decriminalisation ideas and the definition of 'helping' success at local level. Finally the 'national network' controlled the co-ordination of the practice debate on these concepts ensuring therefore the steady circulation of the dominant practice language.

In particular, the academics played a leading role in the introduction of de facto decriminalisation ideas at the practice level. Indeed, the examination of sources which contained accounts of the practice ideas has shown that in the early 1980s practitioners did not recognise the primary value of minimum intervention and decriminalisation practices for their 'helping' practice.[659] Nevertheless, it should be noted that thereafter the understanding that practitioners developed about the value of minimum intervention/decriminalisation practices was distinct from that which they were introduced to by the loose academic group.

As Gramsci indicated:

> "Every religion, even Catholicism [...] is in reality a multiplicity of distinct often contradictory religions: there is one Catholicism for the peasants, one for the *petits-bourgeois* and town workers, one for women, and one for intellectuals which is itself variegated and disconnected" (:420).

Gramsci's statement about religion as being a **"multiplicity of distinct often contradictory religions"** also constitutes an example of the philosophy of minimum intervention in the 1980s. In particular, an examination of the sources reveals that the academic conception of minimum intervention provided to practitioners a negative understanding of the value of

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[658] Senior managers had to be and actually were close to juvenile justice units/practitioners; because these juvenile justice units/practitioners were part of the subordinate hierarchical levels which these superior senior managers supervised or even managed. The members of NACRO-JOT also had to be close to juvenile justice practitioners because this was a contractual duty which derived from the provisions of the IT Initiative which founded and funded the NACRO-JOT.

[659] See chapter 9.i(ii).

this criminological concept. The account of an interviewee, a former member of the loose Lancaster group, has provided us with the gist of the pro-diversion academic rhetoric towards the practice world. As the interviewee mentioned:

> "we'd kind of won people over to the view that it should all be about reducing custody, that if you really looked at what went on in custody, it was so negative to young people that your only responsible course of action was to try and stop them going there".

The same interviewee also provided us with an interesting account about the reaction of practitioners towards de facto decriminalisation, during the early period of the 1980s.

> "when we first started arguing for diversion, we were bitterly attacked by social workers because it appeared to be an attack on them. I mean, you know, you stand up to a group of social workers and say, 'you're very nice, well-intentioned people but actually what you do is make people worse' – you don't win many friends [laughing]. And so diversion was, you know, quite a difficult argument to get across."

The two accounts highlight the main academic argument in favour of diversion, in favour of decriminalisation, and in favour of minimum intervention; namely the criminological evidence which pointed to the negative effects of intervention, both custodial and social work oriented, on young people. In other words, academic rhetoric asked the 'helping' juvenile justice practitioners to be anti-custodial, non-interventionist and pro-diversion; because their interventions, namely their professional activity which was part of the criminal system, was "so negative to young people", or they made "people worse"; so their "only responsible course of action was to try and stop them going" to prison through diversion and not through more social work. It was the concept of minimum intervention which only negatively related the value of decriminalisation practices to the development of forms of 'helping' activity within juvenile justice. This negativism did not appeal to practitioners; because they could not see the relevance of minimum intervention to the development of their expertise. This practice scepticism is stated in the second account where the interviewee mentioned firstly how they envisaged **"the attacks"** of the practitioners; and secondly that **"diversion was quite a difficult argument to get across"**. It was undeniably difficult to make practitioners understand the value of decriminalisation practices; as none of those academics were able to enrich those concepts with the practice cycle experience which provided the positive connection of minimum intervention to the bottom level practitioners profession.

In sum, minimum intervention was introduced to practice microcosm by the academic context (and other surrounding contexts); nevertheless, it became understood and potentially established only when it was tested within the cycle of practice development; namely, when it interacted with the practice internal dynamics of professional needs of the *peasants* of the juvenile justice system. Therefore from the perspective of the present work the development of the practice professional cycle which provided the *distinct* professional understanding was the critical factor behind the domination of minimum intervention at the practice level. Nevertheless, one can counter argue that elements of the academic conception of the value of minimum intervention appears to have been a strong part of the practice rhetoric. One of the final chapters in Susan Wade's MPhil study entitled *Future Directions-'The Struggle for Continued Focus'* constitutes an exemplary example.

In particular, under the sub-heading *Future Directions: Offenders or Adolescents*, Wade discussed the external pressures and the struggle of the local practitioners to keep their operational scope of their successful local unit unaffected by higher hierarchical suggestions which aimed at the widening of the practice professional scope.[660] According to Wade the local integrationist practitioners were deeply concerned about the potential widening of the 'focus' of their activity. Interestingly, the language which expressed their concerns was dominated by the ideas of the academic/research conception of minimum intervention. In the long paragraph which accommodated these concerns, Wade indicated the inter-related issues of netwidening and labelling as problems which would arise from a change in professional focus:

> "The units accepted that these issues and more particularly homelessness and unemployment, were important underlying social issues that affected juvenile delinquency, but were concerned that the traditional agency responses of identifying

[660] "By the middle of 1988 [...] social services managers were beginning to question the exclusive focus on juvenile offenders and were making suggestions about extending the service to meet the needs of adolescents generally [...] An external inspection by the Department of Health's Social Services Inspectorate was being completed during this period and although it was supportive of a specialist juvenile offender service, the Inspector had suggested various other adolescent issues with which the units could become expert; drug and alcohol dependency and sexual offences being the major examples" (Wade, 1996:91).
It must be noted that questioning the 'exclusive focus' of their activity did not mean a rejection of the content of their efficient 'helping' practice. The questioning of the exclusive focus was rather an inference which derived from the recognition of the expertise potential of the efficient 'helping' practitioners of the local juvenile justice setting. Nevertheless, it was obvious that the DHSS Inspectorate did not have an understanding of the relevance of the exclusive focus on the practice access.

individual families and providing services to them, would have the same unintended consequences of netwidening as the previous intermediate treatment services in the 1970's and 80's. The units' foundation policies of minimum intervention and the avoidance of labelling were at risk, as they anticipated that the social services department would not be able to devise a strategy that involved universal access and general community development in order to provide services to adolescents without labelling individuals as 'delinquent' and thus contributing to netwidening" (Wade, 1996:91).

At the end of this paragraph Wade briefly referred to the professional 'concerns' about sustaining their capacity:

> "There were further concerns about being able to spend sufficient time on the persistent offender cases, if others demands were made" (Wade, 1996:91,2).

This brief reference, at the bottom of the relevant paragraph, accommodated the concerns which derived from the distinct professional understanding of the symbiotic relationship between minimum understanding and 'helping' efficiency.

Therefore this account from Wade's work shows that practitioners argued about their concerns from the widening of their professional scope (which also constituted a widening of the juvenile justice system where they were employed) by using mostly academic/policy ideas rather than using ideas deriving directly from their practice experience. In other words, the logic of the professional understanding did not particularly contribute to their rhetoric. What is the meaning of this imbalance in the rhetoric of this local unit of integrationist practitioners? The meaning of this imbalance is that the content of the rhetoric reflected the power relations between the lower levels of the juvenile justice system, (the practitioners), with the higher levels of this system, (namely the middle policy management people). As a result of these power relations, the practitioners had to be bi-lingual and therefore able to talk the minimum intervention language of the more powerful surrounding contexts.[661] Inspired by Gramsci, it can be said that the "peasants" of the juvenile justice system had to talk the policy language of the "*petits-bourgeois*" of the system. In the late 1980s, the good news for those "peasants" was that in a number of surrounding policy contexts the minimum intervention language of the "intellectuals" provided a legitimate policy discourse. Indeed, within the external surrounding context of

[661] This was a lesson that integrationist practitioners learnt and applied from the early years of the 1980s; namely, to appreciate the language of the others.

'national network' and in a number of senior middle policy management contexts, the legitimacy of minimum intervention was founded on academic/research sponsored ideas such as netwidening, labelling, and the negative effects of custody.[662] Therefore the rhetoric of those local *peasants*, in order to be successful, was that it was better to adopt ideas deriving from the legitimate academic understanding of minimum intervention rather than from their own professional understanding. Their professional understanding mattered critically, but only for the legitimacy of minimum intervention within their local practice context. The analysis of Wade's story certainly exemplifies the reason behind the wider usage of another conception of the value of minimum intervention; and undoubtedly indicated the legitimacy function of the academic contribution. Nevertheless this contribution cannot be seen as critical, but rather as of significant importance for the historical process of the domination of minimum intervention at the practice level during the 1980s.

j) The issue of the influence of the distant top in the domination of minimum intervention at the practice level

With respect to the important question posed by Rutherford, **"how do particular sets of values find expression in the work of criminal justice agencies?"** (1994a: 1), the present work, in relation only to the minimum intervention of the 1980s, has:

- underlined the critical importance of the process of professional development, the 1980s cycle of practice development (gaining the professional understanding of the concept);
- appreciated the content and evaluated the limits of the contribution from the loose academic group, the national network and the senior middle management.

However, the question which further tantalised the present research was that of the critical forces behind the fearless use of down tariff disposals from the bottom level practitioners within numerous local juvenile justice settings. Paraphrasing Rutherford's question, the present work asked: how do particular sets of values (such as the 1980s minimum intervention which downsized the scope of the justice system) find fearless expression

[662] I mean the rhetoric of the loose academic group.

within the work of criminal justice agencies? This was a question which clearly directed to the impact of the distant policy top.

The interest of the present work in the function of the distant policy top and its impact on working psychology was certainly based on theoretical premises. Organisational and policy studies theory have pointed to the policy level. The present work has particular considered and been benefited by the work of Edelman who pointed to the **'political setting'** which provides the logic towards the **'solution of the problem'**. According to Edelman this logic creates the space wherein administrative organisations will act (1985:103). Edelman's work certainly influenced the present work in looking towards the policy top as the level which impacted on the fearless use of minimum intervention. Nevertheless, the most important reason behind the interest in the psychological impact of the distant top was the sources of the historical memory of the 1980s, which clearly pointed to the criticality of this hierarchical level.[663] Therefore the present work has explored the impact of the distant top on the domination of minimum intervention at the practice level. Firstly, the facts examination of the present work provided a picture of the content the of the policy level juvenile justice philosophy/agenda/rhetoric.

i) Observations, findings and conclusions about the content of the policy level philosophy/agenda/rhetoric during the 1980's.

30. Based on sources of the historical memory of the 1980s the present work observed that throughout the Conservative period of the 1980s, the Home Office officials, at the policy level and even at the political level, de-emphasised the importance of criminal justice as the mechanism to deal with young people's behaviour.

- The importance of the juvenile justice system was de-emphasised indirectly through a policy rhetoric which placed the criminal policy interest on the function of other than the criminal justice pillars of the social structure, such as 'home and school'.

- At the same time, the importance of the juvenile justice system was de-emphasised directly through the existence of a socio-liberal oriented, two-dimensioned conservative juvenile justice agenda/rhetoric. The present work focused only on the exploration of the content of the latter.

[663] See chapter 8.h.

31. The present work identified the anti-custodial/anti-institutional orientation as the one dimension of the conservative juvenile justice agenda/rhetoric.

- This dimension can be indirectly exemplified by the progressive failure of the '*short sharp shock*' which constituted the electoral conservative policy paradigm of the 1979 elections. Interestingly, and paradoxically, the conservative government rhetoric never really came to the rescue of their policy idea; an observation which indirectly shows the anti-custodial direction of the 1980s policy agenda.
- Indeed, the facts examination of the present work showed that this paradoxical attitude was consistent with the wider conservative anti-custodial/anti-institutional rhetoric which discredited the value of custody and clearly considered it to be the 'last resort' of the conservative juvenile justice sentencing policy.
- The present work therefore concluded that the last-resort anti-custodial rhetoric which undermined the importance of custodial solutions directly exemplified the one dimension of the conservative juvenile justice policy logic/agenda/rhetoric of the 1980s.

32. According to the present work the second dimension of the conservative juvenile justice agenda/rhetoric was dominated by the endorsement of the diversionary sentencing framework of the 1980s. The present work concluded that the diversionary sentencing framework of the 1980s, which was a *de facto* decriminalisation framework[664], was directly exemplified:

- within the court-room phase, by the down-tariff direction with respect to the use of the alternative to custody non-custodial options;
- at the pre-court phase, by the endorsement of cautioning, second cautioning and even multiple cautioning.

33. The present work suggested that the policy logic which supported the two-dimensional conservative juvenile justice agenda/rhetoric could be summarised in

[664] The relevant agenda/rhetoric matched the definition of the 'de facto decriminalisation' as it was described in the *Council of Europe, Report on Decriminalisation*: "the phenomenon of (gradually) reducing activities of the criminal justice system for certain forms of behaviour or certain situations although there has been no change in the formal competence of the system"(EUROPEAN COMMITTEE ON CRIME PROBLEMS, 1980:14).

the 1980s policy philosophy of minimum intervention. According to the present work the content of this policy logic could be clearly observed in the words of a former home office senior civil servant: "Minimum intervention as we saw it in the '80s was not just leaving kids alone to get on with it and hope they'll grow out of crime, **it was don't criminalise them**" (emphasis added). The two-dimensional conservative juvenile justice agenda/rhetoric was therefore based on a logic which negated the value of the criminalisation process; in other words the two dimensional juvenile justice agenda/rhetoric directly exemplified the meaning of the minimum intervention logic of the 1980s.

The critical question for the present work was how the above policy content impacted on the practice level. A facts/dynamics examination gradually addressed this question.

k) The function of the policy level philosophy/agenda/rhetoric during the 1980's

34. The present work has observed that the two dimensions of the 1980s juvenile justice policy logic/agenda/rhetoric were substantially mirrored in the language of the 'national network' and the language of middle management documents, which legitimised the activity of the bottom level practitioners.

35. The first conclusion of the present work was therefore that the top policy rhetoric constituted the primary source of the necessary legitimisation for the development of the bottom level decriminalisation practice policies; a linguistic umbrella of legitimisation.

36. Further examination of the sources of the historical memory of the 1980s has shown a further quality of the top policy rhetoric; the ten years of consistency. Indeed, the examination has shown that the legitimisation function of the linguistic umbrella was never disturbed by the top policy rhetoric. The policy top held a steady anti-custodial and pro-decriminalisation rhetoric for a period of ten years.[665]

37. According to the present work the consistency of the dual policy rhetoric (anti-custody and de-facto decriminalisation) provided a stable policy environment for

[665] See chapter 9.g; discussion about 'turning points' and the absence of populist rhetoric.

the middle management which could constantly endorse anti-custody and diversionary practice policies within juvenile justice.

38. The second conclusion was therefore that the policy top was not only the primary but also the critical provider of the legitimisation of the practice policies of de-facto decriminalisation.

39. Therefore throughout an evolving ten year period both the policy top and the dependent middle policy level steadily carried the legitimacy of the practice policies of decriminalisation. In other words, they provided a legitimate direction to the bottom-level practice world about the practice policies of the de facto decriminalisation; the down tariff through de-seriousnessization practice policies of the courtroom and the (multiple) cautioning. Therefore integrationist practitioners gradually developed the feeling that the application of those practice policies constituted the implementation of a legitimate policy agenda in the area of juvenile justice. As a result, they were able to argue with empathy about these policies within the context of the local juvenile justice settings.

i) Discussion of conclusion 39: The importance of a stable criminal policy

In *'Risk, like regulation, is a fact of life in a democracy'*, Christopher Haskins[666], with particular reference to criminal justice, indicated the following about modern British government regulation:

> "Innumerable, hastily prepared modifications to criminal justice laws and civil liberty laws do not appear to have been very effective, only confuse the public and the enforcers alike and have resulted in a one-third increase in the prison population" (2007:11).

Basically, Haskins indicated the lack of steady regulation as a problem of the New Labour criminal regulations. Also Musson, in his paper *'Second 'English Justinian' or Pragmatic Opportunist? A Re-Examination of the Legal Legislation of Edward III's Reign'*, indicated 'constancy' and 'durability' and 'consistency' as three 'pre-eminent' qualities of Edward III's important medieval legislative production (2001:71).

Similarly, the present work has highlighted stability, consistency, and steadiness as the important qualities in the 1980s juvenile justice policy rhetoric. Furthermore, the

[666] Lord Haskins, former chairman of Better Regulation Task Force.

present work has shown the criticality of policy stability by connecting it to the development of the juvenile justice practice of the 1980s and in particular to the domination of the minimum intervention at the practice level. Unlike the New Labour policy/regulation rhetoric which, according to Haskins, confused the enforcers; the 1980's policy rhetoric (because of its consistency) indicated to middle management, and in turn to practitioners, that de facto decriminalisation practice policies constituted the legitimate philosophy of the decade. Practitioners therefore developed a stable working psychology and were not confused about the legitimacy of their juvenile justice innovations; therefore fearlessly developing the de-facto decriminalisation practice policies.

However, for the present research the critical question was whether the de-criminalisation policy choice, by being the sole content of the 1980s policy rhetoric, had any impact on practice dynamics other than the legitimacy function only. In addressing this issue, the present research moved deeper into the examination of the interaction between juvenile justice practice and policy top during the 1980s by considering the inherent qualities of the 1980s criminal policy rhetoric; namely, the qualities of the de-criminalisation policy choice itself, in relation to the domination of the minimum intervention at the practice level.

ii) Observations and conclusions about the inherent qualities of the 1980s criminal policy rhetoric

40. The present work has observed that the conservative agenda/rhetoric, which considered custodial options to be a last resort, was never associated with the support of an alternative framework of social work interventions which would effectively manage juvenile delinquency away from custody or prosecution. Instead, as the present work concluded, within the de facto decriminalisation framework of the 1980s policy rhetoric, substantial social work interventions were treated much like custody; as the last resort!

41. The present work has also observed that during the 1980s, the rhetoric of the policy top did not set effectiveness of social work interventions in changing juvenile behaviour and reducing the national crime rate as an iron policy objective. As the

present work has noted the criminology of effectiveness was absent from the juvenile justice policy rhetoric of the 1980s.

42. The present work therefore argued that the policy rhetoric was consistent with the don't-criminalise-them policy logic of the 1980s minimum intervention which considered school and home to be the primary contexts to deal with juvenile behaviour at the expense of any expansion of the juvenile justice interventions.

43. According to the present work, this consistent minimum intervention rhetoric had a positive impact on the working psychology of the juvenile justice practitioners; as it liberated practitioners' prospects for professional development from the 'tyranny' of the criminology of effectiveness. Instead juvenile justice practitioners were allowed to broaden their self-learning process; namely to take a lot of risks, succeed or fail, evaluate the effectiveness of their interventions, evaluate the impact of the culture of their settings; and therefore acquire a good understanding of the limits of the meaning of success within the context of juvenile justice. In other words, the consistent choice of the policy top for a criminal policy agenda of decriminalisation/minimum intervention allowed juvenile justice practitioners to be the ground strategists of juvenile justice practice policies.

iii) The control element of minimum intervention: the second key point of the present research

According to an interviewee, a former Home Office senior civil servant, creating conditions for practitioners in order to achieve things rather than issuing detailed plans, was the kind of policy implementation strategy that was considered efficient within his policy field during the 1980s:

> "I think starting from a professional belief of my own, that is what in the end makes a difference: More than policy decisions or management direct actions issued from the top it is the business of government departments, government senior managers **to create the conditions in which practitioners can achieve things rather than provide in detail what they're supposed to do.** You can achieve a certain amount by doing that and there are some organisations where maybe that's what you have to do" (emphasis added).

In chapter six, the present work has shown that this strategy of the distant top was actively responsible for the development of the bottom level self-learning process of crafting efficient integration. The discussion involved references to Mintzberg's article *'Crafting*

Strategy' and it was concluded that, gradually during the 1980s, integrationist practitioners were allowed to become the strategists of the ground, as a result of the above 'smart' policy implementation strategy.

The 1980s minimum intervention or otherwise de facto decriminalisation policy logic/agenda/rhetoric had exactly the same impact. In other words, the 1980s consistent criminal policy of minimum intervention constituted a criminal policy implementation strategy which allowed the development of professional criminal policy strategies of the ground. In particular it encouraged the development of a professional understanding of the symbiotic relationship between 'helping' efficiency and de-criminalisation practices.

As a result, it can be argued that:

- the strategic choice of the 1980's policy top for a criminal policy of consistent minimum intervention logic
- practically allowed the development of the practice cycle,
- which, in turn, provided to practitioners the professional understanding of minimum intervention,
- which justified in practitioners mind need for the domination of minimum intervention at the practice level during the 1980s.

Therefore the aspect of the criminal policy of minimum intervention as a mechanism of organisational control which affects the practice thinking constitutes the second key point of the present research.

I) What is the value of the present research?

i) The value of the facts/dynamics examination in conceptualising the 1980s minimum intervention idea

Studies such as *'Criminal Justice and the Pursuit of Decency'* have posed questions which have attempted to understand the deeper layers of the function of the criminal justice systems. As Rutherford mentioned in his study **"Remarkably little is known about the beliefs and sentiments that impact upon the work of criminal justice practitioners"** (1994a: *Preface*); indicating therefore the need for a kind of research which will not simply

describe the surface of the criminal justice activity but rather will look deeper and answer the question: **"how do particular sets of values find expression in the work of criminal justice agencies?"** (1994a: 1). As mentioned above, this was the driving question of the present research: *"how did minimum-intervention find expression in the work of the bottom-level 'helping' practice of the 1980s juvenile justice system?"*

In order to address this question the present work went beyond the collection of facts from the every day life of the system. This is not to say that the every day life of a past system is not important. In fact the recovered mosaic of the 1980s integrationist practice proved to be highly interesting. Nevertheless, from the perspective of the present work it was more important to find the meaning of this mosaic; to find the dynamics, either internal or external, behind this mosaic; and to find the critical dynamics behind the domination of minimum intervention. This journey into the historical memory of the 1980s provided us with a deeper understanding of the concept of minimum intervention. Indeed, by trying to understand how this philosophy became dominant at the 1980s practice level, the present work has gained multiple insights into minimum intervention and decriminalisation,[667] both of which are historically bound by the particularities of the 1980s English-Welsh Juvenile Justice Process.

The deeper understanding of the 1980s domination of minimum intervention, which has always been seen from the perspective of the practice level, has provided two dimensions to the philosophy of minimum intervention, and these correspond to the dynamics of two organisational hierarchical levels. One dimension shows that the minimum intervention of the top embodied a 'smart'[668] policy implementation strategy. In other words, the 1980s minimum intervention/de-facto decriminalisation policy idea of the distant top embodied the inherent value in allowing the lower levels of the juvenile justice system to become dynamic ground strategists and therefore develop penal practice strategies from the ground. The second dimension shows that the 1980s dynamic practice level (the ground strategists of the 1980s) linked the minimisation of the penal scope with the increase of 'helping' penal efficiency (the acquisition of the professional understanding of the minimum intervention). In other words minimum intervention was closely linked to juvenile justice practice efficiency. The two dimensions together can be

[667] It must be noted that the deeper insight in the meaning of minimum intervention did not aim at the construction of a new definition of minimum intervention.

[668] The 'smart' word is borrowed from Mintzberg's terminology.

summarised as follows: the minimum intervention of the 1980s juvenile justice was a criminal policy implementation choice which allowed the performance of the 'helping' practice level to increase through the reduction of the scope of the local penal settings. It must be noted that this summarised understanding can be misleading if it is not viewed in conjunction with the rich analysis of information contained in the historical memory of the 1980s.

ii) The present work understanding of minimum intervention as an alternative understanding

Nevertheless, this summarised understanding certainly points out the different angle through which minimum intervention has been approached in the present work. Indeed, Schur's 1970's work, entitled *'Radical Non-Intervention – Rethinking the Delinquency Problem'*, provided an analysis and therefore an understanding of minimum intervention which focused on the recipient of penal interventions, (namely the young people); rather than the practitioners of the juvenile penal system. The question of this 1970's study was how to approach and understand the 'delinquency problem'; rather than the organisation of the juvenile justice process. It is important to note that practice development did not escape the authors' attention. For example, in pages 130-135, Schur explicitly pointed to practice in two sub-chapters entitled *'The Organizational Factor'* and *'Organizational Needs'*. Again, however, the interest of the author was in understanding the delinquency problem rather than understanding the practice which deals with the problem (or the non-problem). Therefore Schur did not try to understand practice, but only how the bureaucratisation of practice affected the 'individual clients'. Certainly Schur's work can be read differently. Numerous accounts about treatment practice contained in the book can allow us to approach the practice thinking. For example on page 57 we can read about 'supervision on probation':

> "Similar to individual treatment is supervision on probation in lieu of commitment to a juvenile institution. As in voluntary referrals to counselling, the hope here, particularly with first offenders, is to 'nip in the bud' the individual delinquent proclivities" (1973:57).

From the perspective of the present work the 'nip in the bud' practice attitude towards first offenders is an important issue to consider because it represents a working penal thinking. From Schur's perspective that was not the issue. The 'nip in the bud' attitude indicated

only the failure of the system, and the need to think beyond the system. Hence in the final chapter, titled *'Radical Nonintervention'*, Schur indicated:

> "We can now begin to see some of the meaning of the term 'radical non-intervention'. For one thing, it breaks radically with conventional thinking about delinquency and its causes. Basically, to the wildest possible diversity of behaviors and attitudes, rather than forcing as many individuals as possible to 'adjust' to supposedly common societal standards. This does not mean that anything goes, that all behaviour is socially acceptable. [...] Thus the basic injunction for public policy becomes: *leave kids alone wherever possible*. This effort partly involves mechanisms to divert children away from the courts but it goes further to include opposing various kinds of intervention by diverse social control and socializing agencies" (1973:154,5).

The present work has offered an extra, alternative understanding of minimum intervention because the focus of the present research was different.

iii) The facts/dynamics historical examination a better method to understand criminal justice?

Importantly, the present research shows that during the 1980s the concept of minimum intervention was understood by the juvenile justice practice world through particular dynamics of understanding (internal and external dynamics). From this point of view, the present work obviously raises an issue about penological research which considers only the surface of the practice penological culture.

In particular, Garlands in *'Punishment and Modern Society'*, and most notably in ch.11 entitled *'Punishment as a Cultural Agent – Penality's Role in the Creation of Culture'*, Garland provided an account of the 'routine activities' of the penal system. As Garland indicated:

> "In the course of its routine activities punishment teaches, clarifies, dramatizes and authoritatively enacts some of the basic moral – political categories and distinctions which help form our symbolic universe. It routinely interprets events, defines conduct, classifies action, and evaluates worth, and, having done so, it sanctions these judgments with the authority of law, forcefully projecting them on to offenders and the public audience alike. To some extent, this expressive, symbolizing function of penal practice is already recognised and understood [...] in the practice of judges and penal practitioners, who are acutely aware that their statements and actions reach out to a wide audience and have a symbolic significance for many" (1990:252).

Garland placed the emphasis on the symbolism of the penal process. From Garland's perspective the development of symbolism became, in itself, a working culture which could explain adequately the function of the system.

The problem is that Garland's approach towards the every day routine, interestingly, disregarded the detail of the day-in day-out process. It disregarded, professional needs, hierarchies; it disregarded the professional psychology of the actors; the hierarchical restrictions imposed on them, or the hierarchical restrictions that actors impose on other actors; it disregarded the policy needs and how they affect practice, and so on. Garlands' approach loses sight of the historical information which always accompanies the multiple lives of the penal system and becomes deterministic.[669] This is the difference of the present work which through the double analysis of the historical memory of the 1980s (facts/dynamics examination) addressed all the above issues by researching the deeper practice based layers of the 1980s juvenile justice systems and its interaction with the surrounding environments. Therefore the present research manages to reveal other dimensions of the criminological idea of decriminalisation; and also to address the content of the efficient 'helping' practice during a particular period; whilst Garland's culture oriented account about the day-to-day course of a criminal justice system seem to have dealt only with the surface of the function of the penological system.

iv) A modest suggestion about the potential of the present work

A final question is whether the present research can provide any further theoretical value other than a particular understanding of a particular period.[670] Despite the fact that it was not in the aims of the present work to offer any framework for penal analysis;[671] it can nevertheless be argued that the present work does have this potential. It can offer an

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[669] See the very similar critique of Rutherford in his paper *'An intentionist critique of The Culture of Control'* (2001).

[670] Undoubtly, Garland can argue that his culture-of-symbolism based approach constitutes an analytical framework for the understanding of any penological system; despite the research width deficit.

[671] The aims of the present work were always strictly within its title, namely to understand the domination of minimum intervention at the practice level; and as it was mentioned the exploration of this event provided us with an additional and different understanding of the philosophy of minimum intervention.

analytical organisational based framework which in an abstract form can be summarised as follows:

- Criminal policy philosophy/agenda/rhetoric can be considered to be a criminal policy implementation strategy; which can be evaluated against its potential to allow (or not) flexibility to criminal justice practitioners to develop their practice cycle of professional development.
- If it allows the development of the practice based cycle of professional development then we should expect 'helping' practitioners to become more efficient, less punitive, and more interested in limiting the scope of criminal justice.
- If it doesn't allow the development of the practice based cycle of professional development we should expect 'helping' practitioners to become more bureaucratic (resorting more to punitive ideals), and therefore accepting the expansion of the criminal justice system.

The present work suggests that one possibility for this framework has been validated by the examination of the minimum intervention of the 1980s. The other possibility of practice moving towards bureaucracy and acceptance of punitivism is yet to be established, falling outside the scope of the present research.

APPENDIX I – THE TITLES OF THE DOCUMENTS

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APPENDIX II – THE STATISTICAL TABLES

The first big table shows the course of all stages and disposals of the juvenile justice process in absolute numbers from 1979 to 1990. The red small arrows indicate increase or decrease. A dot on the end of the arrow indicates a higher speed of decrease or increase.

The second table shows the course of the proportionate use of disposals within the courtroom process during the years 1979 to 1990. It must be noted that column 2 indicates the 100 who processed into the system; and column 3 the proportionate number of those who actually found guilty.

The third table shows the course of the absolute number of 'known offenders' from year 1979 to 1990. Column 1 and 3 show the course of the absolute numbers (small numbers) of those cautioned and found guilty from 1979 to 1990; and also the course of the proportional balance (big numbers) between those cautioned and found guilty from 1979 to 1990. Again the red arrows indicate increase or decrease and the relevant speed.

The numbers of all the three tables are totally based on the numbers of statistical tables published in the relevant Home Office Criminal Statistics, years 1979 to 1990.

YEAR	1 CAUTIONED 10-13	14-16	TOTAL	2 PROCEEDED AGAINST AT MAGISTRATES' COURTS TOTAL	3 FOUND GUILTY (INDICTABLE OFFENCES) 10-13	14-16	TOTAL	4 TOTAL SENTENCED (INDICTABLE OFFENCES) 10-13	14-16	TOTAL	5 YOUNG OFFENDER INSTITUTION 14-16	6 TOTAL IMMEDIATE CUSTODY 14-16	7 COMMUNITY SERVICE ORDER 14-16	8 ABSOLUTE OR CONDITIONAL DISCHARGE 10-13	14-16	TOTAL	9 SUPERVISION ORDER 10-13	14-16	TOTAL	10 FINE 10-13	14-16	TOTAL	11 ATTENDANCE CENTRE ORDER 10-13	14-16	TOTAL	12 CARE ORDER 10-13	14-16	TOTAL	13 OTHERWISE DEALT WITH 10-13	14-16	TOTAL
A 1979	43↓	39,2↓	82,2↓	88	18,2↓	63,8↓	82↓	18,2↓	63,4↓	81,6↓	7,0↓	7↓	NOT APPLICABLE	5,6↓	11,7↓	17,3↓	4,0↓	10,7↑	14,7↓	4,1↓	23,7↓	27,8↓	2,7–	7,2↑	9,9↑	1,7↓	2,7↓	4,4↓	–	0,3–	0,3–
B 1980	43,2↑	42,3↑	85,5↑	98↑	18,9↑	71,3↑	90,2↑	18,9↑	71↑	89,9↑	7,5↑	7,5↑	NOT APPLICABLE	6↑	13,5↑	19,5↑	4,1↑	12,3↑	16,4↑	4,1–	25,2↑	29,3↑	3↑	9,3↑	9,6↓	1,7–	2,8↑	4,5↑	–	0,4↑	0,4↑
C 1981	43,7↑	43,9↑	87,6↑	95↓	16,9↓	69,8↓	86,7↓	16,9↓	69,4↓	86,3↓	7,7↑	7,1↓	NOT APPLICABLE	5,7↓	14,2↑	19,9↑	3,6↓	12,3–	15,9↓	3,4↓	22,3↓	25,7↓	2,9↓	10↑	12,9↑	1,3↓	2,5↓	3,8↓	–	0,4–	0,4–
D 1982	44,3↑	48,6↑	92,9↑	90↓	15,3↓	66,5↓	81,8↓	15,3↓	66,2↓	81,5↓	7,1↓	7,1–	NOT APPLICABLE	5,3↓	14,2↑	19,5↓	3,1↓	11,2↓	14,3↓	3↓	21,8↓	24,8↓	2,7↓	10,2↑	12,9–	1,1↓	2,2↓	3,3↓	–	0,4–	0,4–
E 1983	44↓	50,6↑	94,6↑	82↓	12,9↓	60,5↓	73,4↓	12,9↓	60,5↓	73,4↓	6,8↓	6,7↓	0,5	4,9↓	13,8↓	18,7↓	2,5↓	10,2↓	12,7↓	2,3↓	17,6↓	19,9↓	2,5↓	9,8↓	12,3↓	0,7↓	1,4↓	2,1↓	0,1↑	0,5↑	0,6↑
F 1984	44 –	55,4↑	99,4↑	78↓	11,9↓	58,2↓	70,1↓	11,9↓	58,2↓	70,1↓	6,7↓	6,6↓	1,8↑	4,8↓	13,5↓	18,3↓	2,1↓	10↓	12,1↓	2,1↓	15,6↓	17,7↓	2,2↓	9↓	11,2↓	0,5↓	1,2↓	1,7↓	0,1–	0,5–	0,6–
G 1985	46,9↑	65,6↑	112,5↑	71↓	10↓	53,1↓	63,1↓	10↓	52,9↓	62,9↓	6↓	6↓	2↑	4,1↓	12,6↓	16,7↓	1,9↓	9,4↓	11,3↓	1,6↓	13,4↓	15↓	2↓	8,1↓	10,1↓	0,4↓	0,9↓	1,3↓	0,1–	0,5–	0,6–
H 1986	35↓	58,5↓	93,5↓	57↓	6,6↓	41,4↓	48↓	6,6↓	41,4↓	48↓	4,4↓	4,4↓	1,6↓	2,9↓	10,7↓	13,6↓	1,1↓	7,5↓	8,6↓	1↓	10,1↓	11,1↓	1,3↓	6↓	7,3↓	0,3↓	0,7↓	1↓	–↓	0,4↓	0,4↓
I 1987	33,5↓	62,2↑	95,7↑	53↓	4,6↓	35,4↓	40↓	4,6↓	34,7↓	39,3↓	4↓	4↓	1,7↑	2↓	9,7↓	11,7↓	0,7↓	6,9↓	7,6↓	0,7↓	8,5↓	9,2↓	0,9↓	5,5↓	6,4↓	0,2↓	0,6↓	0,9↓	–	0,5↑	0,5↑
J 1988	28,2↓	54,7↓	82,9↓	48↓	4↓	32,5↓	36,5↓	4↓	32,5↓	36,5↓	3,2↓	3,2↓	1,5↓	1,9↓	8,5↓	10,4↓	0,5↓	5,9↓	6,4↓	0,5↓	7,2↓	7,7↓	0,8↓	4,9↓	5,7↓	0,1↓	0,4↓	0,5↓	–	0,5–	0,5–
K 1989	24,8↓	38↓	62,8↓	37↓	3↓	23,4↓	26,4↓	3↓	23,4↓	26,4↓	2↓	1,9↓	1↓	1,6↓	7,3↓	8,9↓	0,4↓	4,4↓	4,8↓	0,3↓	4,7↓	5↓	0,5↓	3,3↓	3,8↓	0,1–	0,1↓	0,2↓	0,1↑	0,6↑	0,7↑
L 1990	28,4↑	58↑	86,4↑	36↓	2,8↓	21,8↓	24,6↓	2,8↓	21,8↓	24,6↓	1,4↓	1,4↓	0,9↓	1,5↓	7,2↓	8,7↓	0,4↓	4,3↓	4,7↓	0,3↓	3,9↓	4,2↓	0,5–	3,2↓	3,7↓	– ↓	0,1↓	0,1↓	– ↓	0,5↓	0,5↓

PERCENTAGES (APPROX.)	YEAR	1	2 PROCEEDED	3 FOUND GUILTY (INDICTABLE OFFENCE) 10-13 14-16 TOTAL	4 14-16 TOTAL SENTENCED (INDICT: OFF.) THOUSANDS	5 YOUNG OFF. INSTITUT.	6 TOTAL IMMEDIATE CUSTODY	7 COMMUN. SERVICE ORDER	8 14-16 ABSOLUTE OR CONDITIONAL DISCHARGE	9 14-16 SUPERVISION ORDER	10 14-16 FINE	11 ATTENDANCE CENTRE ORDER 14-16	12 14-16 CARE ORDER	13 14-16 OTHERWISE DEALT WITH
	A 1979		100	93 ↓	63,4	11		No APPL.	18.45	16.90	37.40	11.35	4.25	0.47
	B 1980		100	92 ↓	71	10.56 ↓		N. APPL.	19 ↑	17.50 ↑	35.50 ↓	13 ↑	3.95 ↓	0.56 ↑
	C 1981		100	91 ↓	69,4	11 ↑		N. APPL.	20.46 ↑	17.70 ↑	32.13 ↓	14.40 ↑	3.60 ↓	0.57 ↑
	D 1982		100	91	66,2	10.72 ↓		N. APPL.	21.45 ↑	16.90 ↓	32.93 ↑	15.40 ↑	3.32 ↓	0.60 ↑
	E 1983		100	89.50 ↓	60,5	11.23 ↑		0.82	22.80 ↑	16.90 ↓	29.10 ↓	16.20 ↑	2.31 ↓	0.82 ↑
	F 1984		100	89.90 ↑	58,2	11.51 ↑		3.10 ↑	23.20 ↑	17.18 ↑	26.80 ↓	15.46 ↓	2 ↓	0.85 ↑
	G 1985		100	88.90	52,9	11.34 ↓		3.70	23.80 ↑	17.76 ↑	25.33 ↓	15.31 ↓	1.70 ↓	0.95 ↑
	H 1986		100	84.20 ↓	41,4	10.62 ↓		3.86	25.84 ↑	18.11 ↑	24.39 ↓	14.50 ↓	1.70	0.97 ↑
	I 1987		100	75.50 ↓	34,7	11.52 ↑		4.90	27.95 ↑	19.88 ↑	24.50 ↑	15.85 ↑	1.72 ↑	1.44 ↑
	J 1988		100	76 ↑	32,5	9.84 ↓		4.61	26.15 ↓	18.15 ↓	22.15 ↓	15 ↓	1.23 ↓	1.53 ↑
	K 1989		100	71 ↓	23,4	8.54 ↓		4.27	31.19 ↑	18.80 ↑	20 ↓	14.10 ↓	0.42 ↓	2.56 ↑
	L 1990		100	68	21,8	6.42 ↓		4.12	33 ↑	19.72 ↑	17.89 ↓	14.67 ↑	0.45 ↓	2.29 ↓

(s.53)

1980–90

2. PROCEEDED: DOWN BY 45% (1980-90)
3. DOWN BY 32%
10-13: DOWN BY 85%
14-16: DOWN BY 69.50%

2..3 RELATION 3/2 : DOWN BY 26% OR 24 points.

5. DOWN BY 4.14 points OR 39%

7. 1985–90 UP BY 3.3 points OR 402%/1984-90 UP BY 1 point OR 38%.

8. UP BY 14 points OR 74%

9. UP BY 2.42 points OR 12%

10. DOWN BY 17.61 OR 98.50%

11. UP AND DOWN AT THE SAME LEVEL WITH TWO PEAK YEARS '85 & '87. 1980 - 1990 UP BY 13%

12. DOWN BY 3.50 points OR 88.6%.

10-16 / YEAR	KNOWN OFFENDERS (THOUSANDS) W	CAUTIONED (THOUS.) 1	CAUTIONED (%)	FOUND GUILTY (THOUS.) 3	FOUND GUILTY (%)
A 1979	164,2	82,2	50.06	82	49.94
B 1980	175,7 ↑	85,5 ↑	48.70 ↓	90,2 ↑	51.30
C 1981	174,3 ↓	87,6 ↑	50.25 ↑	86,7 ↓	49.75
D 1982	174,7 ↑	92,9 ↑	53.18 ↑	81,8 ↓	46.82
E 1983	168 ↓	94,6 ↑	56.30 ↑	73,4 ↓	43.70
F 1984	169,5 ↑	99,4 ↑	58.64 ↑	70,1 ↓	41.36
G 1985	175,6 ↑	112,5 ↑	64 ↑	63,1 ↓	36
H 1986	141,5 ↓	93,5 ↓	66 ↑	48 ↓	34
I 1987	135,7 ↓	95,7 ↑	70.52 ↑	40 ↓	29.48
J 1988	119,4 ↓	82,9 ↓	69.43 ↓	35,5 ↓	30.57
K 1989	89,2 ↓	62,8 ↓	70.40 ↑	26,4 ↓	29.60
L 1990	111 ↑	86,4 ↑	77.83 ↑	24,6 ↓	22.17

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