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Citation for published version:
McAra, L 2017, 'Can criminologists change the world? Critical reflections on the politics, performance and effects of Criminal Justice ' British Journal of Criminology, vol. 57, no. 4, pp. 767-788. DOI: 10.1093/bjc/azw015

Digital Object Identifier (DOI):
10.1093/bjc/azw015

Link:
Link to publication record in Edinburgh Research Explorer

Document Version:
Peer reviewed version

Published In:
British Journal of Criminology

OPEN ACCESS

Can Criminologists Change the World? Critical Reflections on the Politics, Performance and Effects of Criminal Justice

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Abstract

Based on a Scottish case study, this article offers a critical reflection on criminal justice and the impact agenda.   It will argue that the pathway to impact requires criminologists to interrogate more fully the inter-relationships between criminal justice as: (i) political strategy; (ii) institutional performance; and (iii) embodied practice. Only by acknowledging the potential for dissonance between these dimensions, is it possible for the discipline to evolve a praxis which is theoretically informed, sensitive to political, spatial and temporal context as well having the highest potential for real-world transformation.

Key words: impact pathways, cultural practice, politics, criminal justice policy; praxis

Introduction

> "Our role as criminologists is not first and foremost to be received as useful problem solvers, but as problem raisers. Let us admit - and enjoy that our situation has a great resemblance to that of artists and men of letters. We are working on a culture of deviance and social control … Changing times create new situations and bring us to new crossroads….Equipped with our special training in scientific method and theory, it is our obligation [] to penetrate these problems. Together with other cultural workers, we will probably have to keep a constant fight going against being absorbed and tamed …and thereby completely socialised into society." (Nils Christie 1971: pp 145)

Taking inspiration from Nils Christie, this paper interrogates the role of the criminologist as a cultural worker: one who operates as a (critical) commentator on the nature and function of punishment in contemporary society, one who has the capacity (and aspiration) to transform the tropes through which crime and punishment are read and understood, but one whose very knowledge and understanding are filtered via the particular temporal and spatial locale within which s/he is located. As the above quotation from Christie might suggest, the (reflexive) criminologist as cultural worker is simultaneously transcendent and situated.

Some forty years after Christie's initial exegesis, the terrain of 21st century scholarship presents the contemporary western criminologist with a number of challenges (in Christie's terminology we have been brought to 'new cross-roads'). External pressure is increasingly being placed on the criminologist to be, not only a producer and consumer of criminological knowledge, but also to be a purveyor of that knowledge beyond the academy (with politicians, policy-makers, practitioners and the wider public now being positioned as core consumers).   A key metric of research excellence by which criminological performance is judged (particularly in a UK context via the strictures of the funding councils and the research excellence framework), is our capacity to be problem solvers

(rather than problem raisers) and for our academic discourse to be absorbed into (and potentially 'tamed' by) the key policy and practice networks whose behaviour we are attempting to influence and impact (Goldson and Hughes 2010).

In negotiating the role of problem solver and assessing the implications of the impact agenda for our scholarly practices, a major dilemma is the standpoint that we should adopt. Research tells us that those involved in serious and persistent offending and who come under the purview of the criminal justice system, are amongst the most vulnerable and victimised groups of people in our society, and we have weighty evidence about the types of intervention that are more or less effective in addressing offending (McNeill 2006, Lösel 2012). In particular we know that punitive interventions have very high failure rates (in terms of reconviction, see Cullen et al 2011); failure rates which would be a major scandal in any other area of public policy such as health or education. And from this knowledge our impulse is (often) to argue for the de-politicisation of crime and punishment, to claim that crime is a problem best left to experts rather than to politicians or to the emotive sway of popular opinion (see Lacey 2008). However, we also recognise that crime control and penal practice go to the heart of contemporary debates on the liminalities of citizenship and the nature of inclusion (Waquant 2006); that associated policies are often utilised by governments as mechanisms to mobilise and sustain popular support (Hall et al. 1978, Simon 2007); and that the criminal law is structured and implemented in such a way as to ensure that harms and rights violations committed by the most powerful groups in our society (e.g. certain bankers and financiers, heads of major corporations, and states) are often beyond the reach of meaningful regulation   (Tombs and Whyte 2014). In speaking these 'truths' to power and recognising the democratic deficits that can be produced by state regulatory practices, our knowledge becomes, by its very essence, highly politicised (Armstrong and McAra 2006). Consequently, in exploring the normative dimensions of the power to punish, the material instantiation of punishment as a mode of governance, or nature and function of the social compact in late modernity, there is a need for greater reflexivity regarding the principles/values which flow from our research findings and to generate more (rather than less) informed political debate (Hillyard et al. 2004).

Recognising that criminologists should be involved in political debate, in turn raises questions about the most effective modes of, and conduits for, engagement. In their recent book, Simon Winlow and Steve Hall (2013: pp174) argue that contemporary criminological theorising is doomed to failure until scholars accept that 'the construction of a more just and equitable world' requires the destabilisation of capitalist modes of production and that some form of transformative event is needed to reveal the 'absurdity of the present order'. Accordingly the role of the criminologist is to be disruptive rather than ameliorative, confrontational rather than collaborative.

Crime scientists, by contrast, would claim that conceptual and practical advances can be made through the systematic application of particular modes of enquiry, such as meta-analysis and randomised control trials (Sherman 2003, Laycock 2009). According to this paradigm, lessons on effective practice are readily transferrable across jurisdictions, with transformation being predicated on appropriate resource allocation, training of key staff, and careful monitoring of programme impact. Arguably, crime scientist engagement with politics is predicated on a linear and hierarchic flow between political command, institutional implementation and positive outcomes for individuals made subject to intervention. The role of the criminologist is to be collaborative rather than confrontational, a repository of objective and replicable knowledge to be utilised by government in the pursuit of effective and efficient policy.

In contradistinction, Ian Loader and Richard Sparks propose a more nuanced agenda for criminology. In *Public Criminology?* (2010), they offer a five-fold taxonomy of ideal-typical criminologists (the scientific expert, the policy advisor, the observer-turned player, the social movement theorist/activist, and the lonely prophet). They conclude that criminology, as a discipline, should

conceive itself as a 'democratic under-labourer' (a fusion of some core elements of the ideal types), predicated on acceptance of methodological pluralism, the production of 'reliable knowledge', and the need for scholars to acknowledge, with humility, the limitations of their influence.

In a review symposium of their book, Nils Christie takes up cudgels with Loader and Sparks' interpretation of engagement, in particular their claims that 'criminological politics remains and has to be a conversation amongst elites' (2011, pp 708). In doing so, Christie warns against the tyranny of the expert who is divorced from 'the life experience of others' (pp 709). He further argues that criminologists need to be engaged in the *interpretation* of acts perceived as crime as much as, if not more than, making recommendations to policy-makers on ways of eradicating or preventing offending. Christie reminds us that a reduction in certain crime-types is not always an unqualified good, but rather can signify deeper forms of social and political malaise. According to Christie, it is only in the role of cultural worker that criminologists can gain exposure to the struggles and 'quarrels' that constitute 'life conditions'; and it is only through such exposure that social and political malaise can be confronted and transformed. In his words: 'we need proximity to poets to find our way to other human beings'.

This aim of this paper is to explore the challenges which face those 21st century criminologists who are attempting to embrace the role of problem solver, whilst being cognisant of the broader socio-economic structures and power differentials which inhibit the life-chances of some of our most vulnerable citizens. In doing so it will argue that there is a need for criminologists to interrogate more fully the multi-layered nature of criminal justice as it currently functions within western societies, namely criminal justice as: (i) political strategy; (ii) institutional performance; and (iii) embodied practice (the ways in which criminal justice is experienced by those who become the objects of regulation). Only by understanding the inter-relationships and sometimes dissonance between these complex phenomena, will it be possible to evolve a praxis which is both sensitive to spatial and temporal context as well having a high potential for real-world impact; and more particularly to evolve a praxis which enables the criminological scholar to sustain the requisite level of critical distance from emergent consumers of knowledge, without running the danger of being 'absorbed' and 'tamed'.

The paper is based on a case study of Scottish penal developments since devolution, including critical analysis of different policy phases, the practices of juvenile and adult justice institutions and their impact on young people. It draws on findings from the Edinburgh Study of Youth Transitions and Crime[1], a programme of research on pathways into and out of offending for a cohort of 4,300 young people who started secondary education in the City of Edinburgh in 1998. The Study has multiple data sources including self-report questionnaires (6 waves of data for the whole cohort and one further wave following up those who had contacts with the juvenile justice system and two closely matched groups), official records (juvenile justice, social work, school and criminal convictions) and a geographic information system (based on police recorded crime and census data). Importantly, the Edinburgh Study cohort has grown to maturity over the course of the devolved settlement in Scotland. Born in the mid-1980s, cohort members reached the age of criminal responsibility (age 8) in the mid-1990s, reached the peak age of self-reported offending (age 14/15) immediately post-devolution, during the first of the labour/liberal democrat Scottish governments (which ran from 1999 to 2003), and were aged around 20/21 years when the SNP took power for the first time in 2007. The longitudinal nature of the Study, with data from over fifteen years of fieldwork, thus places the research team in a unique position to observe the individual developmental implications of the evolving cultural and political dynamics of devolution.

The paper begins by exploring the variant ways in which criminal justice been utilised as part of a broader polity building/democracy project within Scotland in the years since devolution and offers a critique of the role of the criminological academy in that project; Part 2 utilises Edinburgh Study

findings to highlight the dissonance between criminal justice as a political strategy and the day to day performance of criminal justice (including juvenile justice) institutions within Scotland over the same period; Part 3, again using data from the Edinburgh Study, examines the real world impact of institutional practice on the young people who come into conflict with the law. The paper will conclude with a critical review of the implications of these findings for an evolving praxis and the role and standing of the contemporary criminologist.

Part 1: Criminal justice as political strategy
There is firm empirical evidence, that issues relating to crime and punishment within Scotland have been mobilised as part of government strategy to build political capacity and to construct a modern polity in the wake of devolution. The precise nature of the issues invoked and the vision of that polity have varied between elected governments (Labour/Liberal Democratic coalition administrations in the first two terms of the Scottish Parliament, and a Scottish National Party administration from 2007 onwards). Nonetheless the *instrumental* use of criminal justice as a keystone of the democracy project has been a continuous thread throughout the devolved years. As this section will demonstrate, criminologists have played a key role in this project, and in doing so have functioned at critical moments to shape the terrain of their own inquiry.

Setting the context: pre-devolutionary developments
Prior to devolution, Scottish criminal justice policy was predominantly under the control of penal elites including networks of civil servants, directors of social work, crown office, the judiciary and senior academics (McAra 2011). Scotland has always had a separate legal and education system from the rest of the United Kingdom and under the tutelage of the, then, Scottish Office, a semi-autonomous mode of governance from Westminster evolved (Paterson 1994). As a small-scale jurisdiction, the penal elites were well known to each other (often educated in the same schools and universities and coming together regularly at networking events such as the then Scottish Association for the Study of Delinquency). But more importantly there was evidence that these individuals shared a common set of values premised on a settled conception of both offender aetiology and institutional performative aims (predicated on a welfarist model of care). As was noted, academic criminology was central to these policy networks. Crucially this was nurtured within the State apparatus itself by the Scottish Office Central Research Unit whose commissioning processes shaped the wider agenda for criminological inquiry throughout the 1980s and 1990s.

Together, these structural and ideological features sustained a distinctively Scottish set of institutions (in particular, the children's hearing system and social work criminal justice services[2]) accompanied by a strong sense of differentiation from the more punitive modes of working which emerged south of the border in England and Wales during the Conservative UK government years (1979-97). While tensions did occasionally arise, not least with the appointment of the right-wing Michael Forsythe as Scottish Secretary (in 1995), this did little to interrupt the dominance of welfarism, with ideas which seemed radical and out of kilter with Scottish values being quietly dropped. (As evidence witness the fate of the more controversial precepts of the Crime and Punishment [Scotland] Act 1997 which were never implemented including proposals for the imposition of life sentences for a second serious sexual or violent offence, and abolition of the parole system) (McAra 2011).

The relationship between knowledge and politics which evolved in Scotland in the immediate pre-devolution period, was somewhat akin to a 'conversation amongst elites' as critiqued by Christie. A danger of such arrangements was their potential to become self-reinforcing, whereby the customer-contractor model of research commissioning of the Central Research Unit worked to the advantage

of scholars who embraced the dominant conceptual framework, and the outputs of the commissioned research, served to reinforce the aims of extant institutions. Arguably, however, political dynamics in Scotland mitigated against such elite-driven introspection. In a context in which a democratic deficit became increasingly evident (with the majority of Scottish voters opting for left of centre parties during the Conservative administrations), criminal justice became one element of a wider civic discourse on Scottishness, part of a Claim of Rights for a devolved mode of governance led by representatives from local government, the Church, and a range of political parties (Scottish Constitutional Convention 1989). The links between criminological knowledge and politics, thus, became part of a campaign for self-determination: a paradox being that elite control over penal politics was sustained primarily because of its service to, and for, a democratic mandate.

Early post-devolution years: the punitive turn
In the immediate aftermath of devolution (1999 – 2006), issues relating to crime and punishment were utilised in a much more populist way by the newly established Scottish government. The post-devolution years saw a major shift away from the former predominantly welfarist values to a policy portfolio framed by a more complex and competing set of principles with the addition of more actuarial, punitive, and restorative precepts. The New Labour/Liberal Democrat Scottish Government also drew on the language of new public management as a means of ensuring greater accountability amongst criminal justice institutions. Youth crime and anti-social behaviour in particular formed a centre-piece of governance, with much the most punitive modes of discourse being linked to ways of tackling the behaviour of young persistent offenders (McAra and McVie 2010). The populist and punitive dimensions of the policy frame were predicated on an exclusionary set of practices, borrowed mostly from developments south of the border in England. In support of these ideological shifts, the new government embarked on a massive bureaucratic building project, creating over a 100 new institutions[3], many with overlapping competencies and in competition for resources (McAra 2011).

The immediate effect was to fragment the older policy networks. As a consequence, academic criminology found itself distanced from policy discussion and debate. Government ministers were highly resistant to research which challenged their populist preconceptions: with the perceived concerns of their constituents taking primacy over scientific evidence. Increasingly they began to rely on the advice and guidance of a small number of specialist advisors who were drawn from the academy, but whose independence from the central government agenda and capacity to challenge core political precepts was not at all transparent. Furthermore, there was a reconstruction of the in-house research function within government. Former government researchers were restyled as 'analysts' (a much more reactive and passive mode of intellectual engagement), and research contracts were increasingly let to survey companies rather than academics. Research which informed policy was thus descriptive rather than critically analytical and often the lacked the broader contextual analysis required by academic peer review.

By disengaging with the academic community, the Government set some short term unachievable targets, predicted on uncertain causal pathways to change: the most notorious of which was to reduce persistent offending by 10% in two years (McAra 2011). A key moment of confrontation was the response to the emergent anti-social behaviour agenda, when efforts were made to install anti-social behaviour orders for under 16s, parenting and curfew orders (via the Anti-social Behaviour (Scotland) act 2004). Following a public consultation (broadly favourable to the Government's agenda), views were taken from representatives of key agencies and senior academics, all of whom spoke out against the new provisions. These views were discounted by government. However, the fate of the 2004 Act was the same as that of the 1997 Act, core provisions were never or barely implemented by practitioners, who simply continued to utilise informal mechanisms (such as warnings), for tackling unruly behaviour and problem parenting, and to invoke more formal mechanisms (hearing system) in recalcitrant cases.

Later post-devolution years: 'compassionate justice'
Since 2007, there has been a gradual transformation in the ways in which criminal justice has been mobilised in the service of political strategy and a remaking of the relationship with the academy. Governance has been much more closely tied to a social democratic and preventative agenda, with the SNP Governments explicitly utilising research evidence to build the intellectual case for 'compassionate justice' as a distinctively Scottish approach to matters of crime and punishment (see http://www.scotland.gov.uk/Topics/Justice/law/lockerbie).

Under the tutelage of the SNP, efforts have been made to reduce the number of short-term sentences of imprisonment and much lip-service has been paid to tackling the problems presented by women prisoners in the wake of the recommendations of the 'Angolini Report' (the report of the commission set up to review the treatment of women offenders http://www.gov.scot/About/Review/commissiononwomenoffenders/finalreport-2012).
A new and charismatic SPS Chief Executive (Colin McConnell) has called for a reworking of the ethos of imprisonment around the principles of parsimony and rehabilitation (http://www.sps.gov.uk/AboutUs/chief-executive-message.aspx).

Penal policy has also been characterised by renewed emphasis on restorative and reparative principles enshrined in the concept of community-payback and on diversion and minimum necessary intervention as exemplified in juvenile justice by the implementation of the Whole System Approach (a systems management approach aimed at diverting young people from formal measures to meaningful community-based activities, and supporting early years intervention to diminish offending risk). Both of these developments were based on academic research, with scholars working with civil servants and institutional leaders to develop core strategy (as in the work of Sarah Armstrong and Fergus McNeill underpinning 'Scotland's Choice' 2008 - the report of the Scottish Prisons Commission aimed at addressing Scotland's high imprisonment rates - and the contribution of the Edinburgh Study to the shifting debate on youth crime, see http://www.gov.scot/Topics/archive/law-order/crimes/youth-justice/reoffending/wholesystemintroduction).

A major step change in juvenile justice has also been the decision to raise the age of prosecution to 12 (implemented as a result of the Criminal Justice and Licencing (Scotland) Act 2010) with further legislative change to ensure that offences admitted during Children's Hearings could be classified as alternatives to prosecution rather than convictions[4]: the result of campaigning by academics in collaboration with the Scottish Human Rights Commission. Rights based discourse has also shaped penal policies more directly than hitherto, with the establishment of a multi-agency working group (led by the Scottish Human Rights Commission and co-chaired by the Scottish Government) to evolve change based strategies to support the infusion of human rights into justice as part of 'SNAP' (Scottish National Action Plan for Human Rights 2013-17). This, together with the Government's enthusiasm for the methodology of 'logic modelling' (see Welsh and Harris 2008), has supported a greater incursion of research into policy and placed relationships between the academy and government on a stronger footing than during the early post-devolution years. Government has continued to co-fund two centres of excellence: The Scottish Crime and Justice Research Centre and the Scottish Institute for Policing Research, both of which have an applied-policy focus. A significant outcome from these changes has been the quiet dropping of specific targets, substituted with a longer term vision of pathways analysis as to what change is desirable, possible and achievable.

While the links between knowledge and politics are now stronger than in the early years of devolution, the potential for tension, nonetheless, remains. There is evidence that Ministers will continue to play to populist pressures where this is perceived to have political traction. A recent example has been the decision by the Cabinet Secretary for Justice to transform early release arrangements for long term prisoners, in the face of robust research evidence highlighting its likely

damaging consequences. Moreover recent transformations in penal bureaucracy have created the conditions for alternative power bases to emerge which lie beyond the influence of academic research and which may prove increasingly impervious to political influence. This has been the unforeseen consequence of institutional reform driven by Scottish Government efforts to create greater efficiency within the criminal justice system via economies of scale: with a shift from the local to the central.

The most notorious of institutional transformations has been the creation of Police Scotland, the single national police force. This has arguably undermined local democracy, overthrowing localised practices in relation to the policing of sex work, implementing without consultation controversial policies relating to the deployment of armed police, and taking a more punitive approach to police stop and search for young people (with evidence that the police disproportionately target young people from the most deprived neighbourhoods, see Murray 2015).

Finally, there is evidence that, in other dimensions of the system, closed dyadic relationships between academics and institutional leaders (particularly in the Scottish Prison Service) are evolving: a dynamic which is bypassing politicians, brokering new modes of applied knowledge and directing them into institutional framings. In the short term, this increases the opportunities for research to influence policy, but scholars need to guard against the potential for 'clientelism' and knowledge-patronage such intensive relationships bring (see Clapham 1982). A further potential consequence is that academics increasingly play a role in shaping the institutional structures which become the focus of their own research: a self-reproductive performative dynamic, about which they need to remain appropriately reflexive.

Summary
In each of the three phases of policy reviewed, academics have had varying levels of influence and their capacity to shape policy directives has been determined by the extent to which evidence fits political vision. In the New Labour-Liberal Democrat coalition years, politicians acted as if they had command and control over the system, and the evolving institutional framework drew power away from the penal elites of the pre-devolutionary era, including most of the academy. While these groups no longer functioned to drive penal strategy, they nonetheless effectively blocked key elements of the government agenda: a reactive mode of engagement. In the SNP years, a more complex picture has emerged. The active re-making of positive relationships with core elites, including the academy, has resulted in a more listening government. But the unintended consequences of reform may be the loss of both political and academic influence over some of the new emerging power bases such as the centralised police force, and increasing inter-dependence between scholars and institutional leaders in other domains.

Overall, the findings from the critical policy analysis highlight the ways in which polity construction and establishment of the right to rule, is conceived by successive post-devolutionary Governments first and foremost through an institutional lens: ideological transformation is made manifest by the structural architecture of justice (characterised by the hyper-institutionalisation of the early post-devolutionary years and the construction of more centralised agencies in recent years). The valorising of structure means that the cultural practices of criminal justice institutions, have not always been open to scrutiny. While academics seeking impact have attempted to work closely with politicians, civil servants, and the leaders of the institutions comprising the criminal justice system, more rarely have they engaged with practitioners at lower levels within those institutions: and it is to the cultural practices (or performance) of the latter that the next section turns.

Part 2: Criminal justice as institutional performance
In this part of the paper, I aim to demonstrate that there has been a degree of dissonance between criminal justice as political strategy and the performance or day to day practices of the institutions which make up the criminal justice system in Scotland. Each of the policy phases, set out in Part 1, would be expected to shape front-line decision-making in different ways according to the age and stage of the young person: from interventions being driven by needs in the welfarist phase; to deeds being a principal trigger for intervention during the punitive turn; to a needs-based, diversionary framework in the more compassionate phase. However, far from institutional performance reflecting these variant phases of policy, the pre and post devolutionary periods indicate strong continuities in criminal justice practice. In essence over that time frame, the criminal justice system has served to construct, nurture and reproduce (curate) its own client-base drawn from the most poor and dispossessed– a process which is profoundly anti-democratic in both ethos and outcome. The evidence for this comes from the Edinburgh Study of Youth Transitions and Crime. Findings set out below are based on analysis of data on policing, juvenile justice and adult court referral practices, derived from the self-report questionnaires and administrative records for the whole cohort (at ages 11 and 15) and for those followed up at wave 7 (at age 22), using multivariate modelling (more detailed description of variables used can be found in Annex 1).

Continuities in policing
Table 1 shows the results of binary logistic regression modelling, exploring factors which best predicted being warned or charged by the police at three different time points: immediately prior to devolution (in the welfarist phase of policy) when the cohort were aged around 11; during the labour/liberal democratic coalition government years (the punitive turn) when the cohort were aged around 15; and in the SNP administration years (the 'compassionate' phase) when those followed up by the Study, were aged around 22. The models simultaneously accounted for a range of possible explanatory factors which were found in earlier analysis to differentiate significantly between those who became subject to police adversarial contact and those who did not: gender; hanging out in the street, which was common in the early to mid-teenage years; social deprivation (in the form of neighbourhood deprivation, and socio-economic status); self-reported serious offending; and previous 'form' (whether the young people had been warned or charged in the previous as opposed to current year). The table includes only the odds ratios for those variables which proved to be significant in the final models.

INSERT TABLE 1 ABOUT HERE

A similar dynamic was found at each time point. As might be expected, involvement in a high level of serious offending was strongly predictive of warnings and charges at each time point. The evidence also shows that, in the earlier years, those available for policing as a consequence of hanging around had greater odds of being warned and charged. Boys too had greater odds of being warned or charged at age 11 than girls when other factors were held constant. Importantly, the findings from the modelling also indicate that the police disproportionately focus attention on those from socially deprived backgrounds. Even when controlling for involvement in offending, young people of low socio-economic status had over twice the odds of being warned or charged by the police at age 11, and almost one and half the odds at age 15, than for those from more affluent backgrounds. The modelling at age 22 includes an interaction effect between gender and socio-economic status, such that men of low-socio-economic status had almost four times greater odds of being warned or charged by the police than other respondents at sweep 7 (neither gender nor socio-economic status remained significant as a main effect within the final model). However, the

modelling also demonstrates, that at each time point, much the strongest predictor of being warned or charged is having a history of police adversarial contact. Those who had been warned or charged in the previous year had heightened odds (almost 8 times greater odds at age 11, just over 10 times greater odds at age 15 and just under 10 times greater odds at age 22) of further warning or charges in the current year than those with no such history, when controlling for volume of serious offending, key demographics and routine activities.

Continuities in referral practices in juvenile and adult criminal justice
As was noted, the continuities in policing practices across different policy phases are also mirrored in terms of other key filter points within the juvenile and adult criminal justice systems[5]. Table 2 below sets out the results of three binary regression models exploring the factors which best predicted being brought to a children's hearing on offence grounds at ages 11 and 15; and what predicted being brought to court to answer charges amongst those followed-up at age 22. The modelling again controlled for factors which were found in earlier analysis to differentiate significantly between those who were processed through the juvenile/adult criminal justice systems and those for whom no further action was taken: self-reported serious offending, socio-economic status, early history of adversarial police contact, family structure (in the early years only) and previous institutional contact (being brought to a hearing in a previous year for the modelling at ages 11 and 15, or being brought to court in the previous year for the modelling at age 22).

INSERT TABLE 2 ABOUT HERE

What is particularly striking in both the welfarist and more punitive phases, is that volume of childhood problems identified by agencies, but not involvement in serious offending was a key driver of institutional contact when other factors were held constant (only in the model at age 22 did prevalence of serious offending remain significant). This is in keeping with the broader welfarist philosophy of the children's hearings system: in which compulsory measures of care should be predicated on need. Decisions in the early years, were also shaped by judgements made regarding family structure, with those in kinship, foster care or single parent families at age 11 having far greater odds of being referred to a hearing than other young people in the cohort from two parent (step or birth) families. Gender was significant in the modelling at age 15 and 22 but in different ways. In the more punitive phase of policy young women had heightened odds of being brought to hearing when other factors were held constant, whereas at age 22 men had greater odds of being brought to court.

Importantly in all of the modelling early police contact was found to be a core driver of later system involvement. In the age 11 model, early referral by the police to juvenile justice (by age 5) interacted with socio-economic status, such that youngsters from low socio-economic status with early referrals had five and a half times greater odds of being brought to a hearing at age 11 than their more affluent counterparts. At age 15, low socio-economic status and early police referral remained significant as main effects in the final model (with those from low socio-economic status backgrounds having two and half times greater odds of being brought to a hearing and those who had been referred by the police to juvenile justice a decade or more ago, having almost twelve times greater odds of being brought to a hearing, even when controlling for offending and level of needs). At age 22 there is again an interaction effect between socio-economic status and early history of police contact. Those who had been unemployed for over a year and who had been referred by the police to juvenile justice at age 15, had nine times greater odds of being brought to court.

Finally in both the punitive and compassionate phases of policy, having a history of hearings referrals and court referrals was also found to drive institutional dynamics. At 15 those who had been

referred on offence grounds in the previous year had almost three times greater odds of being brought to a hearing and at age 22 those who had been brought to court in the previous year had almost fourteen times greater odds of being brought to court again, even when controlling for offending behaviour and a range of demographics.

Summary
In sum, the findings presented are indicative of continuities in institutional practices, predicated on culturally constructed rules of recognition. The day-to-day decision-making of the police and the Reporter or prosecutor (depending on age and stage) serves to construct a set of characteristics that are associated with trouble-maker status. These characteristics are not always linked to the behaviour of the individual but rather to their socio-economics status, their gender (at some ages) and their institutional histories. Importantly many of the factors which are strongly linked to system contact are not under the control of the young person. Read at this level the justice system functions as a disciplinary mechanism for particular categories of youngsters, especially those from the most impoverished backgrounds. This functioning, has belied any academic or indeed political impact, remaining invisible from levers of government and semi-detached from the broader democracy project of the post-devolutionary years. Importantly, the effect of all these institutional and systemic dynamics is disempowering for the young people who are made subject to their tutelage, and it is to the evidence for this, that the next section turns.

Part 3: Criminal justice as embodied practice
The previous section suggested that the institutional histories and structural position of young people shape their encounters with official agencies over time. In this section the impact of these dynamics on the life chances and well-being of young people will be examined. As I will demonstrate, contact with the juvenile and adult systems appears to have limited impact on self-reported offending, but rather entrenches young people in poverty: thereby reinforcing and reproducing the conditions which make criminal justice contact more likely. Again, these consequences appear remote from both political influence and the research base. This will be evidenced by the Edinburgh Study data as follows: (i) longitudinal analysis, tracking the self-reported offending careers and institutional experiences up to age 24 of two groups, those who had been referred on offence grounds to the children's hearing system by age 12 and a closely matched group who had not been referred (on any ground) by that age; (ii) an exploration of the core predictors of 'NEET status' (namely those who are not in education, employment or training) amongst the whole of the cohort at age 18.

Offending and criminal justice careers
Earlier published analysis from the Edinburgh Study showed that the more intensive the contact with the juvenile justice system in the mid-teenage years, the more desistance from offending was inhibited over a one year follow-up period (McAra and McVie 2007). This paper extends the earlier analysis by exploring the impact of early contacts (by age 12) over a much longer time frame (up to the age of 24).   The two groups, whose histories are being followed, were matched at age 12, utilising the technique of propensity score matching, on the basis of: gender, family structure, family socio-economic status, free school meal entitlement, neighbourhood deprivation, serious offending (self-reported), drug use, hanging about public places, adversarial police contact, truancy and school exclusion.   These were all factors which analysis showed increased the propensity for young people to come into contact with the juvenile justice system at an early age. In effect, the only difference between the groups at age 12 was that one had a history of referral on offence grounds to the children's hearing system (the 'cases'), and the other had no such history (the 'controls')(see McAra and McVie 2007 for further technical details).

Analysis of the subsequent self-reported offending histories of these two group, showed that there were no significant differences (p<.000) between the groups at any wave of the Study with regard to both prevalence and frequency of offending (including the measure of serious offending utilised in the regression analysis reported above). The similarities between the two groups were particularly marked with regard to self-reported violent offending, as set out in Figures 1 and 2 below. As indicated, prevalence of violence peaked at age 14 for both groups, and both groups exhibited a desisting trajectory over time (with a significant reduction in prevalence, p<.000, between the ages of 14 and 24).   In terms of frequency of violence, the 'cases' also exhibited a statistically significant reduction over the decade between ages 14 and 24 (p<.000). Whilst frequency of offending for the 'controls' rose slightly between the ages of 14 and 15, this group too desisted over time up to the age of 24 (p<.001).

INSERT FIGURES 1 AND 2 ABOUT HERE

In spite of these similarities, the two groups had very different institutional histories. Those who had been identified by agencies from an early age as meriting referral to the children's hearing system on offence grounds, were significantly more likely to be warned or charged by the police up to age 18, to be re-referred to the Reporter to the children's hearing system in the early to mid-teenage years, and to be brought to court by the prosecutor in the early adult years. For example, around two-thirds of the 'cases' (64%) had a conviction in the adult system by age 24 in contrast to just 27% of the 'controls' (p<.000) and just over two fifths (42%) had experience of custody by that age in contrast to just 9% of the 'controls' (p<.000). The dissonance between self-reported offending and criminal justice pathways, is intriguing and requires further exploration. However, of significance for this paper, is the lack of connection between political command and control and the impact of intervention on young people, and the ways in which institutional cultural practices would appear to have rather a limited effect on the process of desistence, serving instead to reproduce a particular client group, who find it difficult to escape the institutional gaze.

INSERT FIGURES 3, 4 AND 5 ABOUT HERE

Predicting NEET status
Rather than impacting behaviour, the Edinburgh Study findings suggest, that system contact serves to reproduce the structural disadvantages of the system curated group. Here the analysis turns once more the whole cohort, and the risks of being not in education, employment or training by the age of 18.

Research has shown that young people who are NEET become entrenched in poverty and worklessness and often lack the skills, capacity and social capital to turn around their situation (Simmons et al. 2014). By age 18, around 6% of the cohort, reported that they were not in education, training or employment. Descriptive analysis showed that contacts with the juvenile justice system were significantly linked to later NEET status.   A binary logistic regression model was specified, to test whether such contacts continued to be predictive of later NEET status when other school and family factors were held constant. The findings from the modelling are set out in table 3.

INSERT TABLE 3 ABOUT HERE

As show in table 3, core dimensions of the school experience shaped the odds of being NEET including poor relationships with teachers, lack of attachment to school and low aspirations. Family/caregiver socio-economic status was also significant in the final model, with those from contexts in which the main caregiver was either unemployed or in a manual occupation having almost twice the odds of being NEET at age 18 than their more affluent counterparts. However, even

when controlling for these factors, being made subject to compulsory measures of care via the children's hearing system and having a history of referral for offending, continued to be predictive of NEET status. Indeed, those with experience of compulsory of measures of care were almost four times more likely to be NEET at age 18 in comparison with the young people in the cohort with no such history and those who referred by the police to the juvenile justice system for offending were around 3 times more likely to be NEET at age 18.

Summary
The findings from the Edinburgh Study would suggest that there is a natural pattern of desistence from offending amongst the young people who have been involved in serious offending from an early age, whether or not the individual experiences institutional contact. However, the findings also show that systemic contact entrenches the structural disadvantages of the young people who become part of a usual suspect client group. The inter-systemic continuity occurs in the context of major transformations at the level of political dialogue and discourse and serves to support the cultural continuities in referral practices – such that poverty increases the risks of systemic contact, and systemic contact increases the risks of poverty.

Implications

What then are the implications of the Scottish case for the nature and function of disciplinary engagement with politics and policy, the future of the impact agenda, and its attendant risks and rewards?

Understanding locale
The Scottish case highlights the need for criminologists to engage *more fully* with the dynamics of criminal justice as differentiated and multi-level phenomena, exercised concomitantly as political strategy and institutional performance, and the ways in which the spatial and temporal manifestations of such governance are experienced by those who become the object of regulation.

The findings set out in this article demonstrate that we should not assume that a linear or even hierarchic flow exists between political command, practical implementation and the longer term impact on those who come within the purview of the criminal justice system. Time and again the history of Scottish criminal justice developments has highlighted the ways in which practitioner groups have subverted the policy imperatives of government, through outright challenge or by ignoring or quietly dropping key demands; and how their day to day performance is shaped more by the exercise of discretion and cultural working practices (with Edinburgh Study findings highlighting core continuities over the variant phases of policy). This has occurred in a context where most politicking has been conducted under the assumption that there will be a causal pathway, or at the very least, a logical relationship, between political vision, policy construction and implementation, and impact on crime. Indeed, governments within the post-devolution era in Scotland, have exercised their right to rule first and foremost through the construction of bureaucracy, and subsequently through imposing managerial controls. The language of performance management, is used in the attempt to hold agencies to account, and gives the external imprimatur of rationality and control for a system in which practitioners have evolved an alternative set of rationales which appear impervious to change.

As indicated by the findings of the Edinburgh Study (and reinforced by Murray's research on police stop and search, 2015), the category of young people who become the focus of the criminological gaze, is determined in the first instance by the spatial and temporal dynamics of the encounter between the youngster and the police. Discretion in these moments is shaped by culturally transmitted rules of recognition which render the poorest youngsters more vulnerable to

intervention, resulting in repeated and more intensive forms of institutional contact. In this way, each of the core filters in the juvenile justice system, namely the police and the Reporter, and later the adult criminal courts, work to produce a systemic client group, a path-dependency which has negative effects on the life-chances of the young people involved.

The consequence for those who both become the objects of regulation is to sustain the very structural conditions which underscore policing practices. System contact begets poverty, with early referral to, and supervision within, the system of juvenile justice, heightening significantly the odds of later NEET status. Importantly, the moral boundaries delineated by institutional performance reinforce class distinctions, and place socio-economic differentiation at the heart of governance, even where this is not explicitly acknowledged. The ways in which institutions contribute to the reproduction of structural disadvantage and poverty, do not form part of managerialist imperatives, are never made subject to audit and almost never form the basis of critical self-reflection. As a consequence even the most benign and wholly well-intentioned political motives have resulted in democratic deficit.

Understanding impact
Turning finally to the lessons for criminologists in terms of how to engage with policy and practice for maximum impact:

The Scottish experience has shown that research findings are generally only 'listened' to and acted upon in very specific circumstances, namely where there is an intersection between the aims of government or specific institutional leaders and the criminological evidence. Where criminal justice becomes a centre-piece in polity building, a shared vision is a pre-requisite of engagement and impact. Pre-devolution, influential academics became part of a broader rights claim to self-determination, and their research evidence formed a bulwark against more the punitive developments south of the border in England. In the immediate post devolutionary period, much academic research ran counter to the populist imperatives of a new government striving for legitimacy, and thus the influence of many scholars diminished. The rising impact of the specialist advisor politicised the evidence-base, with policy change being supported by partial readings of criminological knowledge or outright rejection. More recently, the compassionate justice of the SNP administrations has once again brought the wider academic community into close dialogue with government and key institutions.

However, even where academic discourse directly influences political dialogue and debate and flows into policy, the extent to which this in turn shapes the performance of criminal justice institutions is highly variable. Where academics have built up strong institutional relationships with key agencies (such as SPS) this is generally with the institutional leaders rather than practitioners on the ground. Unless academics evolve an appreciation of the ways in which discretionary spaces inhabited by practitioners are used and reproduced, then any influence which they may have over the direction of policy will not impact the lives of young people.

Taken together, the findings suggest that criminologists need to evolve multi-level strategies for engagement to maximise impact, and to look for multiple points of entry into discussion and debate. There is a need for consciousness raising amongst politicians and the wider public on the dissonance between political promise and institutional performance; a need to explore how the various dimensions of criminal justice can be made to work more holistically and systemically to deliver better outcomes; and a need to work with institutional leaders and practitioners to challenge damaging cultural practices and support positive action for justice based on best practice and evidence.

Conclusion: the criminologist as cultural worker

To conclude, the findings from the Scottish Case, have profound implications for knowledge construction and the impact agenda. Criminologists are not simply neutral observers and 'clean' scientific knowledge is often a spurious ambition in the complex and contested nature of policy engagement. Indeed, we need to acknowledge that 'the criminologist' is already a culturally imbued role, shaped by specific power struggles for recognition, research monies, publication; and to resist the potential for clientelism and knowledge patronage that some modes of engagement potentially produce. This means we need to be as much disruptive as ameliorative and to be reflexive about the politics of knowledge production within our own scholarly and institutional settings.

Returning to the literature invoked in the introductory sections, the findings presented above, strongly suggest the need for criminologists to be both 'transcendent' (namely to see systemic functioning in its entirely, to stand above the politics and cultural dynamics at play) and situated (to be involved in dialogue and engagement with practitioner groups and understand the particularities and pressures of their day to day encounters). There is a need to understand the wider structural forces which shape politics, to recognise that poverty is a recurring backdrop for criminal justice activity and that the criminal justice system plays a core role in its reproduction over time. A key lesson from the Scottish case is that those who come into conflict with the law have generally lived through variant policy framings and have transitioned from juvenile to adult institutional settings. The Edinburgh Study findings have highlighted the curatorial dimensions of these processes: something dominant impact narratives within the academy rarely grasp or interrogate.

The promotion of transformative action, requires reflexivity on the part of agencies regarding their practices and the manner in which they damage young people through recreating the problems which they are set up to contain or eradicate. That these deleterious practices are not always intended or understood by politicians, institutional leaders or practitioners, poses challenges for the criminologist in terms of the impact agenda. Fundamentally, it is not possible for criminologists to evolve a praxis without combining the role of problem raiser and problem solver and without consciously constructing the opportunities to negotiate and influence. As criminologists we have to learn how to critique in a holistic way and ensure we do not ourselves sacrifice truth to power. Only thus can we, in Christie's terms, find our way to other human beings

Annex 1

VARIABLE	VARIABLE DESCRIPTION * Unstandardised scale ** Dichotomous measure: More than one standard deviation from the mean in the relevant direction=1, Other=0
GENDER	Male=1, Female=0.
SOCIO-ECONOMIC STATUS	*Waves 1-6* *Head of household socio-economic status* Manual/unemployed=1, Non-manual=0. Wave 7 *Whether unemployed for over a year* Yes=1, No=0.
NEIGHBOURHOOD DEPRIVATION	*Top quartile of deprivation derived from 6 census-defined indicators of social/ economic stress* Top quartile=1, Other=0
FAMILY STRUCTURE	*Whether lived with two parents (either birth or step), or another family structure:* Another family structure=1, two parents=0.
CONFLICT WITH CAREGIVERS	*How often argue about: tidiness of room; what do when go out; what time come home; who hang about with; clothes and appearance, other things.* * 0-18 **Highest conflict=1, Other=0
FAMILY DISRUPTION	*Whether in past year: parents split up; illness in family; death in family; parent lost a job; family house broken into; new baby in family* *0-6 **Highest disruption=1, Other=0
SERIOUS OFFENDING	*Theft from a motor vehicle, riding in a stolen motor vehicle, carrying an offensive weapon, housebreaking or attempted housebreaking, fire raising, robbery, involvement in 6 or more incidents of violence.* * 0-77 **Waves 1 – 6* Highest level=1, other=0 Wave 7 *Involvement in any one of the above offences* Yes=1, No=0.
VIOLENT OFFENDING (PREVALENCE)	*Involvement in any one of following: carrying an offensive weapon, robbery, involvement in 6 or more incidents of violence* Yes=1, No=0.
VIOLENT OFFENDING (FREQUENCY)	*Total number of violent incidents committed* *0-33.
HANGING ABOUT	*Frequency of hanging about streets* Most evenings=1, Less often/not at all=0.
POLICE WARNING OR CHARGES	*Whether self-reported warned/charged by police* Yes=1, No=0.
OFFENCE REFERRAL	Referred to Reporter on offence grounds in previous year Yes=1, No=0 Whether ever referred on offence grounds to the Reporter (from age 8) Yes=1, No=0
REFERRED BY POLICE AT AGE 15	Referred to Reporter on offence grounds by the police at age 15 Yes=1, No=0
REFERRED BY POLICE BY AGE 5	Referred to Reporter by the police on any grounds by age 5 Yes=1, No=0
COURT REFERRAL	Procurator Fiscal brings the case to court Yes=1, No=0
VOLUME OF NEEDS	Number of needs recorded in Reporter files * 0-42
EVER MADE SUBJECT TO COMPULSORY MEASURES OF CARE	Ever placed on supervision via a children's hearing from birth up to age 18 Yes=1, No=0
TRUANCY	*Number of times truanted previous year* * 0-11 **Highest level of truancy=1, Other=0
EXCLUSION	*Excluded from school* Yes=1, No=0

BAD BEHAVIOUR	*How often in past year: arrive late for classes; fight in or outside the class; refuse to do homework or class-work; cheeky to teacher; used bad or offensive language; wandered around school during class time; threatened teacher; hit or kicked teacher.* * 0-24 **Highest volume bad behaviour=1, Other=0
PUNISHMENTS	During last year how often: parents had to sign punishment exercise; school in touch with parents by letter or telephone because of something you did wrong; given detention; sent to the head of department/head teacher; put on conduct/behaviour sheet; given extra homework. *0-18 **Highest volume of punishments=1, Other=0
ATTACHMENT TO SCHOOL	How much agree/disagree with: school is a waste of time; school teaches me things will help me in later life; working hard at school is important; school will help me get a good job. * 0-16 **Lowest attachment to school=1, Other=0
RELATIONSHIPS WITH TEACHERS	How many teachers in past year: get on well with; helped you to learn; treated you fairly; you could ask for help if you had a problem with school work; you could ask for help about a personal problem; treated you like a troublemaker. *0-10 **Poorest relationships with teacher=1, other=0
ASPIRATIONS	How likely you will get: highers exams; go to college or university; take a training course *0-12 **Lowest aspirations=1, other=0

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Tables and Figures

Table 1: Warned or charged by the police

	Welfarist		The Punitive Turn		Compassionate	
	Age 11 Yes= 331 No=3329		Age 15 Yes=749 No=3236		Age 22 Yes=46 No=200	
	Odds ratio	Sig.	Odds ratio	Sig.	Odds ratio	Sig.
Warned or charged by police in previous year	7.7	.000	10.3	.000	9.8	.000
Involvement in serious offending	2.5	.000	2.3	.000	10.7	.000
Being male	1.8	.003	-	-	-	-
Low socio-economic status	2.2	.000	1.4	.000	-	-
Being male and low socio-economic status	0.5	.033	-	-	3.7	.000
Hang out on streets daily	2.9	.000	2.0	.000	NA	NA

NA=not applicable

Table 2: Brought to a children's hearing or court

	Welfarist Age 11 Brought to hearing Yes=46 No=563		The Punitive Turn Age 15 Brought to hearing Yes=55 No=774		Compassionate Age 22 Brought to court Yes=43 No=201	
	Odds ratio	Sig.	Odds ratio	Sig.	Odds ratio	Sig.
Offence/court referral in previous year	NA	NA	2.8	.019	13.8	.000
Involvement in serious offending	-	-	-	-	5.7	.001
Single, kinship or foster care	5.2	.007	-	-	NA	NA
Volume of needs	2.7	.000	2.4	.000	NA	NA
Low socio-economic status	-	-	2.5	.050	-	-
Referral by police by age 5	-	-	11.7	.000	NA	NA
Low socio-economic status * with referral by police by age 5	5.5	.032	-	-	NA	NA
Low socio-economic status interacted with referral by police at age 15	NA	NA	NA	NA	9.0	.005
Gender †female ††male	-	-	3.1*	.010	3.1**	.037

NA=not applicable
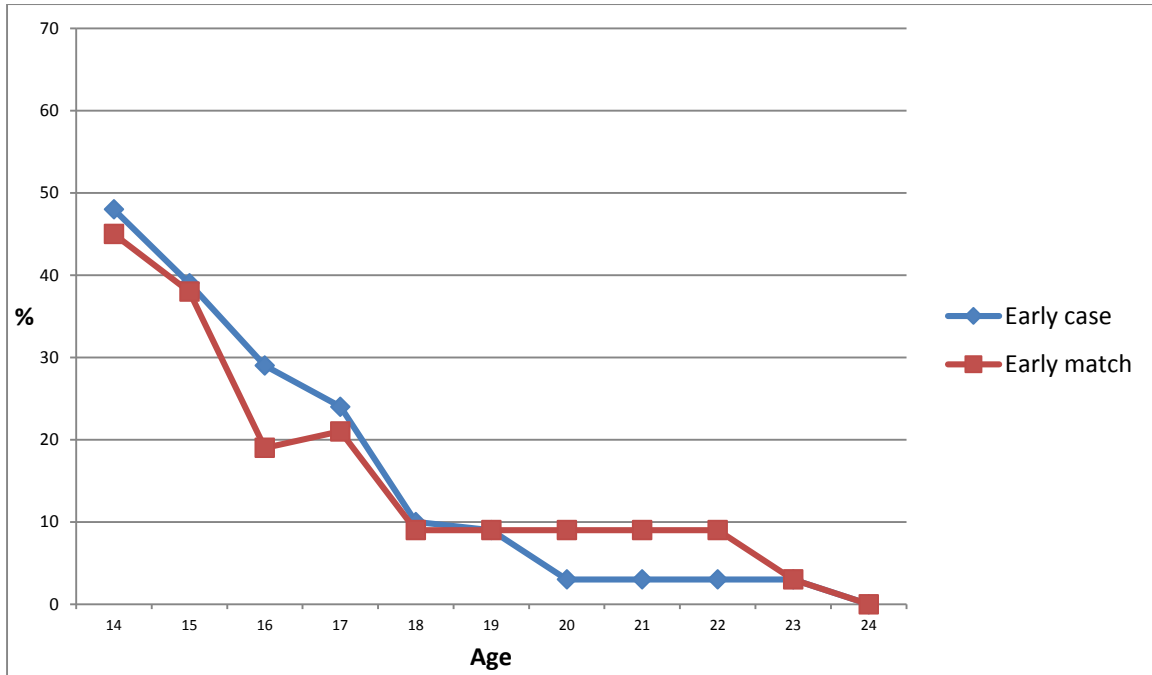
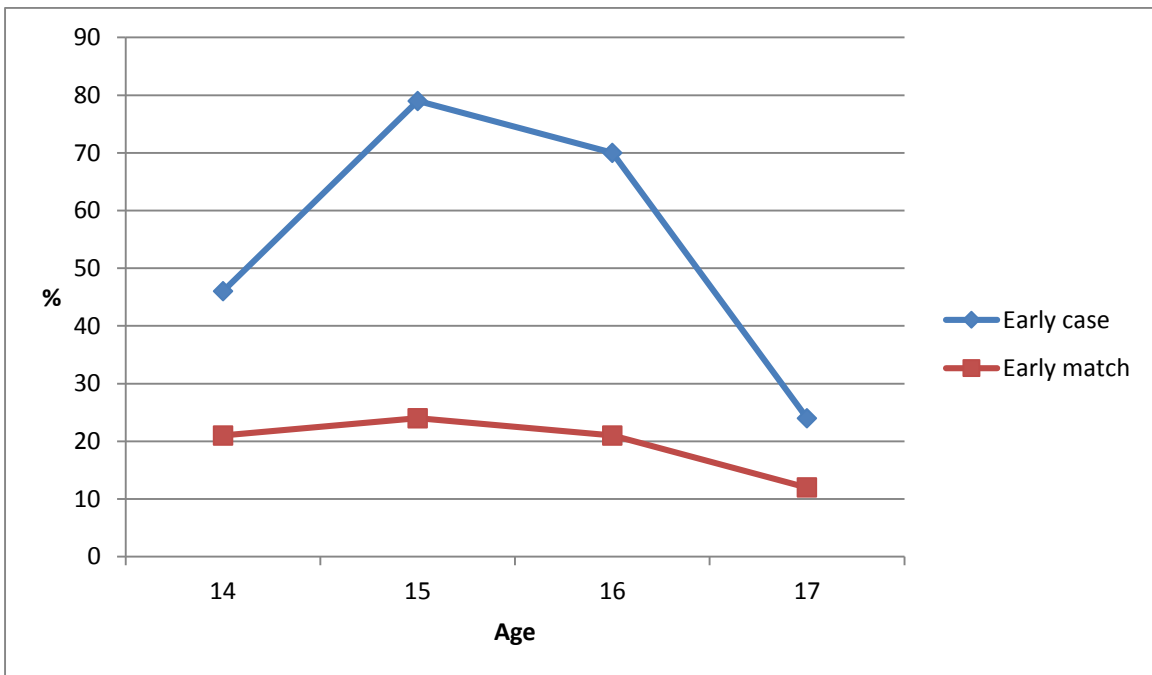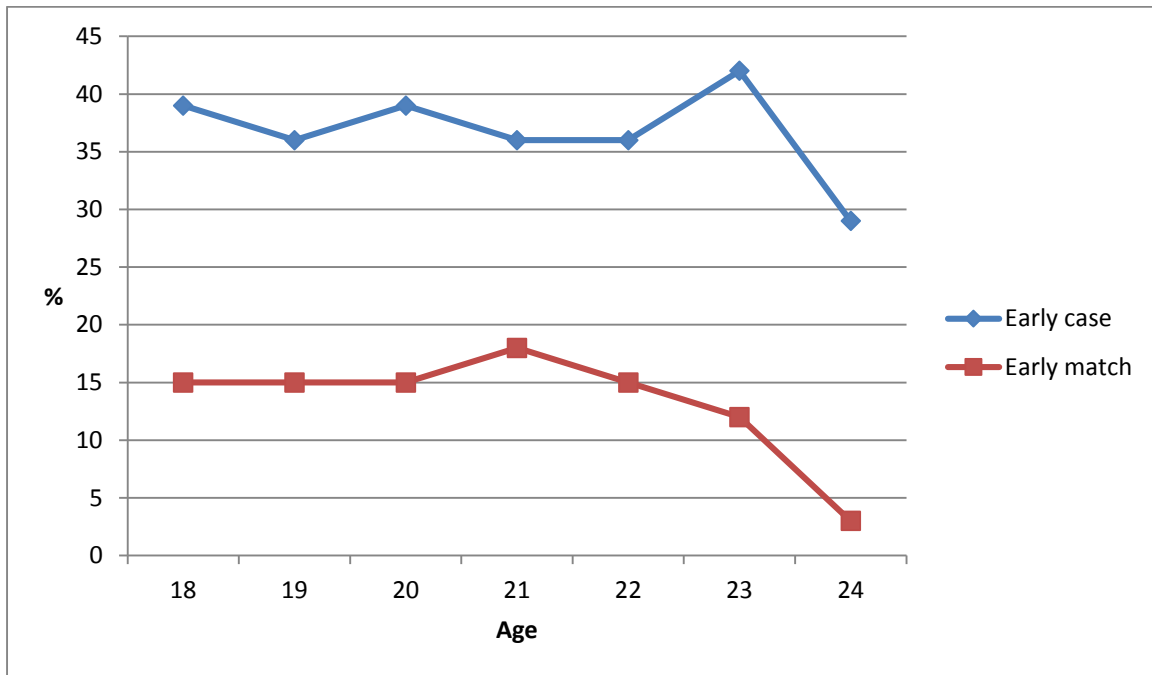**Figure 1: Prevalence of self-reported violence**
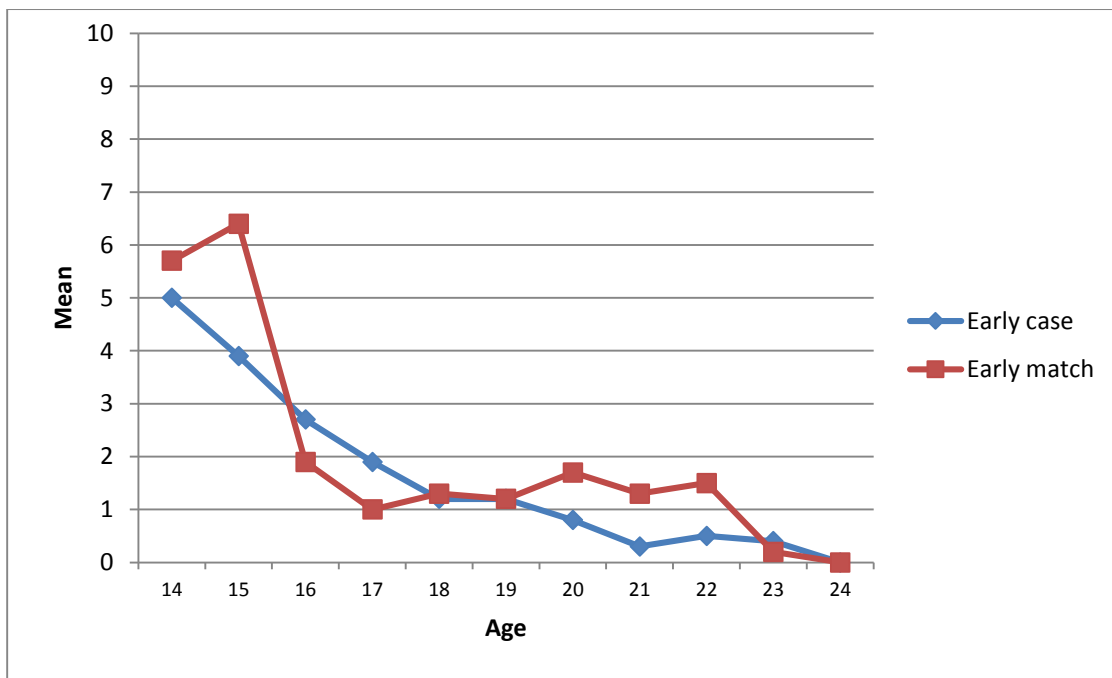
Figure 2: Mean frequency self-reported violence
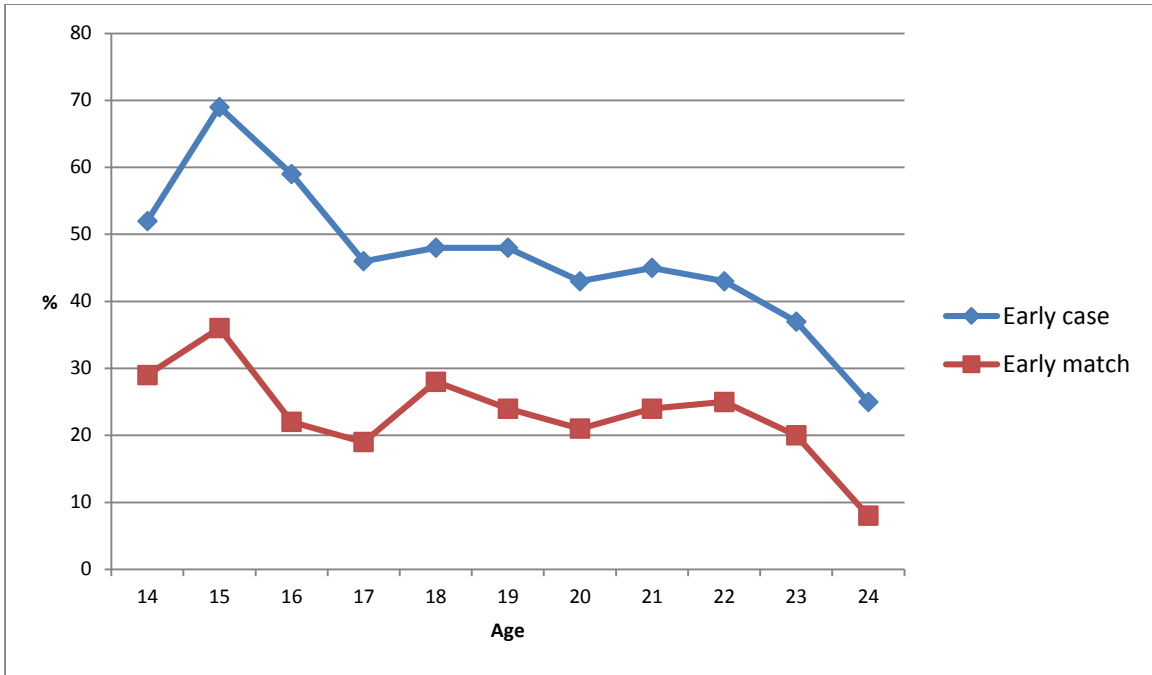
Figure 3: Police warning and charges

Figure 4: Referred to juvenile justice system

Figure 5: Brought to Court

Table 3: Predicting NEET status

	What predicts NEET status at age 18 NEET=255 Employed or in education/training=2595	
	Odds ratio	P value
Ever been made subject to compulsory measures of care	3.7	.000
Ever referred on offence grounds to Reporter	3.1	.000
Low caregiver socio-economic status	1.8	.000
Lowest attachment to school at 15	1.4	.032
Poorest relationship teachers at 15	2.0	.013
Lowest aspirations	2.4	.000
Gender	-	-
Live in top quartile neighbourhood deprivation	-	-
Left school at 16	-	-
History of police warnings and charges	-	-
Highest truancy at 15	-	-
School exclusion at 15	-	-
Highest volume of punishments at 15	-	-
Highest bad behavior at school at 15	-	-
Kinship, foster care, or single parent	-	-
Highest conflict with parents	-	-
Highest family disruption	-	-

[2] The children's hearing system deals with young people in need of care and protection from birth up to age 16, and young offenders from age 8 [the age of criminal responsibility] to 16. Cases are referred to the 'Reporter' who investigates whether or not there is a prima facie case that one of the grounds for referral to a hearing has been met and the child is need of compulsory measures of care. The hearing is a lay tribunal and disposals include residential and non-residential supervision requirements. In Scotland social workers deliver probation and throughcare services and are responsible for community-based disposals such as community service orders.

[3] Examples: 32 youth justice strategy groups, 11 local criminal justice boards, and 8 community justice authorities.

[4] Prior to the implementation of the Children's Hearing (Scotland) Act 2011, all offences admitted to by children during a hearing, counted as convictions, potentially disclosable to future employers until the age of 40.

[5] At the time of the research, police policy was to refer all young people charged with an offence to the Reporter. In the adult criminal justice system, the police (then as now) refer cases to the Procurator Fiscal who determines whether there is sufficient evidence to lead a prosecution and whether it is in the public interest to do so.