

**Negotiating labyrinths of risk:**

The impact and implementation of a structured violence risk assessment instrument

in juvenile parole

by

Kevin Barnes-Ceeney

A dissertation submitted to the Graduate faculty in Criminal Justice in partial fulfillment of the requirements for the degree of Doctor of Philosophy

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This manuscript has been read and accepted for  
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## ABSTRACT

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Risk assessment has become a critical aspect of correctional work. Risk assessment instruments are often used by criminal justice workers to predict the likelihood of prison escape, recidivism, or an offender's potential for perpetrating future harms. Increasingly, state parole boards are using risk assessment to assist in their evaluation of offenders' risks, to identify requisite interventions, and to ascertain suitability for parole.

Although there has been considerable research concerning the predictive validity of risk factors, few studies have examined how criminal justice workers experience and understand risk assessment, and how such understandings impact decision making. Many scholars have posited that the use of risk assessment to inform discretion decisions can improve the consistency and accuracy of recidivism prediction. Others, however, suggest that risk assessment instruments are indicative of the pernicious scientification of administration, and that an emphasis on risk factors may lead workers to practice containment rather than resolution, ensnaring individuals in biographical “labyrinths of risk.”

Despite extensive risk theorization, few scholars have examined the impact of risk technologies at the individual and organizational level. This mixed methods case study addresses

this gap in the literature. The qualitative inquiry answers the central research question: *How do juvenile justice actors experience and understand risk assessment processes?* Subsidiary questions seek to unpack these experiences and understandings by asking: *How do juveniles experience labyrinths of risk?* and *What is the nature of risk labyrinths?* The quantitative part of the study answers the question: *Does the implementation of a structured risk assessment increase the number of juveniles released early on parole?*

Tracking the implementation of the *Structured assessment of violence risk in youth* (SAVRY) assessment tool, in juvenile parole in New Jersey, this dissertation seeks to understand the meanings juvenile justice actors ascribe to risk, and how such understandings shape juvenile justice system responses. Semi-structured interviews focusing on perceptions of risk were conducted with three juvenile parole board members, six parole hearing team officers, 12 Juvenile Justice Commission staff, and 10 committed juveniles. Where possible, interviews were recorded and transcribed. Forty-five parole board hearings were also observed, and 21 case files were selected and transcribed. Quantitative data comprised of 445 SAVRY assessed and un-assessed juvenile cases. Cases were matched on the following variables: age within 6 months of index offense, gender, sentence length, seriousness of index offense score, and the *Offender Group Reconviction Scale 3* (OGRS 3.)

A grounded theory approach was adopted to analyze the qualitative data. Line-by-line open coding of transcripts was conducted, using Atlas ti qualitative data analysis software. The constant comparison method was used to refine initial codes, and develop pattern codes. Repeated patterns of meaning were grouped into themes, and the themes discussed with study participants. The quantitative data was analyzed through a survival analysis. Hazard curves were

generated to examine whether assessed juveniles are likely to be released earlier than non-assessed juveniles.

The findings suggest that juveniles who received a SAVRY assessment were more likely to be released earlier on parole, after an initial period of one year had passed. Parole board members felt that the SAVRY instrument was helpful as they are required to chart a course through large amounts of risk information. Risk assessment instruments do not create labyrinths of risk, however the labyrinths of risk metaphor is still useful. Risk assessment instruments appear to serve as Ariadne's thread helping to guide parole board members as they negotiate labyrinths of risk when making a parole decision. Furthermore, a juvenile's progression through the juvenile justice system can be likened to a classical labyrinth, consisting of a single unicursal path leading to the center and out again. Successful navigation of such a labyrinthine structure involves a process of transformation, in which the juvenile is expected to extinguish his offending self, thereby metaphorically slaying the Minotaur. A net labyrinth awaits the juvenile on his release. Organizational interconnectivity is of critical importance when a juvenile negotiates such a postmodern labyrinth of labyrinths.

This dissertation facilitates a better understanding of the interplay between risk assessment instruments and juvenile justice decision-making. The findings improve knowledge of the barriers to successful risk assessment implementation, and identify problems with intra- and inter-organizational connectivity. Training opportunities for juvenile justice actors are identified, which facilitate the adoption of effective risk management procedures. Key findings of the dissertation were disseminated to juvenile justice employees through face-to-face discussions during the data analysis process, and meetings with senior parole officials.

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## CHAPTER 1. INTRODUCTION

Now the labyrinth was a perplexing construction, so filled everywhere with endless mazes, halls, passageways, and staircases, going up and down, that whoever once was placed therein wandered about continually and never found the exit.

(Comenius, 1668, p. 15)

Actuarial technologies that manage risk and uncertainty have become a common feature of the criminal justice system (O'Malley, 1992). Such “technico-scientific” approaches (Lupton, 1999) view risk as a phenomenon requiring objective identification and assessment of apparent causal factors in order to implement effective policies which manage, mitigate or minimize the risk. Drawn from aggregate data, a combination of risk factors may be used not only to determine an inmate's institutional security classification and his access to privileges, but also as a rudimentary indicator of his clinical needs (Ward & Maruna, 2007). Increasingly, parole boards are using structured risk assessment instruments to assist in their evaluation of offenders' risk and needs to identify requisite interventions and to ascertain potential suitability for parole.

Although there is a considerable body of research relating risk factors to the likelihood of a juvenile engaging violence acts (see Borum, 2000; DeMatteo & Marczyk, 2005; Hawkins et al., 1998), little is known about how criminal justice professionals experience, understand, and integrate risk assessment into their decision-making (Baker, 2008). Furthermore, in spite of extensive risk theorization, few scholars have examined the impact of risk technologies at the individual and organizational level. One study in the United Kingdom, examining the impact of a juvenile risk assessment instrument, found that the tool gave practitioners the opportunity to justify their decisions, and inform the work that needed to be undertaken (Baker, 2008). Others, however, have criticized risk assessment tools, suggesting that they may reduce the likelihood of dynamic interventions, by encouraging a uniform and unthinking approach (Smith, 2007).

Focusing on the potential impact of risk assessment practice on offenders, Canadian criminologist and risk theorist George Rigakos, suggests that actuarial risk technologies force offenders "to negotiate a labyrinth of risk ratings tied to their biographies" (Rigakos, 1999, p. 140). Such an evocative metaphor may be useful in structuring our thinking about the impact of actuarial technologies on both the risk assessors and committed juveniles. Like the monstrous Minotaur, the resultant offspring of Pasiphae's union with a Cretan bull described in Greek mythology, a committed juvenile may be ensnared within a metaphorical risk labyrinth, designed to separate the juvenile from society, and remove him from the public's gaze. The labyrinth walls are formed from the perceived risk and protective factors relevant to the assessed juvenile. Jaskolski (1997) reminds us that the classical labyrinth was not a maze, but a single, circuitous path leading to a central dead end (see fig.1.1). Exit from a labyrinth is not impossible, but requires the diligent and careful following of a single path to the exit. Risk assessment instruments, therefore, may serve to ensnare some juveniles in a labyrinth of risk. For others, risk assessment tools may facilitate a transformative journey, should the contemporary Ariadne's thread of advice and programming be followed.

**Fig. 1.1:** The classical labyrinth



## **Purpose, goals and objectives**

This dissertation advances understanding of effective risk assessment implementation in juvenile justice. It seeks to better understand the interplay between risk assessment instruments and juvenile justice decision-making. The study benefits juvenile justice policy-makers, parole board members, juvenile justice workers, scholars, and ultimately juveniles and communities at large. Specifically, this dissertation will: 1) Document juvenile justice actors' understandings of risk and dangerousness; 2) Identify whether the implementation of a structured violence risk assessment instrument increases early parole releases; and 3) Examine the individual and organizational barriers which may impede the successful implementation of risk assessment in parole decision-making.

The dissertation focuses on the implementation of *Structured Assessment of Violence Risk in Youth* (SAVRY) risk assessment instrument in the State of New Jersey. Cognizant of an organizational mission to release committed juveniles early and safely on parole, the New Jersey State Parole Board (NJSPB) collaborated with psychologists from the University of Medicine and Dentistry of New Jersey (UMDNJ) and adopted the SAVRY risk assessment tool in 2009. UMDNJ psychologists provide SAVRY risk assessments on all committed juveniles being considered for parole. They read juvenile case file information, interview juveniles, and prepare a SAVRY assessment. A summary of the assessment is then included in the case file reviewed by the juvenile parole board. Parole managers hope that structured risk assessment information will aid the parole decision-making process and encourage parole board members to safely release more juveniles early on parole.

The New Jersey Juvenile Parole Board considers approximately 300 committed juveniles each year (Frendle, 2004). Each juvenile attends a parole board hearing that will determine the

reasons for the juveniles continued confinement, and consider whether the juvenile will cause injury to persons or substantial injury to property if released (N.J.A.C. 10A:71-3.22-3). The New Jersey State Parole Board's "roll-out" of the SAVRY risk assessment instrument, beginning in 2009, provided an ideal opportunity to examine the impact of structured risk assessment upon juvenile parole decision-making.

### **Methodological choices: Relation to the study's purpose**

The current study focuses on the understandings of risk and dangerousness held by juvenile justice actors, and examines whether the implementation of a risk assessment instrument has an impact on early parole releases. Through a mixed methods case study approach (Yin, 2009) (see Chapter 3, Methods), individual and organizational barriers which impede successful risk assessment implementation are also identified.

The study employs a case study design. Yin (2009) suggests that a case study must investigate a contemporary phenomenon in depth in its real-life context, especially when the boundaries between the phenomenon and context are not clear, and data collection and analysis must rely upon multiple sources of information. Case studies are particularly useful for examining institutional relationships, processes, and experiences (Merriam, 1988, p. 41).

Case (2007) underscores the need to balance the largely quantitative focus of risk research with "a deeper, qualitative investigation of the opinions, meanings and motivations of key stakeholders in the process" (p. 98). Although research in correctional risk assessment has hitherto been predominately quantitative in nature, risk assessment is clearly not an apolitical process (Hannah-Moffat, 2005) as assessments are shaped by the perceptions of individuals embedded within political-institutional contexts (Maynard-Moody & Musheno, 2003; Schlager,

2009). A mixed methods study, combining both quantitative and qualitative methods, draws upon the advantages offered by both approaches. Qualitative methods which nurture "an interpretive, naturalistic approach to the world" (Denzin & Lincoln, 2005, p. 3), are highly appropriate for peering into the black box of risk assessment implementation, enabling insight into the understandings juvenile justice actors hold towards risk, while also identifying barriers to effective risk assessment implementation. Quantitative methods help to determine whether the use of risk assessment instruments increases the number of early juvenile parole releases. A mixed method approach was therefore chosen on the basis of its usefulness in description, explanation, and analysis.

### **Research questions**

The qualitative inquiry answers the central research question: *How do juvenile justice actors experience and understand risk assessment processes?* Subsidiary questions seek to unpack these experiences and understandings by asking: *How do juveniles experience labyrinths of risk?* and *What is the nature of risk labyrinths?* The quantitative part of the study sought to answer the question: *Does the implementation of a structured risk assessment increase the number of juveniles released early on parole?*

### **Theoretical framework**

Given that the concept of risk is all encompassing (Beck, 2009; Walklate & Mythen, 2011) a number of theories and paradigms, drawn from a variety of disciplines, are essential to the current study. The central tenets of these theories and paradigms will be highlighted here, and then discussed in more depth in the literature review (Chapter Two).

## **The risk society and the new penology**

Contemporary risk discourse posits that there is something fundamentally different about our awareness of, and responses to, hazards in our late modern world (Beck, 1992; Giddens, 1990; Massumi, 1993). Risk has assumed an ontological status critical for our understanding of self, and our relation to the social and material world (Lupton, 1999), and has become the defining concept of our late modern "risk society" (Beck, 1992; Simon, 1987). A profound sense of uncertainty, anxiety, and unpredictability emanating from an awareness of seemingly innumerable threats, generates urgent demands for government to do something about the risks we face. In criminal justice terms potential risks appear almost limitless. To name just a few, the public may perceive personal safety risks posed by carjackers, home invaders, or street robbers, the risks faced by their children from predatory sex offenders or school shooters, and the risks to their property from burglars and thieves. Experts are drafted in the hope that they will minimize, manage, and mitigate risk, and hence engender personal and material security. The experts often deploy actuarial technologies (O'Malley, 1992) in the form of risk assessments, believing that they will provide predictive estimations of risk.

Feeley and Simon (1992) suggest that risk assessment and management form the basis of a "new penology." Focusing upon managerial processes the goal of the "new penology" is not to eradicate crime "but to make it tolerable through systematic coordination (p. 455). They argue that concern for individual rehabilitative needs has been replaced with "an actuarial language of probabilistic calculations and statistical distributions applied to populations" (p. 452). Estimations of quantifiable risk based on a framework of probability statements, Beck (1992) warns us, are "a house of cards of speculative assumptions" (p.29). He suggests that scientific statements of risk cannot be refuted, even when serious harm occurs, thereby generating a

dialectical tension between scientific expertise and the public's counter-expertise. The cows grazing in a field next to a new chemical factory may turn yellow, Beck argues, but scientists will not call for the closure of the factory until the risk can be statistically proven. The inherent tension between *scientific rationality* and *social rationality*, will never be fully resolved, and instead we are left with a somewhat bulimic relationship between the two competing rationality claims. We turn to scientific "experts" for advice and help, and while accepting some selective information, we reject that which does not reinforce our existing beliefs (Kemshall, 2010). The risk society and new penology literature is explored in Chapter 2 of this dissertation, subsection: *Risk awareness and the risk society*.

### **Risk factors and the risk-needs-responsivity model**

“Expert” scientific findings concerning the identification of the presence or absence of variables which increase or decrease the likelihood of an individual engaging in offending behavior have become an important feature of correctional work in recent years. Such variables may be drawn from aggregated empirical data, or subjective opinion, and a combination of risk factors may be used to determine an inmate's institutional security classification, his access to privileges, and as a rudimentary indicator of his clinical needs (Ward & Maruna, 2007).

Validated risk assessment instruments draw together variables that research has shown are correlated with recidivism. The four variables which demonstrate the highest predictive validity, referred to as “big four,” are (1) a history of antisocial personality; (2) the presence of antisocial personality; (3) antisocial cognitions; and (4) antisocial peers (Andrews & Bonta, 2010; Gendreau, Little, & Goggin, 1996). The “big four” major risk factors, combined with four

additional moderate risk factors (family/marital environment; school/ employment; leisure; and substance misuse) form the “central eight” risk factors (Gendreau, et al., 1996).

Risk factors are frequently conceptualized as either *static* or *dynamic*. Static factors, sometimes referred to as fixed markers (Kraemer et al., 1997), are predictors of recidivism that do not change, (e.g., age at first conviction); dynamic factors, or variable markers (Kraemer, et al., 1997) are those that are amenable to change (e.g.: pro-criminal attitudes and substance use). Although Laune's (1936) early attempts to develop a parole prediction model based on dynamic factors alone were highly regarded, Hakeem (1945) concludes that perhaps a combination of both static and dynamic factors would prove to be the most accurate approach to prediction. Commonly used empirically-determined variables today include historical risk factors, (e.g.: previous offending history, past supervision or intervention failure), social factors, (e.g.: association with pro-criminal peers, community disorganization), and individual factors, (e.g.: substance misuse, and impulsivity). Practitioners work through the risk assessment tool, documenting the presence or absence of each factor, usually to reach a determination that the offender presents a "high," "medium," or "low" risk of offending. A strong body of research has shown that validated risk assessment instruments are predictive of future violent offending (Borum, 2000; DeMatteo & Marczyk, 2005; Hawkins, et al., 1998).

The identification of empirically validated risk factors is central to the risk-needs-responsivity (RNR) model of effective correctional treatment. Emerging from an article written in 1990 by Andrews, Bonta and Hoge, the RNR model outlines three core principles for effective offender rehabilitation. Firstly, the *risk principle* posits that program intensity should be matched to the offender's risk level, and that greater intensity of treatment should be reserved for those offenders assessed to pose the highest risk of recidivism. Secondly, the *need principle* proposes

that only criminogenic needs (factors that have been empirically demonstrated to be directly related to criminal behavior) should be targeted for interventions. Thirdly, the *responsivity principle* suggests that interventions should be matched to the learning style and abilities of the offender (Andrews, Bonta, et al., 1990). Although the RNR model has been expanded in recent years (see: Andrews & Bonta, 2010; Bonta & Andrews, 2010), the three principles of risk, need, and responsivity remain at the core of the RNR model of effective correctional treatment. The risk-needs-responsivity model is examined in Chapter 2 of this dissertation, subsection:

*Criminogenic needs and the “big four” (and central eight).*

### **Heuristics and biases in decision-making**

Although the Risk-Needs-Responsivity (RNR) model has had considerable impact upon correctional practice and policy (Andrews, Bonta, & Wormith, 2011), and risk assessment provides employees and offenders with the opportunity to systematically “review strengths, problem areas, and responsivity issues” (p. 742), others have suggested that risk decision-making process is often a less objective, considered process than that assumed by proponents of RNR. The “heuristics and biases” approach to human judgment, also known as “Prospect theory” (Tversky & Kahneman, 1992), originally proposed by Amos Tversky and Daniel Kahneman (1973, 1974, 1981, 1992), posits that judgments made under uncertainty often rely on only a small number of simplifying experience-based heuristics rather than intricate algorithmic processing. They suggest that when faced with a complex problem, for which the outcome is uncertain, decision-makers often rely on “computational shortcuts and editing operations” to simplify the evaluation of prospects (Tversky & Kahneman, 1992). Parole-board members face considerable uncertainty when faced with the question of whether a juvenile should be released

early. Releasing the young person from an institution early may minimize the iatrogenic effects of incarceration (such as exposure to criminal peers and inability to form and maintain sustaining romantic relationships with people in the outside world), however the young person may recidivate, potentially causing serious harm to other community members. Tversky and Kahneman would argue that parole board members, when faced with such a decision, are unlikely to be able to synthesize all the scientific information available, to reach a "correct" decision. Instead, parole board members may rely on simplifying heuristics. Such shortcuts often run counter to knowledge drawn from the theories of probability, and mathematics. Tversky and Kahneman suggest that when making judgments where the outcome is largely uncertain, people often employ three general-purpose shortcuts: - *availability*, *representativeness*, and *anchoring and adjustment*.

According to the availability heuristic principle, when people consider the likelihood of an uncertain outcome their estimation of likelihood is influenced by its cognitive availability, that is, "the ease with which this outcome can be pictured or constructed" (Sherman, Cialdini, Schwartzman, & Reynolds, 1985, p. 119). While the availability heuristic coincides with memory retrieval processes, the representative heuristic, as Gilovich and Griffin (2002) note, coincides with automatic pattern-matching processes, thereby influencing subjective predictions of likelihood. Thus, when faced with a seventeen-year-old African American from an inner city environment, convicted of robbery of a gas station attendant, a parole board member's decision-making is likely to be influenced by available recollections of seemingly similar (and representative) juveniles.

When making predictions in uncertainty, the anchoring and adjustment heuristic may also come into play. Tversky and Kahneman (1974) suggest that people often spontaneously anchor

their information on examples that readily come to mind, and then adjust their judgment accordingly. Adjustments are often heavily biased towards the original anchor. A now classic example of the influence of the anchoring and adjustment heuristic was provided by Strack and Mussweiler (1997). They asked one group of participants whether Mahatma Gandhi was younger than 140 years of age when he died, and to estimate how old he was when he died. Another group of participants was asked if Gandhi was older than 9 years of age when he died, and to estimate how old he was when he died. Those provided with the higher figure as an anchor estimated Gandhi to have lived for 67 years, and those receiving the low anchor thought he was 50 years-old. In a parole board hearing where the index offense, and previous offense behaviors are a central focus, anchoring and adjustment may result in overestimations of potential harm. Although the deterministic truism "the best predictor of future behavior is past behavior" often takes centre stage, reticence to release may be compounded by psychological anchoring to other available experiences. Given that the parole board are most likely to see negative rather than positive outcomes, the most available and representative case-examples drawn upon may be those who have been returned to a custodial setting, and risk-decisions may be adjusted resulting in the amplification of risk. The failure prospects of the seventeen-year-old African American juvenile from an urban environment may be regarded as high, overriding any "scientific" evaluation of risk offered by the SAVRY. The usefulness of the heuristics and biases approach when considering the impact of a risk assessment instruments on parole decision-making is explored in Chapter 2 of this dissertation, subsection: *The implementation of risk assessment instruments.*

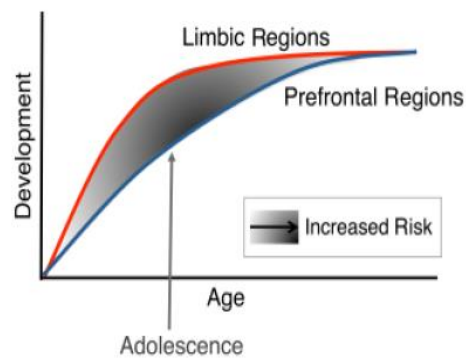
## **Developmental theories**

Parole board decisions may also be anchored in the image of “typical” risky adolescent behavior. It is widely accepted that teenagers are more likely to engage in risky behaviors than adults (Steinberg, 2004; Steinberg, 2007). Common risky behaviors include smoking, excessive alcohol consumption, promiscuity, drug use, driving under the influence, stealing, and shoplifting. Scholars are less clear, however, on why adolescence is marked by considerable risk-taking. The classic perspective that views adolescence as a universal period of "storm and stress" (Hall, 1904) has been substantially reconceptualized, and adolescence is now regarded as a period of "storm and stress" for only a small number of young people (Offer & Offer, 1975). Adolescence is, however, a time of rapid developmental change, often involving considerable experimentation with risky behaviors (Arnett, 1992; Edens, Skeem, Cruise, & Cauffman, 2001). Youths experience considerable physiological transformation, and such changes affect the way they think, feel, behave, make decisions, and respond to others (Borum & Verhaagen, 2006). Surges in testosterone and androgen for boys, and estradiol and estrogen for girls during adolescence may serve, for some young people, to exacerbate feelings of irritability (Borum & Verhaagen, 2006). Spear (2000) suggests that age-related neural transitions partially explain adolescent risk-taking behaviors, particularly alcohol and drug use. Brain-imaging researchers have observed that our brains begin their final developmental push when we are aged between 16 and 17 years, and "max out" in terms of maturity somewhere between the ages of 20 and 25 years (Beckman, 2004).

Although some studies have shown that the cognitive capacities of mid-to-late-adolescents vary little from those found in adults (Furby & Beyth-Marom, 1992; Grisso & Vierling, 1978) others argue that the brain systems which govern impulse control, planning, and

thinking ahead continue to develop after the age of 18. In a recent article, Casey, Jones, and Somerville (2011) posit that the later development of the prefrontal regions, responsible for behavioral control, compared to the limbic regions, that focus on reward behaviors (see figure 1.2) may explain the greater risk-taking seen during adolescence. Given the differential developmental trajectories of the subcortical and prefrontal regions, Casey et al. suggest that adolescents, when faced with emotionally charged situations, may make decisions based upon impulse, rather than careful cognitive consideration.

**Fig. 1.2:** Neurobiological model of the differential development of the limbic and prefrontal regions



(SOURCE: Casey, et al., 2011)

Given that adolescence is a period of rapid developmental change, caution must be exercised when conducting a risk assessment. In particular, juvenile risk assessments have a relatively short shelf-life, with most needing to be reviewed and revised every 6-12 months (Tiffin & Richardson, 2006). Assessments need to be drawn from a wide variety of sources, encompassing a multitude of areas. Juvenile offending is certainly multi-determined, whereby a number of historical, individual and contextual risk factors converge (Borum & Verhaagen, 2006). The presence of one or more risk factors does not, of course, mean that a future antisocial

behavior or offense will necessarily occur. The effects of some risk factors may be mediated by assets, or strengths (Bogenschneider, 1996; Masten, 2001), or compounded by seemingly irrelevant happenings. Risk factors in turn may operate in multi-directional ways. For example, violent video games may increase aggressive thoughts and feelings, which in turn may, under certain circumstances and conditions, increase the likelihood of violence (Anderson, 2004; Anderson & Bushman, 2001), however a video game console at home may also serve to draw an adolescent away from negative peer activities. Although risk assessment tools may help structure professional decision-making concerning future risks, it is important to remember, as Zimmerman (1989) observes, that offending behaviors may result from both predictive potentialities and stochastic processes. Developmental theories and juvenile violence risk are explored in Chapter 2 of this dissertation, subsection: *Juvenile violence, risk factors, and juvenile violence risk assessment instruments*.

### **Contributions of the study**

The contributions of the present study are an improved understanding of the meanings juvenile justice actors ascribe to risk, and how such understandings shape juvenile justice system responses. The use of risk assessment instruments to inform discretion decisions has tremendous potential to improve the consistency and accuracy of recidivism prediction. This dissertation is the first study to use a mixed methods approach to understand the impact and implementation of risk assessment instruments. Drawing on both quantitative analysis and rich qualitative data, the dissertation identified the simplifying heuristics employed by individual parole board members and Juvenile Justice Commission employees that shape risk-decision making. Although the risk assessment instrument was regarded with considerable skepticism in the initial stages of

implementation, over time, the tool become increasingly incorporated into practice. The dissertation also explored how the tool needs greater integration within an institutional context of treatment.

Clearly, the institutional context in which risk assessment instruments are implemented and interpreted is of fundamental importance. The identification of risk factors without recourse to treatment and intervention is likely to create and perpetuate Rigakos' (1999) "labyrinths of risk" whereby juveniles may become physically and metaphorically imprisoned by their constructed risk identity. Individualized, responsive interventions which tackle the factors that have been shown to significantly predict future violence may be an appropriate way of helping juveniles navigate and exit the risk labyrinths. Developing coherent risk management plans informed by risk assessment may be an important step forward.

## CHAPTER 2: REVIEW OF THE LITERATURE

If one prediction should hit the target, five others would miss. Realizing, then, that it was easy to predict even without the stars when guessing correctly is praised and failure is excused, I considered it useless to delay myself any longer with such affairs.

(Comenius, 1623, p. 110)

The concept of risk is extremely broad, touching all areas of contemporary life. Risk also has a long and fascinating history. In order to understand juvenile violence risk assessment today, we must consider the changing nature of risk through history, and we cannot ignore the enormous role risk thinking plays in society outside of the criminal and juvenile justice system. In order to chart a course through the risk literature, the following literature review begins with an examination of the emergence of risk, taking the Ancient Egyptians and Ancient Babylonians as a starting point. The literature review then explores the emergence of quantitative risk analysis and probability in the Enlightenment period, before examining the history of risk assessment instruments in the twentieth century criminal justice system. Following this, different types of risk prediction are identified, the longstanding actuarial-clinical debate is examined, and structured professional judgment instruments are introduced as both a comfortable middle ground, and useful tools for everyday working practice. Of course, it would be remiss to consider contemporary risk assessment instruments without considering the body of literature exploring our contemporary risk society, and growing public skepticism towards scientific opinion in our late modern world. Once a thorough contextualization of risk is achieved, the literature relating to contemporary juvenile violence risk assessment instruments is examined. Bronfenbrenner's (1979, 1989, 1994) ecological framework is used to explore the micro, meso, exo, and macro level risk factors associated with juvenile violence. Particular attention is given to findings from

the adolescent development literature, and consideration is given to how pubertal staging may be a frequently ignored area critical in adolescent violence risk. Such emphasis underscores the role of both biological and interpersonal influences at the micro level of analysis. The huge impact of the Risk-Needs Responsivity model of effective correctional treatment is then examined, identifying both the “big four” risk factors that research has shown to engender recidivism, as well as the “central eight.” Finally, the smaller literature relating to risk assessment implementation is examined, and the Heuristic and Biases approach is used to consider 22 potential cognitive dispositions that may impact parole board risk-decision making.

A multidisciplinary approach to the concept of risk provides the opportunity to exploit and connect realms within a vast and burgeoning literature (Althaus, 2005). Drawing upon differing scientific paradigms and systems of knowledge for collecting, analyzing and interpreting data, each discipline offers varying definitions, conceptions, and applications of risk. Warner (1992) suggests that a single disciplinary approach to risk has led to unnecessary compartmentalization of the field, leading to the development of a fragmented "risk archipelago" (p. 7). Examination of multidisciplinary perspectives allows new insights on risk to emerge. A useful summary of the main disciplinary conceptualizations of risk can be found in Table 2.1. Notably, the disciplines of criminal justice and social work are absent from the table, despite risk assessment and management becoming a central feature of both fields in recent years (Barry, 2007). Such an omission may reflect both the comparative youth of the disciplines, as well as the tendency of both criminal justice and social work scholars to adopt interdisciplinary methods when knowledge-building.

Synthesizing the work of scholars from a wide variety of disciplines including mathematics, economics, anthropology, behavioral and developmental psychology, criminal

justice, sociology, and medicine, this literature review examines the evolution of conceptions of risk, the development of risk assessment instruments in juvenile justice, and the specific risk and resiliency factors believed to be related to violent juvenile offending. In addition, the ongoing actuarial-clinical risk assessment debate is discussed, and contemporary studies of risk decision-making and criminal justice risk assessment instrument implementation are examined. Although the literature pertaining to risk assessment of juvenile violence is largely quantitative, I have made efforts to include qualitative and mixed method studies where appropriate.

**Table 2.1.** Disciplinary approaches and knowledge forms applied to risk

Discipline	How it views risk	Knowledge form applied to risk
Logic and Mathematics	Risk as a calculable phenomenon	Calculations
Natural sciences and Medicine	Risk as an objective reality	Principles, postulates, and calculations
Social Sciences		
Anthropology	Risk as a cultural phenomenon	Culture
Sociology	Risk as a societal phenomenon	Social constructs or frameworks
Economics	Risk as a decisional phenomenon, a means of securing wealth or avoiding loss	Decision-making principles and postulates
Law	Risk as a fault of conduct and a judicable phenomenon	Rules

**Table 2.1 (cont'd.):** Disciplinary approaches and knowledge forms applied to risk

Psychology	Risk as a behavioral and cognitive phenomenon	Cognition
Linguistics	Risk as a concept	Terminology and meaning
History and the Humanities		
History	Risk as a story	Narrative
The Arts (Literature, music, theatre etc.)	Risk as an emotional phenomenon	Emotion
Religion	Risk as an act of faith	Revelation
Philosophy	Risk as a problematic phenomenon	Wisdom

SOURCE: Adapted from Althaus, (2005)

### **The emergence of risk**

Risk assessment occurs at all stages of the criminal justice process. In the first 6 months of 2009, in Kentucky, 52,344 pre-trial detainees were assessed using a local risk assessment tool to determine bail flight risk and likelihood of recidivism (Austin, Ocker, & Bhati, 2010). A recent state supreme court ruling in Indiana observed that risk assessment instruments serve “as a legitimate and valuable contribution to the sentencing process” (Malenchik v Indiana, 2010). Echoing the view that risk assessment is “the cornerstone of effective supervision” (VanBenschoten, 2008, p. 38), the Office of Probation and Correctional Alternatives (OPCA) in New York State estimates that, in 2011, nearly 40,000 risk assessments were completed on probation clients (<http://www.criminaljustice.ny.gov/opca/pdfs/compasassessmentsreport2ndqtr2011.pdf>).

Although risk assessment is seemingly ubiquitous in the contemporary criminal justice system, it

would be foolhardy to restrict our exploration of the risk assessment literature to the criminal justice system alone. The criminal justice process does not occur in a vacuum, and is interrelated to and interdependent on wider societal conditions. An understanding of the impact of risk-thinking in wider society will provide important insights into our understanding of risk within the criminal justice system.

In today's world we seem beset by innumerable risks. For many, the risk of terrorist attack, global warming, nuclear radiation, salmonella and E. coli lurking in vegetables, engender considerable anxiety. In response to the risk of cancer, high cholesterol, obesity, and hypertension we may seek to quit smoking, reduce our sodium intake, and forego french fries in favor of a side of vegetables. We face other risks with seeming nonchalance. Few people consider the odds of death occurring from washing the dishes, although 55 Americans died from contact with hot tap water in the year 2000 (National Safety Council, 2000). Having a bath seems even more risky, with 341 Americans dying from falling into, or submersion in a bathtub.

Some people seek the adrenalin-rush of risk through participation in activities such as BASE jumping, rock climbing, or bungee jumping. Others embrace risk, by wagering \$1 or \$5 on a state lottery in the hope of winning millions. On Wall Street traders hedge risk by speculating on the future cost of bushels of wheat, while we make monthly payments to insurance companies, in order to offset potential losses caused by theft, fire, and flood. Liability insurance is purchased to mitigate future costly lawsuits, and community correctional officers fear being held personally liable for their charges' offending behavior in some states (Drapela & Lutze, 2009). The prediction and mitigation of future possibilities, Bernstein (1996), reminds us, "lies at the heart of contemporary societies" (p. 2). Risk is certainly a central and multi-

faceted concept (Warner, 1992). Garland (2003) provides a useful summary of the varying ways risk is used in contemporary society:

Risk is a calculation. Risk is a commodity. Risk is capital. Risk is a technique of government. Risk is objective and scientifically knowable. Risk is subjective and politically constructed. Risk is a problem, a threat, a source of insecurity. Risk is a pleasure, a thrill, a source of profit and freedom. Risk is the means whereby we colonize and control the future. "Risk society" is our late modern world spinning out of control. (p. 49)

Risk has always been with us. Whether the danger is the bite of a wild animal or falling rocks, human survival has depended upon man's ability to effectively anticipate potentially harmful events and take appropriate action (Monahan, 1981). Clearly, people both in the criminal justice system and within wider society have applied risk concepts long before they used the word "risk" to describe their actions (Althaus, 2005). There is considerable disagreement among scholars, however, concerning the origins of the term risk. Kedar (1969) suggests that the term originates from the Arabic word *risq*, meaning "anything that has been given to you and from which you draw profit." Bernstein (1996) argues that the word "risk" derives from the early Italian *risicare*, meaning "to dare." Skjong (2005) suggests that the term may originate from the Greek word  $\rho\iota\zeta\alpha$ , meaning root, stone, and cut from land. Luhmann (1993), Wharton (1992) and Ayyub and Amin (2007) suggest that the word derives from the Latin *risicum*, meaning cliff, or the challenge presented to a sailor by a barrier reef. Giddens (1990) suggests that the word "risk" derives from the Spanish nautical term *risco* meaning a steep and dangerous rock, while Skeat (1898) observes that the word risk was originally written "risque", meaning "perill," in Blount's (1674) *Glossographia*. Certainly, the varying scholarly views on the origin of risk is unsurprising. The development of language is an organic, non-linear process. Words may develop concurrently in different cultures. As Christiansen and Kirby (2003) observe, language

"is never stationary, changing over time and within populations which themselves are dynamic. It is infinitely flexible and (almost) universally present" (p. 305). The multifarious origins of risk may attest to its centrality in human history.

Drawing upon the linguistic meaning of the words  $\rho\iota\zeta\alpha$ , *risicum*, *risco*, and *risque*, many scholars have observed that "risk" was first conceptualized by maritime explorers venturing into unknown waters in pre-modern times (Denney, 2005; Ewald, 1991; Giddens, 1990). Others have suggested that the concept of risk emerged in the context of gambling (Bernstein, 1996; Douglas, 1992; Parton, 1996). Bernstein (1996) observes that the related word "hazard" may derive from the Arabic word *al zahr*, meaning dice. We have engaged in forms of gambling for thousands of years. Dice games, using astragalus, or knucklebone are depicted in Egyptian tomb paintings dating from 3500 BC (Bernstein, 1996; David, 1962). Such randomizers, used by children, adults, priests and diviners, gave random results based on the chance that the knucklebone would fall a certain side up. Moving beyond simple mechanisms of luck, the Asipu (magician-priest people), living in the Tigris-Euphrates valley (modern day Iraq) functioned as consultants for "risky, uncertain and difficult decisions" (Covello & Mumpower, 1985, p. 103). They assessed the problem at hand, identified alternatives, and collected data on the possible outcomes of each alternative. Each alternative was then marked in a ledger with either a "+" or a "-", and a clay-tablet final assessment report was given to the client. If we accept Kunreuther's (2002) definition of risk assessment as "studies that estimate the chances of a specific set of events occurring and/or their potential consequences," (p. 656) we can concur with Covello and Mumpower (1985), who, citing Grier (1980), note that the Asipu tablets are the first recorded instance of risk analysis.

Although providing the first recorded instance of risk analysis, the Ancient Babylonian Asipu's endeavors are a long way from modern understandings of risk. The Asipu believed that their insights were divinely inspired. If harmful events occurred, they were attributed to the Gods or fate. Skeat (1898) suggests that a modern understanding of risk replaced the attribution of harmful events to *fortuna* (fortune or fate). Ewald (1991), developing a similar theme, observes that in the Middle Ages "risk designated the possibility of an objective danger, an act of God, a force majeure, a tempest or other peril of the sea that could not be imputed to wrongful conduct" (p. 226). Indeed, during the Renaissance period, there was a societal shift from the belief that events occur as a result of divine intervention or supernatural forces. Such a shift, Bernstein (1996) proposes, heralded the beginnings of the serious study of risk.

Lupton (1999) imputes that notions of human fault and blame were excluded from early conceptualizations of risk, and suggests that the intellection of risk and blame is an important feature of enlightenment thinking. Careful examination of scholarly and literary sources reveals, however, that the attribution of human blame and responsibility in relation to risk and danger is not unique to the post-enlightenment world. Although events were commonly attributed to the actions of God and nature, the role of human agency in the construction and avoidance of risk was also an important feature of pre-modern risk thinking.

An awareness of the role of human fault in shipping disasters can be found in early Babylonian text. Penalties for poor boat construction and careless boatmanship that results in shipwreck are noted in the Code of Hammurabi in 2250 BC (see Handcock, 1920). Moving forward to the early medieval period, Chaucer's merchant in the fourteenth century *General Prologue* to the *Canterbury Tales* is described as wishing that the sea between Holland and England were better protected from those seeking to deprive seafarers of their cargo: "he wolde

the see were kept for any thyng / bitwixe middelburgh and orewelle" (Winny, 1965, p. 50). The observation that intervention is needed to protect shipping routes certainly suggests an awareness of the role human intervention plays in reducing potential risks. In a similar vein, Kohn (1999) notes, that merchants in the Middle Ages were cognizant of two forms of risk: casualty risks and market risks. Casualty risks came in the form of shipwreck, or plundering by pirates, privateers, or the taking of cargo by unscrupulous officials. Market risks emerged in the shape of a disconnect between fluctuations in demand and prices, and the slow speed of shipping and communications. Furthermore, Kohn (1999) notes the widespread use of the *foenus nauticum* or sea loans to mitigate business risks in the medieval shipping trade. Indeed, the "pound of flesh" demanded by Shylock in Shakespeare's *Merchant of Venice* arose from an initial shipping loss (Kemshall, 2003). Certainly, pre-modern sea-farers faced extensive risks, and there was recognition that some risks were preventable, and all were open to mitigation. In tandem with such risks, however, were the lure and promise of seemingly unlimited reward.

In the contemporary world we can still identify situations where risk-taking carries the prospect of abundant rewards. A speculator on Wall Street may purchase falling stocks in the hope that they will increase in value in the future, however she risks losing investors money. A base jumper leaping from a tall office building risks arrest and a broken spine, but stands to gain a burst of adrenalin, exhilaration and a feeling of being alive. Interestingly, in the contemporary criminal justice system, there appears to be few rewards in risk-taking. A parole board member receives no financial reward for releasing a potentially dangerous individual early, but risks considerable public condemnation should the offender commit a further serious violent crime. Certainly, Todd Clear's (2011) visionary incentives-based strategy for criminal justice seeks to address such a reward imbalance by attaching fiscal incentives to considered risk-taking. He

suggests that re-entering offenders could be assigned transitional and community development vouchers, payable monthly to private and non-governmental organizations if the individual has housing, is able to maintain fulltime employment or education, and remains crime-free. The justice incentives strategy seeks to redirect criminal justice budgets away from prisons, ensuring that justice monies are reinvested in local communities. Although real justice reinvestment is an important goal, the radical restructuring of risks and incentives may be too much for both liberals and conservatives to stomach. Liberals may feel that the monetization of individual value is inherently distasteful, particularly given that the majority of incarcerated offenders are African American. Placing a monetary value on African American offenders may, for some, be too reminiscent of the slave trade. For conservatives, providing fiscal incentives may involve too much employment market interference. Such a strategy, however, would certainly serve to redefine risk by reasserting the positive and negative consequences of risk-taking. A reconceptualization of risk in criminal justice would not, however, be a return to the type of risks faced by early seafarers. A distinguishing feature between the conceptualization of risk in pre-modern and modern times was the use of statistical approaches to predicting risks and rewards.

### **The emergence of quantitative risk analysis and probability**

At this juncture it is perhaps important to note that risk, although sharing some common attributes with danger, is a distinct phenomenon. As Garland (2003) explains: "Danger is the potential for harm that inheres in a thing, person, or a situation. Risk is a measure of that potential's likelihood and extent. Put at its simplest, risks are estimates of the likely impact of dangers" (p. 50). When we attempt to estimate danger it is often useful to draw upon the mathematical theory of probability.

Ward and Maruna (2007) do acknowledge the role of probability in risk, in their useful and succinct summary: "Risk has two components: the existence of potentially harmful agents...and the possibility that the hazards associated with the agents in question will actually occur" (p. 45). Modern notions of risk are inextricably intertwined with probability. Such an observation led Bernstein (1996) to conclude that there are dual roots to our modern conception of risk. Firstly, the adoption of the Hindu-Arabic numbering system in the West enabled the development of algebra, and calculus. Secondly, the societal shift that occurred during the Renaissance period allowed people to reject divine and supernatural explanations, and develop the laws of probability.

The renaissance period, as Bernstein (1996) argues " was a time when much of the world was to be discovered and its resources exploited. It was a time of religious turmoil, nascent capitalism, and a vigorous approach to science and the future" (p. 3). It was in the subsequent Enlightenment period, however, when scientific study really began to take off. For the thinkers in the early Enlightenment, estimating the probability that an event may occur became possible through rapid advances in the science of probability and statistics. Scholars largely agree that Blaise Pascal's and Pierre de Fermat's solution to "the problem of points" in 1654 signified the birth of mathematical probability theory (Bernstein, 1996; Devlin, 2010; Shafer, 1990; Todhunter, 1865). Devised by Franciscan monk Luca Paccioli in 1494, the problem of points proposed the conundrum of how to equitably divide the stakes in a fair game when the game ends before an outright winner has been declared. Solving the problem requires estimating our confidence in the likely outcome of an unknown event (Bernstein, 1996). Making decisions concerning risk requires deciding what to do when multiple outcomes exist and the outcome is uncertain.

An important contribution to probability theory was Daniel Bernoulli's development of the idea of expected utility. Bernoulli (1738/1954) suggests that:

No valid measurement of the value of a risk can be obtained without consideration being given to its *utility*, that is to say the utility of whatever gain accrues to the individual or, conversely, how much profit is required to yield a given utility. However it hardly seems plausible to make any precise generalizations since the utility of an item may change with circumstances. Thus, though a poor man generally obtains more utility than does a rich man from an equal gain, it is nevertheless conceivable, for example that a rich prisoner who possesses two thousand ducats but needs two thousand ducats more to repurchase his freedom will place a higher value on a gain of two thousand ducats than does another man who has less money than he... Now it is highly probable that *any increase in wealth, no matter how insignificant, will always result in an increase in utility which is inversely proportionate to the quantity of goods already possessed.* (p. 25)

Bernoulli is suggesting that any risk-decision involves two key elements: firstly, the objective facts, and secondly a subjective view concerning the desirability of the gains and losses associated with the ultimate decision (Bernstein, 1996). Risk assessment, therefore, involves both a statistical evaluation of probability and subjective inference of the value of possible outcomes. As Bernstein declares: "Both objective measurement and subjective degrees of belief are essential; neither is sufficient by itself" (p. 100). Interpretation is therefore a critical area of risk decision-making. Clearly, a mixed-method study of risk assessment, incorporating both objective measurement and subjective exploration, is a wholly appropriate method for the study of the impact and implementation of risk assessment instrument.

Enlightenment scholars believed that the careful application of probability statistics would bring order to a previously disordered world (Hacking, 1990). The early hopes of enlightenment scholars is perhaps epitomized by the Marquis De Pierre Simon Laplace's (1825/1902) now infamous statement:

We ought then to regard the present state of the universe as the effect of its anterior state and as the cause of the one which is to follow. Given for one instance an intelligence which could comprehend all the forces by which nature is animated and the respective situation of the beings who compose it - an intelligence sufficiently vast to submit these data to analysis - it would embrace in the same formula the movements of the greatest bodies of the universe and those of the lightest atom; for it, nothing would be uncertain and the future, as the past, would be present to its eyes. (p. 4)

For Enlightenment modernists, with "sufficiently vast" intelligence, risk becomes an objective translation of subjective uncertainty, fashioning "an objective reality which disciplined knowledge can open up to prediction and control" (Knights & Vurdubakis, 1993, p. 730). The early modernist notion of risk, enthusiastically adopted by the field of business and commerce, incorporated the probabilities of both positive and negative risks (Douglas, 1992), a duality of meaning which is largely absent from contemporary criminal justice risk understandings. Risk in criminal justice today is a negative occurrence and an event to be avoided at all costs. Although the inclusion of protective factors is becoming a more common occurrence, rather than being regarded as the building blocks of resiliency, or "internal and external resources for the protection against risk" (Corcoran & Nichols-Casebolt, 2004, p. 212), such factors are often interpreted only as the inverse of a risk factor.

The modernist desire to create a "vast hygienic utopia" (Castel, 1991) involved the cataloguing of vast amounts of individual level data (ranging from height, weight and stature, to income level, marriage and taxes). This allowed the population to be managed at the aggregate level, through the regulation of distributions around the mean (Foucault, 1978). The work of Adolphe Quetelet (1842), often regarded as the founding father of statistics, uses such an aggregated approach to determine the characteristics of the "average man." Likening each data point to an arrow fired at a particular target, he explains:

The arrows go to right and left, high or low, according to the address of the shooters. In the mean time, after a considerable number of trials, the butt, which has not yet been touched, perhaps, a single time, becomes so well pointed out by the marks around it, that they would aid at once in rediscovering it, if it should chance to be lost sight of. (p. X)

Quetelet highlights a fundamental issue regarding predictive possibilities engendered by aggregate data. Quetelet's "average man" is no specific individual, however there is an average response in a mass of individuals that can be predicted. Although it is impossible to predict how *specific* individuals within social groups will behave, it is possible to make predictions based on the observation of general trends (Lynch & Michalowski, 2006). Such an observation is critical to our understanding of contemporary criminal justice risk assessment instruments. Such assessment tools use factors derived from aggregated risk data to assess the likely risk posed by particular individuals. Although Laplace's (1825/1902) assertion that absolute prediction was achievable if all facts were known has been widely discredited (see Heisenberg, 1927/1983), the modernist thinkers demonstrated that prediction of behavior based on general trends was possible at an accuracy rate better than chance. It is important to note, however, that such predictions were of group rather than individual trends. As Wright, Clear, and Dickson (1984), commenting on the contemporary prevalence of statistical prediction, observe, "a statistically generated prediction is not a true prediction at all, but rather the probability statement that 'this offender falls into a class that has a rate of failures of X%'" (p. 113).

Warner (1992), writing for the Royal Society study group report on risk, locates probability at the center of his overall definition of risk. Risk, he suggests is "the probability that a particular adverse event occurs during a stated period of time, or results from a particular challenge. As a probability in the sense of statistical theory, risk obeys all the formal laws of combining probabilities" (p. 2-3). He notes, however, that social scientists' definitions of risk are

a more nuanced affair, and he highlights the central role of subjective risk perception. Risk for social scientists cannot be reduced to a single statistical correlate. Instead he argues that: "Risk perception is inherently multidimensional and personalistic, with a particular risk or hazard meaning different things to different people and different things in different contexts" (p. 7). For social scientists, Warner (1992) concludes, risk is socially constructed. Driving the social construction of risk is a profusion of social and cultural attitudes, beliefs, judgments, and feelings (Pidgeon, Hood, Jones, Turner, & Gibson, 1992). Examination of the role of both human and institutional behavior in the construction of risk is critical for our understanding of risk from a social science perspective.

### **The rise, fall, and rise again of risk assessment in criminal justice**

Risk assessment, whether it be the prediction of bail flight risk, prison escape, recidivism or an offender's potential for future harm has been a focus of the criminal justice system since its onset. Although early risk thinking may have been influenced by conceptualizations of nautical hazards, and financial and corporate risk, the growing interest in risk prediction in the early twentieth century mirrors the adoption of "scientific management" principles (Taylor, 1911). It is unsurprising, therefore, that predictive risk tools began to emerge in criminal justice organizations at a time when greater effectiveness and efficiency were being sought in organizations through the application of empirical methods.

Criminal justice risk assessment in the twentieth century has experienced three distinct phases, marked by a rise, fall, and rise again in its perceived usefulness. The first phase focused largely on the prediction of parole success and failure. Although Sam B. Warner (1923) is credited with being the author of the first parole prediction study (Dean & Duggan, 1968),

followed closely by Hornell Hart (1923), by far the most influential scholar in the development of parole prediction instruments was E. W. Burgess. Analyzing the records of 1,000 parolees Burgess (1928) identified 22 variables predictive of parole success. Variables included the nature of the offense, length of sentence, prior criminal record, and age. Each variable, if present, was assigned 1 point and the total scores of parole violators were then retrospectively compared with those successfully completing parole. An apparent relation between risk scores and violation rates suggested that the selected variables were modestly predictive of parole success or failure. A number of studies attempted to modify the original Burgess model, including increasing the sample size from 1,000 to 3,000, and adding or subtracting different variables (see Burgess & Tibbits, 1928; Laune, 1936; Tibbits, 1931), however, none markedly improved the predictive ability of Burgess' original model. A big limitation of such un-weighted linear additive models (Gottfredson & Moriarty, 2006), however, is that data are drawn from institutional records and offender self-report only, and fail to consider the post release circumstances of parolees.

Developing alongside prison classification instruments which primarily focus on the risk of a prisoner escaping or posing management problems (Austin, 2003), parole prediction scales increased in popularity post World War II. Interest in the Base Expectancy Score (BES; Gottfredson & Bonds, 1976) and the Salient Factor Score (SFS; Hoffman & Beck, 1974) "exploded" in the 1960's and 1970's (Gottfredson & Moriarty, 2006, p. 181). These actuarial parole recidivism prediction scales included the variables current age, age at first conviction, stability of employment, number of previous imprisonments, and index offense. The growing interest in statistically-based predictive risk assessment scales by parole boards and correctional managers was matched by a furor of academic research, with over 600 parole prediction studies published between the mid 1920's and the mid 1960's (Dean & Duggan, 1968). Despite

considerable joint field-academia interest, and a recognition that risk assessment was important and necessary endeavor, parole boards were often found to be skeptical of the ultimate usefulness of risk prediction instruments (Evjen, 1962; Hayner, 1958; Hoffman & Goldstein, 1973).

The last 20 years have seen an upsurge in support for, and the use of risk assessment instruments in criminal justice. Feeley and Simon (1992) suggest that the language of probability and risk form the basis of a "new penology" replacing a concern for individual rehabilitative needs with "an actuarial language of probabilistic calculations and statistical distributions applied to populations" (p. 452). Focusing upon managerial processes the goal of the "new penology" is not to eradicate crime "but to make it tolerable through systematic coordination" (p. 455). Thus, in the previous two decades, risk assessment has shifted from being a paradigm crisis to a "solidifying paradigm," (Simon, 2005, p. 398) holding corrections together, and underpinning contemporary approaches to the management and rehabilitation of offenders (Andrews, Bonta, & Wormith, 2006; Ward & Maruna, 2007). Such a shift also mirrors the proliferation of risk discourse in wider contemporary society.

Lupton (1999) suggests that there are five main reasons for the prominence of risk: 1) developments in computer technology and probability statistics allowing the statistical manipulation of large datasets; 2) the establishment of regulatory agencies to manage situations deemed particularly risky; 3) shifts in scientific thinking from paradigms of monocausal determinism to an awareness of multiple causes and effects; 4) changes in the nature of risks, from risks that are entirely localized (car accidents, and drowning), to risks that are truly global (pandemics, and climate change); and 5) uncertainty and angst engendered by the arrival of the late/postmodern era. Her fourth and fifth reason, that the nature of risk is fundamentally

different, and that risk is inextricably tied to growing anxiety in our late modern world, are particularly salient to sociologists and worthy of further elucidation.

Following a Supreme Court decision in the mid 1960's, and an ensuing plethora of studies indicating that violence prediction was often wrong, the forty-year rise enjoyed by risk assessment was curtailed. The risk assessment "paradigm crisis" (Simon, 2005, p. 398) began with the 1966 Supreme Court case of *Baxstrom v. Herold*. The court ruled that a patient could not be kept in a maximum security correctional psychiatric hospital beyond his sentence expiry without a legal determination of dangerousness. Subsequently, 967 offenders were released from maximum security hospitals to lower security hospitals across New York state, thus commencing a large natural experiment of assessments of dangerousness. Overall only 20% of patients were subsequently convicted, the majority for non-violent offenses (Steadman & Cocozza, 1974), thus generating skepticism concerning the accuracy of risk assessment techniques. Subsequent studies confirmed (Cocozza & Steadman, 1976; Thornberry & Jacoby, 1979; Wenk, Robison, & Smith, 1972) the apparent inefficacy of risk assessment, leading Monahan (1984) to conclude that "predictions of violent behavior among institutionalized mentally disordered people are accurate at best about one-third of the time" (p. 11). It is perhaps unsurprising that with a prediction rate worse than chance and a collapse in support for rehabilitative penology following the publication of Martinson's (1974) oft-misquoted "nothing works" paper, risk assessment became problematized throughout the mid 1970's and into the 1980's (Simon, 2005, p. 399). The problematization of risk assessment also coincided with the push by many states for "truth in sentencing," and the reduction of both judicial and parole discretion. Faced with increasing calls for "fair" and determinate sentences seemingly inaccurate and subjective risk assessments could find little foothold in the correctional milieu.

Morris and Miller (1985) identify three types of predictions: 1) *Anamnestic* predictions, 2) *actuarial* prediction, and 3) *clinical* prediction. Anamnestic predictions are based on how a particular person has acted previously. Actuarial predictions are based on how groups of individuals sharing similar characteristics have acted in the past, and clinical predictions are based on practitioners' experiences on dealing with a particular client group. Actuarial predictions adopt a "formal method," using "an equation, a formula, a graph, or an actuarial table to arrive at a probability, or expected value, of some outcome" (Grove & Meehl, 1996, p. 294). Clinical prediction, on the other hand, is an "informal, 'in the head,' impressionistic, subjective conclusion, reached (somehow) by a human clinical judge" (Grove & Meehl, 1996, p. 294). Although clinical risk assessment is by far the most commonly used risk assessment approach (Dutton & Kropp, 2000), possibly because for practitioners it feels "better, warmer and cuddlier" (Meehl, 1986, p. 374), research over the last fifty years has overwhelmingly shown that actuarial risk prediction is more accurate or just as accurate as clinical risk prediction (cf. Litwack, 2001; Mossman, 1994). As Grove and Meehl (1996) summarize: "in around two fifths of studies the two methods were approximately equal in accuracy, and in around three fifths the actuarial methods was significantly better" (p. 295). Advocates of actuarial assessment have even gone so far as to argue that not using actuarial instruments may be unprofessional and unethical (Grove & Meehl, 1996; Quinsey, Harris, Rice, & Cormier, 1998).

Attempting to strike a middle ground in the actuarial-clinical debate (Hilton, Harris, & Rice, 2006), some scholars have advocated for the development of a structured professional judgment approach (Lewis & Webster, 2004a; Webster, Muller-Isberner, & Fransson, 2002). Seeking to draw upon the advantages of both actuarial and clinical approaches, structured professional judgment is a "a sophisticated and flexible framework within which to exercise

professional discretion” (Kropp & Hart, 2000). A structured professional judgment approach, as the name implies, structures decision-makers thinking about risk, by drawing upon risk factors highlighted by empirical research. Practitioners therefore engage in a "systematic process, following a deductive path" (Borum & Verhaagen, 2006, p. 77), using a checklist of risk factors grounded in research, so that the final assessment of risk is "evidence-based" (Elbogen, 2002).

Actuarial risk assessment instruments provide the practitioner with a numerical score indicating the likelihood of certain behaviors occurring within a given time frame, drawn from a sample of offenders with similar characteristics. Structured professional judgment approaches help the assessor consider the risk of specific individuals, paying heed to a series of actuarial and dynamic risk factors. Rather than providing a numeric probability of risk, structured professional judgment approaches usually lead the decision-maker to consider a continuum of risk, ranging from low to high. In a recent meta-analysis examining 44 studies which compared the predictive efficacy of actuarial versus structured risk assessment tools, Guy (2008) found that the predictive accuracy of both approaches were comparable, and structured professional judgment approaches may be more appropriate for the decision-making required in clinical practice. Certainly, as Guy (2008) observes, the incorporation of dynamic factors in structured professional judgment approaches engenders the possibility for clinical intervention, and allows greater flexibility when seeking to tailor risk assessments for specific localities. A structured professional judgment approach at present appears to be a pragmatic and feasible compromise to the actuarial-clinical debate in attempting to bridge the gulf between academic research and professional practice.

## **Risk awareness and the *risk society***

Douglas (1985) argues that the twentieth century has seen the emergence of a plethora of new risks arising from the development of new technologies and industrialization. Such "manufactured risks" (Beck, 1992) may include asbestosis and mesothelioma from the use of asbestos in construction (Peto, Matthews, Hodgson, & Jones, 1995), lead poisoning from peeling paint and children's toys (Mahoney, 1990), polycythemia vera from the dumping of toxic wastes (Seaman et al., 2009), and radiation leaking from damaged nuclear power plants (Kaiser, 2011). Multidrug resistant "superbugs" such as staphylococcus aureus inhibit wound healing, and threaten life as they transfer from the hospital setting to vulnerable groups in the community (de Lencastre, Oliveira, & Tomasz, 2007). Such risks are often invisible to the naked eye, being "localized in the sphere of *physical and chemical formulas* (e.g. toxins in foodstuffs or the nuclear threat" (Beck, 1992, p. 21).

Concerns about global environmental risks dominate the public agenda. The buildup of greenhouse gases in the atmosphere is likely to be driving climate change, including an increase in the global temperature, the hastening of glacial retreat, and rising sea levels (King, 2005). More extreme weather conditions are observed, including extensive flooding, earthquakes, and tsunami's, causing considerable loss of life, and destruction of livelihoods (Huq, Kovats, Reid, & Satterthwaite, 2007). Global pandemics engendered by technological advancements are certainly not a "new" phenomenon. More than 750 years ago the bubonic plague, carried by rats on ships following newly established trade routes brought unprecedented human mortality to much of Eurasia (Kemshall, 2003). Up to 60% of the population died in some areas, "leaving vast stretches of the inhabited world...silent, except for the sound of the wind rustling through empty, overgrown fields" (Kelly, 2006, p. xiii). Between 1775 and 1782 exploration and colonialism

contributed to the spread of smallpox, leading to the decimation of over one hundred thousand people in North America (Fenn, 2001). Beck (1992) recognizes that human societies have always faced threats to health and life, however he argues that we now face a qualitatively different risk context (p.21). He elaborates:

In the past, the hazards could be traced back to an *undersupply* of hygienic technology. Today they have their basis in industrial *overproduction*. The risks and hazards of today thus differ in an essential way from superficially similar ones in the Middle Ages through the global nature of their threat (people, animals, and plants) and through their *modern* causes. They are risks *of modernization*. They are a *wholesale product* of industrialization, and are systematically intensified as it becomes global. (p. 21)

The risks of modernization, are therefore generated from "the unholy marriage of capitalism and technology" (O'Malley, 2010, p. 11), leading governments and scientists to engage in an incessant and unwinnable game of catch-up. Although risk in the criminal and juvenile justice field may feel to be a far cry from the risks of modernization, such new global risks shape public perceptions of, and responses to risk. If "glocalized" risks are always one step ahead of science, is public faith in the responsible authority's ability to manage everyday risks irretrievably compromised?

Modern-day risks, Beck (1992) argues, have far-reaching temporal and spatial consequences. Such technological risks may have ramifications many thousands of miles from the initial site, for many years hence. Some 23 years later, radiation from a leaking nuclear reactor in the former Soviet Union still renders sheep grazing in Wales unsafe for consumption (Macalister & Carter, 2009). The victims of contemporary risks "include those not yet alive at the time or in the place where the accident occurred but born years later and long distances away" (Beck, 1992, p. 22). The temporal and spatial breadth of "creeping catastrophic potentials" (Beck, 1992, p. 22), provokes considerable uncertainty. The new risks become *incalculable* and

*inestimable*. The modernist approach to risk estimation, Beck argues, becomes impotent in the face of growing uncertainty, and the threat of global destruction. In the face of manufactured risks, the modernist society transforms into a risk society through a process of "reflexive modernization" (Beck, 1992, p. 21). Such reflexivity engenders fundamental societal change. As Beck, Bonss and Lau (2003) suggest, basic social principles such as the distinction between knowledge and belief, and insiders and outsiders, are thrown into flux in the risk society. Whereas previously social change occurred within a stable system of coordinates, everything becomes open to negotiation. Beck and his colleagues reflect:

Reflexive modernization seems to be producing a new kind of capitalism, a new kind of labour, a new kind of global order, a new kind of society, a new kind of nature, a new kind of subjectivity, a new kind of everyday life and a new kind of state.

(Beck, et al., 2003, p. 3)

Heightened risk-consciousness in the new risk society generates a pervasive "discourse of fear" (Altheide & Michalowski, 1999), where "the commonality of anxiety takes the place of the commonality of need" (Beck, 1992, p. 49). The discourse of fear encompasses both global threats such as climate change, as well as more proximate "threats" from deviant others, including pedophiles, terrorists, and undocumented workers. The 24-hour news cycle fuels the discourse of fear, providing viewers with a "real-time" front-row seat to the latest school-shooting, hurricane, or terrorist attack. Faced with seemingly new risks, people turn to scientific "experts" for guidance and protection. Effective communication of risk to the public, however, is a complex and at times contradictory task. Experts must seek to warn people of the risk, advise them of strategies they can take to minimize the risk, while reassuring them that the risk is minimal or tolerable. Otway and Wynne (1989) refer to the contradictory aims of risk communication as the "reassurance-arousal paradox" (p. 142). Furthermore, mixed messages

often accompany risk communication. For example, although eating fish is generally regarded as a healthy choice providing important Omega-3 fatty acids, we are advised to limit our consumption of canned light tuna to 2-3 meals a week, eat canned white tuna just once a week, and avoid bluefin tuna steak entirely, if we are female, and are or intend to become pregnant (Washington State Department of Health, 2011). Further complicating risk communication is the divergent opinion concerning particular risks. In 2004 we were advised by the EPA to avoid eating farm-raised salmon because contaminants exceeded EPA safe consumption guidelines, yet at the same time, the FDA felt that the levels of contaminants were not high enough to justify concern (Vardeman & Aldoory, 2008). In the postmodern world science certainly appears to have become a set of fragmentary discourses, rather than a unitary scientific voice (Lyotard, 1984).

Lupton (1999) observes that "debates and conflicts over risks have begun to dominate public, political and private arenas" (p. 59). Such conflicts are perceived by Beck (1992) and Giddens (1990) as a dialectical tension between scientific expertise and the public's counter-expertise. For Beck, the tension underscores the differences between scientific and social rationality. Intrinsic to scientific rationality, Beck argues, is the "insistence on strict proof of causality" (p. 63). Desperately defending "the high art of proving causality," (p. 63) researchers couch the risks of modernization in terms of statistical (in)significance, and "unproven connections" (p. 61), denying the reality of connections that exist but cannot be statistically proven. Such scientific rationality, according to Beck, serves to protect politicians' and industry's interests, while keeping costs down. In the face of *creeping catastrophic potentials*, however, the public may reject the mealy-mouthed trappings of scientific discourse. For the public, the risks of modernization "have voices, faces, eyes, and tears" (Beck, 1992, p. 61). Beck

is hopeful that the oppositional tension between scientists and lay-people will not last. Given the reflexivity of modernization he suggests that pervasive anxiety engendered by profound risk awareness may herald societal "self-criticism and self-transformation" (Beck, 1996, p. 34), leading to a new era of political solidarity and change.

The dichotomous tension between experts with scientific knowledge and the lay-person who is scientifically naive is also explored by Giddens (1991). Giddens takes a similar stand to Beck (1992) when he argues that scientific rationality depends "not on the inductive accumulation of proofs, but on the methodological principle of doubt" (p. 21). Any scientific tenet is open to review, or even rejection as new ideas and findings emerge. The reflexivity of modernity shakes the foundations of the Enlightenment promise of certitude. With scientific certainty undermined, we are left with the "routine contemplation of counterfactuals" (Giddens, 1991, p. 29), a smorgasbord of potential courses of action:

Living in the "risk society" means living with a calculative attitude to the open possibilities of action, positive and negative, with which, as individuals and globally, we are confronted in a continuous way in our contemporary social existence. (p. 29)

Giddens believes that for lay people, awareness of counterfactuals and innumerable possibilities is not only galling, but "existentially troubling" (p. 21). Scientific experts can offer little reassurance to the publics' ontological insecurity, given Popper's (1962) assertion that "all science rests upon shifting sand" (cited by Giddens, 1990, p. 39). Certainty is unforthcoming because the imponderables of risk fracture calculability (Kemshall, 2000). Although the public continue to turn to science for answers, scientific expertise is greeted with a mixture of reverence and reserve (Giddens, 1991). Ultimately however, the *risk society* is marked by increasing public skepticism towards expert scientific knowledge (Beck, 1992; Irwin & Wynne, 1995).

Scholars have criticized Beck and Giddens's dichotomous construction of the expert-lay knowledge divide suggesting that people have always been skeptical of "experts," and thus skepticism is not unique to conditions of reflexive modernization (Kangas, 2002; Wynne, 1996). The construction of "lay" and "expert" knowledge certainly ignores the hermeneutic and reflexive processes underpinning knowledge generation (Wynne, 1996). The widespread availability of the internet in the Western world, perhaps provides the public with greater access to scientific knowledge than ever before. Resultantly, scientific knowledge becomes interlaced with "lay knowledge" through everyday experience. The juxtaposition of "lay" and "expert" knowledge certainly denies the complexity of the relationship between the two. Michael (1992), echoing Giddens' (1991) observation that the public treat science with "mixed attitudes of reverence and reserve," (p. 7) captures the complexity of the public's relationship with science:

People are not solely disenchanting or disinherited in the face of science; rather, they discursively maneuver around science in a variety of trajectories that can, on the one hand, sustain the mystique and the status of science and, on the other, undermine them. (p. 330)

He suggests that public criticisms of science are not criticisms of science per se, but rather are directed towards the institutional interests which (mis)shape and (mis)use scientific knowledge.

Faced with the magnitudes of claimed risk and uncertainty, we increasingly turn to institutions to manage and reduce the risks we face. Institutions respond to our requests for protection with audit and regulation. Regulation through audit, alongside reflexivity and rationalization becomes a defining feature of modernity (Garland, 2003). In order to get on with day-to-day activities we place trust in organizations to identify, measure, and manage the plethora of risks we face (Garland, 2003; Giddens, 1991). Whereas previously human survival has depended upon our individual ability to foresee and avoid risks, contemporary risk society

results in a reliance on government and experts to protect us from risk. Given, however, that in a risk society scientific expertise is viewed with "deference and skepticism, comfort and fear" (Giddens, 1990, p. 90), we increasingly question the trustworthiness of institutions responsible for the assessment and management of risks, and those who disseminate risk information (Wynne, 1996). Such a view seems to correspond with Mary Douglas's (1992) assertion that risk in contemporary society has developed an overwhelmingly forensic function. Douglas suggests that the concept of risk is intrinsically tied to notions of blame. She reflects that as modern society becomes more individualized, a culture of blame emerges where we are "ready to treat every death as chargeable to someone's account, every accident as caused by someone's criminal negligence, every sickness a threatened prosecution. Whose fault? is the first question" (pp. 15-16). Within such a culture of blame, Nash (2010) argues that responsibility for keeping us from harm lies with squarely with officials:

In a risk driven world, the simple fact that people may or may not offend (odds of evens) is often overlooked. Instead, failure is laid at the feet of officials who fail to make this basic formula much safer by increasing the odds in favor of not offending (p. 82).

Although Nash's (2010) conceptualization of blame is perhaps a little skewed, given that often it is the ground-level workers and their managers (i.e.: social workers, probation and parole officers) who bear the brunt of criticism when things go wrong, rather than officials and policy-makers, he does capture an important tenet of modern responses to risk. It is apparent that in a risk averse society, risk ceases to be something that can be entirely eradicated, and it becomes something that can only be made tolerable through systematic coordination (Feeley & Simon, 1992). Attention shifts from reforming the individual offender, to developing policies to manage types and aggregates of criminal behavior, and audit the decision-making processes of employees deemed responsible for "public protection." Workers are required to demonstrate that,

given known information at the time, they made "defensible decisions" " (Carson, 1996; Kemshall, 1998), to manage and minimize the risk. Within such a managerialist discourse, greater efficiency of operation becomes the guiding mantra (Brownlee, 1998). Given the reflexive nature of the risk averse society, however, organizational responses to risks and hazards are a perpetually escalating process (Rigakos, 1999). Seemingly, each new "failure" identified by auditors demands a more rigorous response. Such a reflexive process can be identified in Nash's (2010) description of the UK criminal justice system's response to serious offenses committed by parolees:

It is all too easy for one serious case going wrong to shake the public protection edifice to its very foundations. When this happens, the edifice is re-built, this time upon stronger foundations, and it becomes even larger. The next serious case triggers the same process over again. This fall down, re-build stronger and bigger process has been unfolding over the last few years to the point that public protection has become almost a defining creed. (p. 84)

Risk assessment plays a critical role in the defining creed in the protection of the public from risks posed by offenders. Although Wynne (1996) warns us that science is " not meaning-free or meaning-neutral, but dripping with impoverished and expropriated meanings" (p. 60), we turn to empirically-derived risk assessment instruments to help us sort, categorize, and manage "factors" that we believe increase the likelihood of further offending and future harm.

### **Juvenile violence, risk factors, and juvenile violence risk assessment instruments**

Although there has been an overall downward trend in arrest rates for juvenile violent crime since 1994, and concerns regarding a new wave of young, violent "super-predators" (DiIulio, 1995) proved unfounded, large numbers of youths continue to be arrested and adjudicated for serious, violent offenses. In 2008, 1,280 juveniles were arrested for murder or

non-negligent manslaughter, 35,350 juveniles were arrested for robbery, and 56,000 juveniles were arrested for aggravated assault (Puzzanchera, 2009). Violence appears to be a common feature in adolescent's lives. In a 2009 nationally-representative sample of youth in grades 9-12, 31.5% of youths reported being in a physical fight in the previous 12 months, and 17.5% admitted to carrying a weapon in the preceding 30 days (Centers for Disease Control and Prevention, 2010). Based on data provided by 9 states, 55% of juveniles released from state incarceration are re-arrested within 12 months, and 33% are reconvicted (Snyder & Sickmund, 2006). Similarly, examining the recidivism rates of prisoners aged under 21 years old, released in 1994 in 15 states, we find that 79.9% were arrested for a new offense within three years, 57.7% were reconvicted, and 50.8% were reincarcerated (Bureau of Justice Statistics, 2011). If the recidivism rates of females are excluded from our analysis, 80.6% of those under the age of 21 released from prison were arrested for a new offense, 58.6% were reconvicted, and 51.7% were reincarcerated, within a three year period. An understanding of why juveniles commit violent crime may help juvenile justice agencies as they seek to manage and reduce the risk of violent criminal behavior. Certainly, such an understanding can help with the development of responsive and externally valid risk assessment instruments.

Juvenile violence is “a multi-faceted phenomenon, caused by a complex interaction of biological, social/contextual, cognitive and emotional factors” that change over time (Borum & Verhaagen, 2006, pp. 9-10). Bronfenbrenner's (1979, 1989) ecological framework, which draws attention to the interactive effects of multiple ecological levels and "individuals representing differing cultural representations, coping styles, genders, and social roles in those contexts" (Trickett, 2009, p. 397), is a useful tool for structuring an examination of risk factors pertinent to

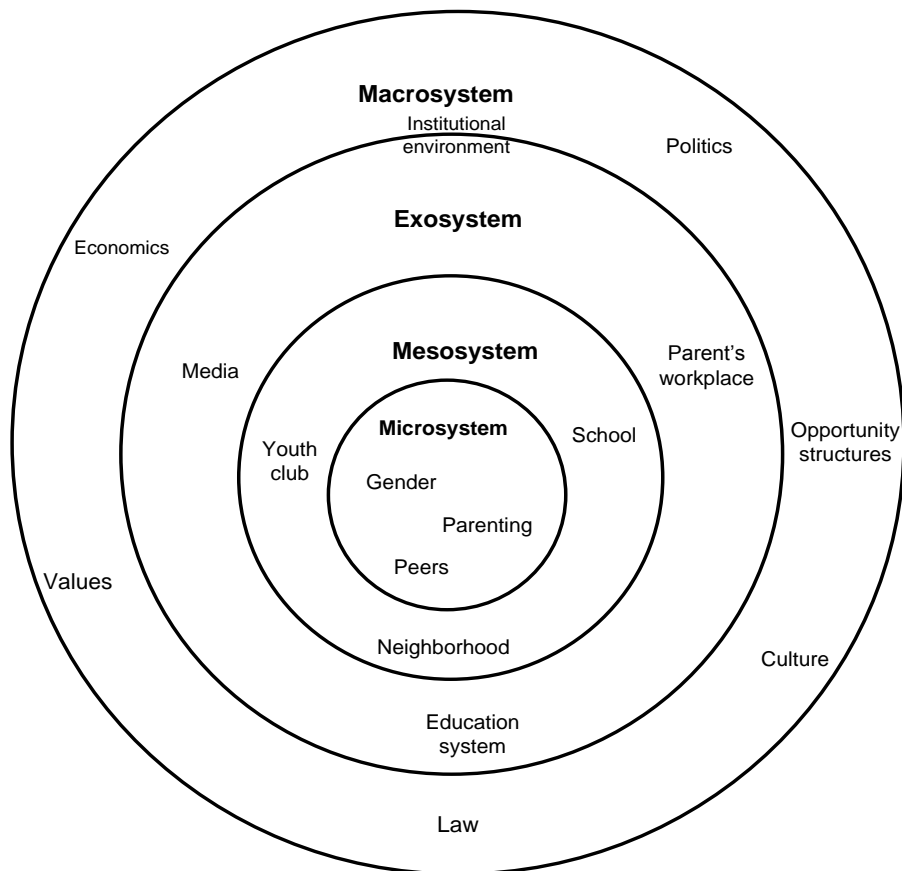
juvenile violence. Bronfenbrenner outlines four interdependent ecological levels: the micro-, the meso-, the exo-, and the macro- level (see fig. 2.1).

Bronfenbrenner's (1979, 1989) ecological framework has been used to examine a wide variety of violence-related social issues and problems (see also Belsky, 1980; Cicchetti & Rizley, 1981). Violence issues addressed using an ecological framework in recent scholarly work include: standards for batterer intervention programs (Tolman, 2001), violent delinquency in diverse neighborhoods in Pittsburg (Beyers, Loeber, Wikström, & Stouthamer-Loeber, 2001), violent crimes committed by Vietnamese youth gangs in America (Hong, 2010), youth violence and intervention programming in South Africa (van der Merwe & Dawes, 2007), and the development of violence risk in urban youth in Chicago (Tolan, Gorman-Smith, & Henry, 2003). The World Health Organization's *Violence Prevention Alliance* also adopts an ecological framework to help both explain violence, and cluster intervention strategies across multiple levels (World Health Organization, 2010). The ecological framework contends that the relation between risk and behavioral outcomes are context dependent, and that each *micro-*, *meso-*, *exo-*, or *macro-*level continuously interacts and impacts on the next level (Bronfenbrenner, 1986, 1989, 1994). A thorough assessment of the role of environmental context on juvenile violence must contain relevant elements from each level of the ecology over time (Lynch & Cicchetti, 1998).

Although the impact of neighborhood contextual factors on criminal behavior has long been a focus on criminological research (see Shaw & McKay, 1942), the criminological study of ecological settings is highly underdeveloped (Wikström & Sampson, 2003). Many studies which do examine individual and environmental factors suffer from "context minimization error" (Luke, 2005, p. 188), whereby the statistical methods commonly adopted, such as logistic linear

regression, conceal or misrepresent diverse contexts. A failure to appreciate the complexities of context may, at a minimum, render programs and interventions ineffective, and at worst, perpetuate and exacerbate problems (Walters, Clark, Gingerich, & Meltzer, 2007). Although recent advances in multi-level modeling, including geographic information systems, network analysis and hierarchical linear modeling have ensured that context is increasingly taken into account in analyses, (see Fleisher, 2005; Johnson, 2006; Kubrin & Stewart, 2006) these statistical approaches are underpinned by linear cause and effect intellections (Trickett, 2009).

**Fig. 2.1:** An ecological framework applied to youth violence



Dynamic systems theory, also referred to as complex systems science, which acknowledges unpredictability and identifies non-linear structures within data, appears to be a promising alternative to traditional criminological approaches (Gorman et al., 2004; Walker, 2007; Walters, 1999; Warren & Knox, 2000). Non-linearity recognizes that there may be no single cause of an event, and no easy way to conceptualize the behavior of *open systems* - systems which are influenced by and/or recursively interact with other systems (Walters, 1999). Juvenile violence is certainly multi-determined, whereby a number of historical, individual and contextual risk factors converge (Borum & Verhaagen, 2006). The presence of one or more violence risk factors does not, of course, mean that a future act of violence will necessarily occur. The effects of some risk factors may be mediated by assets, or strengths (Bogenschneider, 1996; Masten, 2001), or compounded by seemingly irrelevant happenings. Risk factors themselves may operate in multi-directional ways. Contemporary violent acts, as Zimmerman (1989) observes, are often viewed as the result of both predictive potentialities and stochastic processes, rather than resulting from linear determinism:

Each event in a chain of events is not determined by the one preceding it but, rather, has a statistical probability of occurring. In systems that are described as being "far from equilibrium," there occurs at some time a "bifurcation point" at which the system has the option of many directions in which to move. What happens next is akin to the flip of a coin and is not necessarily the result of a preceding event. (p. 56)

The randomness of such bifurcations, Zimmerman argues, "provides novelty in an otherwise drab universe" (p. 56). In their seminal chaos theory article Crutchfield, Farmer, Packland and Shaw (1986) posit that although behavior may be predictable in the short term, the amplification of "small uncertainties" (p. 46) results in long term unpredictability. The message that initial uncertainties can result in longer term unpredictability is of critical importance for the justice system. As we seek to manage and mitigate risk through efficient administration, we may be

repeatedly thwarted by sheer unpredictability. Ignoring economist Frank Knight's (1921) famous observation that *a priori* reasoning can never eliminate the indeterminateness of the future, we overlook the natural randomness of bifurcation processes and seek to assuage the fears inherent in an unpredictable world, through the language of probabilistic calculations (O'Malley, 2010; Zimmerman, 1989). Recognizing that unpredictability exists, and therefore truth, as Arrigio, Milovanovic, and Schehr (2005) describe, is "fluid, fragmented, partial and incomplete" (p. 119) must profoundly influence the way we recognize and respond to problems.

An acknowledgment of the unpredictability of events can shape the way we plan and deliver interventions to reduce juvenile violence. Freeing us from what Peile (1993) refers to as "deterministic practice" (p. 127), an understanding of dynamic systems theory may help us view problems in a creative and exploratory way, while seeking to nurture supportive contexts. Certainly a failure to consider context may lie behind innumerable implementation difficulties when we seek to deliver interventions for change (Tsoukas & Chia, 2002). Thinking *chaotically*, as Bolland and Atherton (1999) suggest, may help us to "think outside of the box," and maximize the potential of interventions. Thinking outside of the box helps us to consider multiple potentialities.

Agent-based simulation models (see Auchincloss & Diez Roux, 2008; Macy & Willer, 2002) that seek to capture dynamic, non-linear and recursive interactions between discrete microentities, have the potential to offer criminologists help understanding complex recursive realities (Groff & Mazerolle, 2008). In such models agents (individuals, organizations, etc.) are given initial traits and rules that govern behavior (Auchincloss & Diez Roux, 2008), and parameters from statistical distributions deployed to introduce an element of randomness and unpredictability. Repeated iterations of the model can then be examined to understand multiple

potentialities. Such models have been used to explore a variety of diverse contexts including the interaction of policing strategies on street-level drug markets (Dray, Mazerolle, Perez, & Ritter, 2008), the impact of sentencing reforms on the prison population (Auerhahn, 2008), and the influence of time spent away from home on the likelihood of becoming the victim of a street robbery (Groff, 2007). Although agent-based simulation models provide an important step towards capturing the nonlinear and stochastic processes of individual agents and environmental factors, and seek to embrace rather than "control away" individual factors, the models are wholly dependent on the original inputted information. The cautionary adage, "garbage in, garbage out" is particularly pertinent when considering the usefulness of agent-based simulation models (Kuhn Jr, Courtney, Morris, & Tatara, 2010). The inputs in agent-based models must be kept relatively simple, as highly complex models featuring multiple agents and interactions will yield models that are extremely difficult to interpret and validate (Auchincloss & Diez Roux, 2008). Important variables that are notoriously difficult to capture, such as culture and history, are therefore likely to be excluded, leading to a constrained simulation model, with limited applicability to complex reality. Such constrained models may serve to restrict rather than encourage "chaotic thinking," thereby reducing our ability to "think outside of the box."

Bronfenbrenner's (1979, 1989) ecological framework, which encourages us to consider all interactions between and within all system levels, may help us to embrace the complexity of juvenile violence risk. Sallis and Owen (2001) suggest that single-level interventions are unlikely to be effective, and interventions that target two-or more levels are more likely to achieve sustained effects. Using an ecological framework to map multi-level criminological understandings can help us comprehend diverse opportunities to reduce juvenile violence risk.

### *Individual level violence risk factors*

The majority of juvenile violence research focuses on micro-level analysis of factors. Such micro-level factors are central in the development of many violence risk assessment instruments. The micro-level, Bronfenbrenner (1989) suggests, encapsulates the:

Pattern of activities, roles, and interpersonal relations experienced by a developing person in a given face-to-face setting with particular physical and material features, and containing other persons with distinctive characteristics of temperament, personality, and systems of belief. (p. 227)

For juveniles the "setting" may be the home, school, a workplace, or a juvenile facility.

Micro-level activities and roles which have been identified as being associated with violent behavior include being male, (Freeman, 1996; Odgers & Moretti, 2002), being young at the age of first conviction (Huizinga, Loeber, & Thornberry, 1995), and having conduct problems (Moffitt, Lynam, & Silva, 1994; Rutter, Kim-Cohen, & Maughan, 2006). In addition, studies have repeatedly shown that families in which physical aggression and abuse is commonplace, or discipline is harsh or inconsistent (Bogenschneider, 1996; Nightingale, 1993) may increase the likelihood of violence. Although anti-social behavior in childhood is one of the best predictors of antisocial behavior in adulthood, we are faced with the "seeming paradox" (Sampson & Laub, 1993, p. 12) that most antisocial children do not grow into antisocial adults. Clearly, as Dannefer (1984) suggests, attention must be also be directed towards the ways in which social interaction and social structure shape self-society relations.

The role of peer relationships on juvenile violence and criminality has interested criminologists for more than sixty years (see: Cohen, 1955; Sutherland, 1947; Warr, 2002). Research has repeatedly shown that "trusting, and caring relationships and autonomous self-expression, choice, and decision-making" (Roeser, Eccles, & Sameroff, 2000, p. 459) lead to

successful development during adolescence. Peers may transmit attitudes supportive of violence, sustain a historical narrative of previous violent acts, and provide an excited and encouraging forum for the "acting out" of new violent behaviors. Given this, it is perhaps unsurprising that gang membership has been described as playing an important precipitating role in the development of youth violence (see: Thornberry, Krohn, Lizotte, & Chard-Wierschem, 1993), although self-selection into gangs has long made the degree and extent difficult to determine (Matsueda, 1997; Sutherland, 1947). Interestingly, Borum and Verhaagen (2006) note that peer rejection may also be an important factor in the development of violent behavior. Rejected juveniles may be more inclined to internalize problems (Hymel, Rubin, Rowden, & LeMare, 1990), and face limited pro-social alternatives to joining a negative peer group (Coie, Lochman, Terry, & Hyman, 1992), although given that aggression is the largest single determinant of peer rejection (Coie, Dodge, & Kupersmidt, 1990) the causal direction of the relationship is difficult to determine. Peers also play a critical role in adolescent substance misuse (Fang, Barnes-Ceeney, Lee, & Tao, 2011; Schinke, Fang, & Cole, 2008), and studies have consistently shown that substance misuse is an important predictor of juvenile violence (Bailey, 2003; Stoolmiller & Blechman, 2005; Sussman, Skara, Weiner, & Dent, 2004).

Adolescence is a time of rapid developmental change, often involving considerable experimentation with risky behaviors (Edens, et al., 2001; Williams, Holmbeck, & Greenley, 2002). In their self-report study involving 947 participants aged 15 - 70 years old, Zuckerman, Eysenck and Eysenck (Zuckerman, Eysenck, & Eysenck, 1978) found that thrill seeking was highest among 16-19 year olds. An examination of criminal statistics reveals that the prevalence of criminal offending peaks in the late mid-to-late teenage years, and declines in the transition to young adulthood (Farrington, 1986; Hirschi & Gottfredson, 1983; Piquero, Farrington, &

Blumstein, 2007). When child conduct disorder is also considered, scholars have observed that antisocial behavior steeply increases between the ages of 7 and 17 (Loeber, Stouthamer-Loeber, Van Kammen, & Farrington, 1989).

Psychological research examining childhood-adolescent trajectories of aggression and violence, appear to differ from trajectories of general criminal offending. In their longitudinal study of 1,725 youth aged 11-17 years old, Elliott, Huizinga and Menard (1989) found that although self-reported delinquent behaviors started to increase at age 12-13 years, peaked at age 15-17, and declined after age 18, fighting and vandalism peaked at age 11, and then declined. Similarly, other longitudinal studies have found that boys experienced the most difficulty with aggression during early adolescence, and experienced age-related shrinkage in aggression thereafter (Cairns, Cairns, Neckerman, Ferguson, & Gariépy, 1989; Offer & Offer, 1975). Cairns et al. (1989) suggest that the discrepancy between trajectories generated from psychological assessments and criminal offending trajectories may result from an age-related increase in the ability to inflict serious injury, thereby engendering juvenile justice intervention.

Seeking to chart antisocial and criminal pathways from childhood, through adolescence, and into young adulthood, psychologist Terrie Moffitt (1993) suggests that it is useful to divide delinquents into two groups: adolescent-limited (AL) offenders and life-course persistent (LCP) offenders. AL offenders engage in antisocial activities early in adolescence, however such behaviors decline as they mature (see also: Piquero & Brezina, 2001). Moffitt (1993) argues that the delinquent behaviors exhibited by AL offenders arise largely through social mimicry, and serve to demonstrate maturity and personal independence. As adolescents reach young adulthood, peer influence declines, and there is increased opportunity to achieve desired goals (e.g.: money and status) legitimately, resulting in a marked decline in antisocial and criminal behaviors.

Moffitt (1993) suggests that AL offenders "are likely to engage in antisocial behavior in situations where such responses seem profitable to them, but they are also able to abandon antisocial behavior when prosocial styles are more rewarding" (p. 686). Offending behavior among AL offenders can be regarded as developmentally normal, and a commonplace transitory phase (Krisberg & Wold, 2005).

LCP offenders, on the other hand, continue to commit antisocial and criminal acts into young adulthood. Moffitt (1993) suggests that LCP offenders are likely to have experienced deficits in neuropsychological functioning, such as impaired cognitions, early in life. LCP offenders have been found to have lower verbal, motor and reading abilities, increased behavioral impulsivity, and are likely to display attentional problems, hyperactivity, and temperamentality (Moffitt, Caspi, Dickson, Silva, & Stanton, 1996; Moffitt, Caspi, Rutter, & Silva, 2001; Raine et al., 2005). LCP offenders are characterized by four key factors: 1) early onset of offending; 2) active offending during the adolescent years; 3) escalating offense seriousness over time; and 4) a persistence in offending in adulthood.

A small but solid body of longitudinal research supports Moffitt's dual categorization of adolescent delinquency (Farrington, Ttofi, & Coid, 2009; Fergusson, Horwood, & Nagin, 2000; Pulkkinen, Lyyra, & Kokko, 2009), although some scholars have identified the existence of additional trajectory groups (Loeber, Farrington, Stouthamer-Loeber, & White, 2008; Thornberry, 2005). Fundamental to Moffitt's dual conceptualization is that the interaction between neuropsychological deficits and external (family and social) environments reinforces and exacerbates antisocial behaviors. Loeber and Farrington (2001), argue however, that many children with neuropsychological deficits manage to overcome their difficulties and do not become LCP offenders.

Interestingly, although Moffitt (1993) observes that the duration of adolescence has lengthened considerably in modern times, with biological maturity occurring earlier, and the achievement of social milestones such as marriage and labor-market entry occurring later, she does not offer a precise time-line for the period she refers to as "adolescence." Through her analysis of the age at which delinquent and criminal acts are committed she joins a distinguished body of researchers who have examined the "age-crime" curve (Blumstein & Cohen, 1987; Glueck & Glueck, 1943; Goring, 1913; Gottfredson & Hirschi, 1986; Nagin & Land, 1993; Sampson & Laub, 2003). Care must be taken, however not to conflate the variable of age with the period "adolescence." Although an examination of the effects of age on outcomes of interest is useful, age is not a reliable indicator for adolescence. Indeed, there are a number of physical and psychosocial markers of adolescence that are not reflected by the variable age, and failure to consider "the complex suite of physiological processes" (Dorn, Dahl, Woodward, & Biro, 2006, p. 49) that impact upon the physical, psychological and social changes we refer to as "adolescence" can limit our understanding, and lead to a lack of conceptual clarity, and erroneous conclusions. A micro-level analysis of risk factors of juvenile violence must consider the influence of biological processes on social interactions and functioning.

Adolescence is the transitional developmental period between childhood and adulthood, characterized by greater biological, psychological, and social change than any other developmental period (Williams, et al., 2002). Puberty on the other hand, as Susman and Dorn (2009) note, is a functionally distinct "brain-neuroendocrine process that provides a stimulus for all the physical changes and putative psychological changes" (p. 116) that occur during the period of adolescence. Despite the critical influence of such processes on adolescent behavior, no juvenile justice risk assessment instruments incorporate an investigation of pubertal staging. A

better understanding may provide important insights into the “aging out” process, suggesting that a decrease in crime over the adolescent life-course may be hormonally as well as socially (employment and relationships) driven.

Puberty begins with the release of adrenal androgens such as dehydroepiandrosterone (DHEA), its sulphated version DHEAS, and androstendione, usually between the ages of 6 and 9 for girls, and a year later for boys (Dorn, et al., 2006). Known as the *adrenarche*, the rise in adrenal androgens continues to rise into the 3rd decade of life. Concentrations of DHEA and DHEAS have been linked to behavior problems and mood disturbances (Dorn et al., 2008; Goodyer, Herbert, Tamplin, & Altham, 2000), although the association between such adrenal androgens and aggressive behavior has yet to be explored (Susman & Dorn, 2009). Clearly, longitudinal researchers who wish to study trajectories of aggression during puberty would be prescient to begin studying participants from the age of 6.

The second phase of puberty, known as *gonadarche*, is more conspicuous than adrenarche, involving considerable growth on the height axis, the maturation of ovaries and testes, and the full development of the genitals, pubic hair, and breasts in girls (Dorn, et al., 2006). Occurring at approximately the age of 9 in girls, and a year later for boys, gonadarche is triggered by the build-up of adrenal androgens originally triggered during adrenarche. Surges in testosterone and androgen for boys, and estradiol and estrogen for girls during gonadarche may serve to exacerbate feelings of irritability, although its relationship with actual aggression is complex and weak (Archer, 2006; Borum & Verhaagen, 2006). Miczek, Mirsky, Carey, DeBold, and Raine (1994) suggest that the relationship is not unidirectional, with high levels of testosterone being at times a consequence rather than a cause of aggression.

The dramatic physiological changes occurring during gonadarche may affect the way we think, feel, behave, make decisions, and respond to others (Borum & Verhaagen, 2006).

"Moodiness" is a common characteristic of adolescence, often used by parents to describe their teenage offspring. A cross-sectional study comparing 75 high-school students with 107 adults aged 19-65 confirms parents' observations, finding that adolescents' moods were more extreme and more changeable than adults (Larson, Csikszentmihalyi, & Graef, 1980). Negative attitudes and cognitions have been repeatedly shown to increase a juvenile's risk of violent behavior, through a tendency to misperceive aggressive intent in others (Dodge, 1991), an over-inflated sense of self-importance (Hughes, Cavell, & Grossman, 1997), or deficits in the ability to consider the consequences of particular courses of action (Guerra & Bradshaw, 2008). Given that risk assessors are likely to consider the circumstances of prior offenses (a violent overreaction to a negative comment, a failure to consider the potential consequences of stabbing a rival gang member), it is imperative that risk assessors acknowledge that such behaviors may be largely an adolescent stage, and therefore not a "fixed" personal characteristic. Clearly, risk assessors must be mindful of emerging cognitive changes in adolescents.

Thankfully, our understanding of the changeability of social-cognitive deficits in adolescence has improved considerably in recent years as the technology of neuroscience has advanced. Researchers using brain-imaging techniques have suggested that the brain does not fully mature until somewhere between the ages of 20 and 25 (Beckman, 2004). Poor impulse control, and difficulties planning and thinking ahead may therefore result from immature brain development rather than willful belligerence. Casey, Jones, and Somerville (2011) suggest that much adolescent impulsivity and risk-taking can be attributed to the later development of the prefrontal regions, compared to the limbic (subcortical) regions. The

prefrontal regions are the area of the brain responsible for behavioral control, while limbic regions, focus on reward behaviors. Adolescents may therefore be making decisions with underdeveloped prefrontal regions, and comparatively overdeveloped limbic regions. As a consequence, Casey et al. (2011) suggest, when faced with emotionally charged situations, adolescents may make decisions based upon impulse, rather than careful cognitive consideration. Although such neuroscientific research is still in its infancy, the current findings have interesting ramifications for those considering an adolescent's level of responsibility when engaging in risky and criminal behaviors.

Research identifying protective, nurturing factors in the lives of adolescent's who do not engage in violent acts, has also been useful in conceptualizing juvenile violence, and paves the way for a "dual approach" in preventing and reducing undesirable behaviors (Resnick, 2000). A focus on both risk and protective factors enables us to both reduce the risks juvenile's face and enhance protective factors which buffer against violent behavior. Individual level protective factors for juvenile violence include an intolerant attitude toward deviant behavior and a close relationship with at least one supportive adult (Heilbrun, Goldstein, & Redding, 2005). Other protective factors such as the ability to seek social support, a positive temperament, reflective thinking, and pro-social attitudes towards school have been shown to buffer against delinquency, but not violence.

Although an understanding of individual-level factors associated with juvenile violence is important, aggressive behaviors cannot be divorced from the dynamic developmental contexts in which they occur. It is to the factors associated with the meso-level that we now turn.

#### *Meso-level violence risk factors*

Bronfenbrenner (1989) describes the *meso-level* as:

linkages and processes taking place between two or more settings containing the developing person (e.g.: the relations between home and school, school and workplace, etc). In other words, a mesosystem is a system of microsystems (p. 227)

Criminology has long been concerned with *meso*-level analysis of criminal behavior. For example, Shaw and McKay (1942) posited that social disorganization impedes social controls in neighborhoods, which may facilitate offending (see also Bursik & Grasmick, 1993; Sampson & Lauritsen, 1994; Sampson & Lauritsen, 1990), while Clear (2007), more recently, argues that the continual cycling of young male offenders between prison and the community may weaken traditional community controls. Scholars have also found that living in high violent crime neighborhoods (proximity to violent crime) increases the likelihood of violent offending (Sampson & Lauritsen, 1990; Thornberry, Huizinga, & Loeber, 1995). In light of devastating school shootings, meso-level systems such as school anti-bullying policies have received considerable attention. Schools or juvenile facilities which tolerate bullying and foster a culture of machismo may experience serious problems with violence (Fleisher & Krienert, 2006; Larkin, 2007).

The role of social capital or "social capitals"(Whitley & McKenzie, 2005, p. 73), be they conceptualized as horizontal ties and relationships among relatively homogenous groups, or bridging and linking ties which cut across different communities and individuals (Baum & Ziersch, 2003), appears particularly important in the development of juvenile violence. Galea, Karpati, and Kennedy (2002), examining the relationship between homicide rates and levels of social capital, suggest that a non-linear, complex, and dynamic relationship exists between social capital and violence. Sampson and Groves (1989) suggested that poverty may inhibit community members' abilities to realize shared common values, develop supportive networks, and maintain

effective buffers against criminality (see also: Bursik, Jr., & Grasmick, 1993; Kornhauser, 1978; Sampson, Raudenbush, & Earls, 1997). There appears to be overwhelming scholarly agreement that low social capital renders neighborhoods and communities ineffective at establishing norms that serve to reduce the incidence of violence (Wilson & Sampson, 1995). Heilbrun et al. (2005) suggest that a "strong community infrastructure" which nurtures cohesion can buffer against violence. Whitley and McKenzie (2005) warn, however, that efforts to improve "community spirit," for example by building a community centre, may be ineffective unless efforts are directed towards restructuring relations with groups such as government, employers and law enforcement, and address inequalities regarding access to resources such as employment, education, and political processes. Clearly, as Sampson (1991) observes, attention must be given to the influence of macro-social determinants on social behavior. It is to these last two important ecological levels to which we now turn.

#### *Exo-level violence risk factors*

Bronfenbrenner (1989) describes the exo- level as:

the linkage and processes taking place between two or more settings, at least one of which does not ordinarily contain the developing person, but in which events occur that influence processes within the immediate setting that does contain that person. (e.g.: for a child the relation between the home and the parent's workplace, for a parent, the relation between the school and the neighborhood group) (p. 227)

Perhaps the most widely researched exo-level violence risk factor is exposure to violence in the media. Examining an era largely before the widespread proliferation of violent computer games, Carton (1991) estimated that when the average American child reaches the age of 16 he or she had witnessed 33,000 media murders and almost a quarter of a million acts of violence. Decades of research provides unequivocal evidence that childhood exposure to such violent acts increases

the likelihood of aggression and violence in both immediate and long-term contexts (Anderson et al., 2003).

Adolescents may imitate previously observed violent behavior (Bandura, Ross, & Ross, 1961), and violent media content may serve to prime aggressive scripts, so that an aggressive response is drawn upon in particular social situations (Anderson, et al., 2003). The viewing of violent media may also lead to desensitization towards real-life violent events (Funk, Baldacci, Pasold, & Baumgardner, 2004; Huesmann & Malamuth, 1986), although a direct relationship between desensitization and later violent acts has yet to be established (Anderson, et al., 2003). In his ethnographic study of urban African American adolescents in Philadelphia Carl Nightingale (1993) posits that television may play an important role in both glorifying and sanitizing violence, thereby making real-life violent acts acceptable. He suggests that the sanitization of violence is achieved by avoiding portrayals of the long term consequences of violence for victims, and by concealing pain in happy endings.

Relationships between the workplace and parents may also impact juvenile violence. Elliott Currie (1997) suggests that increasing demands for a flexible workforce may deplete pro-social familial supports which buffer against violence. He argues that employers' expectations for a mobile workforce thin networks of extended families and mutual care. He posits that:

If, for example, a family stressed by long working hours and unable to procure decent child care could lean on the grandparents down the street to care for the children; if they could look to uncles, cousins and friends to help keep an eye on their teenagers when long working hours mean they can't do it themselves; then the criminogenic consequences of overemployment...could arguably be mitigated. (pp. 160-161)

In the absence of such important informal supports, juveniles may turn to negative peers for advice and guidance, potentially increasing the likelihood of violence.

Spanning both the exo- and macro- level the environmental culture of the correctional facility may influence juvenile violence risk. Bottoms, Hay and Sparks (1990) suggest that the “routines and routinization” of the facility may influence riots and acts of violence in facilities. Certainly, the quality of institutional leadership, and the degree to which institutional cultures generate a climate of respect and legitimacy will influence the likelihood of juvenile violence.

#### *Macro-level violence risk factors*

Described by Bronfenbrenner (1989) as "most distal and expansive region of the environment"(p. 228), the *macro*-system level comprises of:

The overarching patterns of micro-, meso- and exosystems characteristic of a given culture, subculture, or other broader social context, in particular, belief systems, resources, hazards, lifestyles, opportunity structures, life course options, and patterns of social interchange that are embedded in each of these systems. (p. 228)

The intersection of law and politics clearly plays an important role in determining who will be prosecuted, for what types of violent offenses, and the nature of the punishments received. Notwithstanding that juveniles can and do cause serious harm to individuals and communities, our legal system may at times perpetuate and exacerbate violence. Ill-considered legislation of "bumper sticker simplicity" (Benekos & Merlo, 2006, p. 411) may expose thousands of youngsters to the violence within correctional institutions. Underage drinking laws, aimed at reducing the incidence of juvenile violence, may serve to criminalize young people. Drug laws, which require the mandatory incarceration of juveniles found in possession of small amounts of illegal drugs, may strain positive social ties which may buffer the development of violence. Similarly, legislation aimed at "getting tough" on sexual offenders, may lead to an increasing number of adolescents incarcerated for statutory rape offenses (Myers, 1965; Oberman, 2000),

and mandatory domestic violence arrest laws may result in the incarceration of juveniles arrested for "teen dating violence" (Hickman, Jaycox, & Aronoff, 2004).

Poverty has long been shown to be associated with the development of violence. Although Engels (1892) felt that acts of violence committed by the working classes were justified reactions to oppression by the bourgeoisie, it was the first Marxist criminologist, Willem Bonger, who recognized that poverty was inextricably linked to acts of violence. Bonger (1916) observed that poor economic conditions dramatically affected feelings of altruism and good will:

Poverty kills the social sentiments in man, destroys in fact all relations in men. He who is abandoned by all can no longer have any feeling for those who have left him to his fate. (p. 436)

Poverty also explains between city variations in gang membership, and subsequent gang-homicides (Pyrooz, 2011). Other contemporary researchers have found that poverty raises intimate partner violence rates (Jewkes, 2002), and increases the likelihood that a child will experience violence, abuse and neglect (Beyers, et al., 2001). In a randomized control trial Ludwig, Duncan and Hirschfield (2001) found that a family move to a lower-poverty neighborhood substantially reduced adolescent violent crime.

Feminist scholars suggest that domestic violence arises from gender inequality and patriarchal power relations, which value male dominance and female submission, and perpetuates the use of physical force to maintain power (Dobash & Dobash, 1979; Hanmer & Saunders, 1984). Such ideas have been extended by Messerschmidt (1997) who suggests that violent criminality, for many males, is a way of "doing masculinity." Messerschmidt echoes the earlier work of Matza and Sykes (1961):

(T)he gang delinquent's use of violence for the maintenance of "rep," the "proof of heart," and so on, seems to express in extreme form the idea that aggression is a demonstration of toughness and thus of masculinity. This idea runs through much of delinquent activity. The concept of *machismo*, of the path to manhood through the ability to take it and hand it out, is foreign to the average delinquent only in name. (p. 715)

Assessors using the SAVRY risk assessment instrument are encouraged to consider the “negative attitudes” of juveniles. The SAVRY manual draws assessors attention negative attitudes that may increase violence risk, including: “violent fantasies, aggressive self-statements or self-talk, and expectations about success or instrumentality of violence” (Borum, Bartel, & Forth, 2006, p. 39). Matza and Sykes (1961) note that the delinquent's use of aggression mirrors attitudes towards violence in the wider social system. They argue that fantasies of violent acts are celebrated in magazines, books, films, television, that the use of aggression is sanctioned by the police and armed services in response to conflict, and that the "subterranean values" of defending oneself and "proving" masculinity are widespread across American society. Such analysis raises the important role "culture" plays in the development of violent attitudes and behaviors.

Culture has been defined as "the stuff of collective meaning and collective identity" (Ferrell, Hayward, & Young, 2008, p. 2). Cultural forces are the "threads of collective meaning" (Ferrell, et al., 2008, p. 2) through which social life is constructed and reconstructed, in a dialectical and iterative process of negotiation and meaning making. Culture is therefore not a fixed entity, but a reflexive, shifting mass informing how we think, feel and behave. Bauman (1999) observes that there are two dominant discourses concerning culture. The first regards culture as creative, free-roaming, boundary breaking and self-transcendent. The second views culture as a an upholder of tradition and routine, a dependable "handmaiden of social order" (Bauman, 1999, p. xvi). Ferrell et al., (2008) note that the two discourses are not irreconcilable, but both inform the identity negotiation process. Such a dual negotiation process results in multiplicities of identity, engendered through the "complicated entanglement of action,

communication and representation" (Beynon-Davies, 2011). Negotiated identity therefore stems from culture shaped by "togetherness- in-difference" (Ang, 2003, p. 141) rather than cultural stasis.

Adopting a popular yet somewhat essentialist view of young, working-class African American identities, Elijah Anderson (2000) suggests that many youths are influenced by a "code of the street." Violence is regulated by a street code that stipulates the need for a violent reaction to perceived shows of disrespect. The "code of the street" often starts when individuals are young. Nightingale (1993) observes that in the fifth or sixth grade, teachers report that "the bright eyes of their boy students start to glaze over in preparation for assuming a "tough look"" (p. 47). Being seen to be tough, according to Anderson (2000) and Nightingale (1993), is an important feature of working class adolescent cultural interactions. Jack Katz (1988) develops a similar theme when he argues that disadvantaged poor youth construct and defend "badass" identities, typified by meanness, impenetrability, and inapproachability:

The badass conveys a specific message that he means it. If we ask, what is the "it" that he means? we miss the point. To construct and maintain an awesome, ominous presence, the badass must not allow others to grasp the goals or substantive meaning of his action. He must seem prepared to use violence, not only in a utilitarian, instrumental fashion but as a means to ensure the predominance of his meaning, as he alone understands it, whatever "it" may be. (p. 100)

For the parole board member assessing the risk of future violence, such a "badass" identity may pose considerable problems. An aloof juvenile presenting an "impenetrable" core may be regarded as risky, particularly when his actions appear largely inexplicable. Hardness and fixity may be regarded as a personal character trait rather than the mettle engendered through a process of reflexivity between the individual and his environment. Jock Young (2007) describes such hardness and fixity as generated through a difference of self, based on hypermasculinity,

ethnicity, geographic locality, and age. He observes that such a process of essentialization is not an affirmation of class-belonging, nor a protest against the inequities of the class system, but is a reaction to the humiliation and stigmatization of poverty and labor market exclusion. The essentialization experienced by working class youth is therefore a particularly self-destructive process. Young (2007) notes:

But it is not the rich and the celebrated who are othered, it is not vertical but horizontal divisions: by men against women, by ethnic group against ethnic group, by gang against gang, by locality against locality. Even the essentializing projections of the better off, the othering of the poor becomes utilized by the poor to essentialize themselves. Witness the widespread self-referral as "nigga," the cult of "badness," the ethical inversion of "motherfucker," "pimp," or "b-boy" (p. 52).

Such "phenomenological criminology" (Turk, 1991, p. 194), rather than establishing causal regularities, seeks to interpret and make meaning of human actions (Groves & Lynch, 1990). Focusing on "the foreground, rather than the background of crime" (Katz, 1988, p. 4) such work highlights the importance of a cultural understanding of criminological events. The "background" of crime can be understood as behavioral/ correlational approaches to crime, whereby independent variables such as age, socioeconomic status, and ethnicity are examined for (non)spurious correlations with criminal behavior. Different questions are raised through an examination of the "foreground" of crime. A phenomenological criminologist will seek to grapple with the issue of human striving, through exploration of moral, emotional, and spiritual questions (Groves & Lynch, 1990). During the parole hearing it is possible that the parole board member is drawn to the foreground of the index offense. Particularly brutal and callous crimes may dominate thinking, leading to a fixation on the heinous nature of the crime at the expense of consideration of background factors.

Certainly, Katz is clear that both foreground (subjectivist) and background (structuralist) analyses are necessary for an understanding of deviance. Unfortunately, the field of criminology has seen considerable animosity between the two methodological "camps," with structuralists "accused of mindless objectivism, while subjectivists are vilified for antisentimentalistic sentimentalism" (Groves & Lynch, 1990, p. 350). Ferrell (2006) goes as far as to accuse contemporary criminology of being an "ugly criminology" (p. 259) which distorts and blurs reality, serving only to reduce human choice, possibility and complexity. Although considerable gratification can be gained from academic posturing in the "paradigm wars" (Datta, 1994; Gage, 1989), a synthesis of both approaches could engender a richer, more complete understanding of criminal behavior. Certainly, to answer all the research questions in this dissertation (*How do juvenile justice actors experience and understand risk assessment processes? How do juveniles experience labyrinths of risk? What is the nature of risk labyrinths? Does the implementation of a structured risk assessment increase the number of juveniles released early on parole?*) both foreground and background elements need to be explored.

Bronfenbrenner's (1979, 1989, 1994) ecological framework offers "a way of thinking and organizing knowledge that emphasizes the interrelatedness and interdependency" (Queralt, 1996, p. 17) between individuals, their families, and communities. Juvenile violence risk factors have been considered in relation to the ecological framework. Of course the parole board itself also exists within such an interrelated structure. Guided by policy and statute at the macro level, the parole board exists in the exo-level of the framework. Although the juvenile does not form a part of the parole board, the decisions made at the exo-level have considerable ramifications for the juvenile. Similarly, the relationships between the parole board and other facility and community

actors are likely to impact parole release outcomes, as the parole board members consider criminogenic risks and needs.

### **Criminogenic needs and the "big four" (and central eight)**

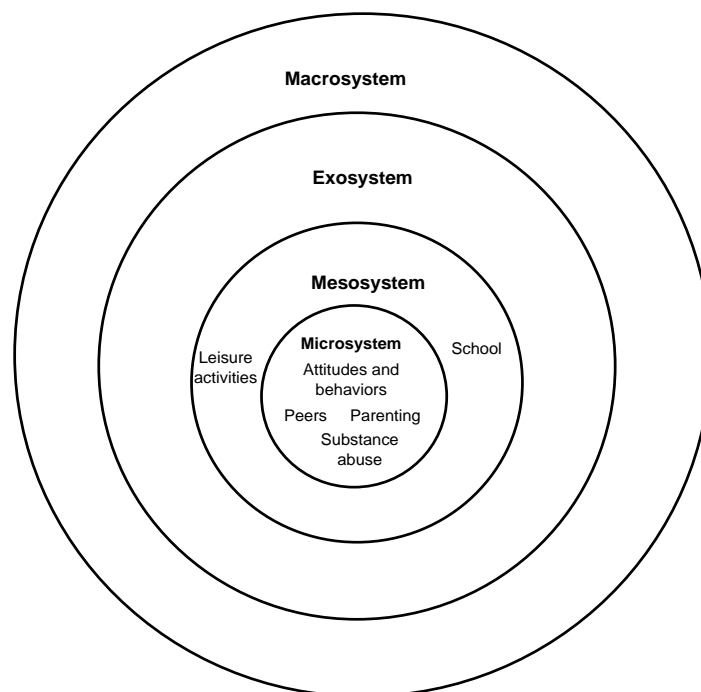
Adopting Bronfenbrenner's (1979, 1989, 1994) ecological framework may certainly encourage criminologists to consider the interrelatedness and interdependency of factors, engendering a more complete understanding of criminal behavior. Similarly, the introduction of a risk assessment instrument may encourage parole board members to consider both the foreground and background of offending, enabling the consideration of both the heinous nature of the offense and criminogenic needs.

Criminogenic needs are those needs directly correlated with the probability of recidivism, that are also susceptible to intervention. Andrews and Bonta (2010) identify the "big four" predictors of recidivism that require correctional interventions, as the presence of anti-social attitudes, anti-social associates, a history of anti-social behavior, and anti-social personality patterns. The highest correlations Andrews and Bonta identified were anti-social attitudes and associates (see also: Gendreau, et al., 1996; Simourd, 1997). Furthermore, four other factors can be added to the "big four": family and/or marital problems, poor performance and satisfaction at school or work, a lack of anti-criminal leisure pursuits, and substance abuse, to form "the central eight" (Andrews, et al., 2006, p. 10).

Seeking to address the central eight risk factors, many institutional programs focus on dynamic (changeable) factors by targeting skills deficits, substance abuse, defiant behavior, and relationships with delinquent peers (Greenwood, 2008). Although a focus on the central eight risk factors appears entirely sensible, given that these are the factors which meta-analysis has

shown are most correlated with recidivism, if we consider the big four and central eight in relation to Bronfenbrenner's (1979) ecological framework, our model of juvenile violence looks extremely sparse (see fig. 2.2). Furthermore, critics have suggested that while considerable attention has been paid to the identification and assessment of risk factors, little effort has been extended to provide comprehensive and responsive treatment opportunities for those with criminogenic needs (Austin, 2006). Hannah-Moffat, et al. (2010) warn that a risk-focused approach provides correctional planners with a convenient rationale for restricting programming options, and therefore helps to promote the managerial objective of uniformity and efficiency. Although risk assessment instruments are useful for ensuring that correctional work focuses on key empirically-validated risk factors, the tools may serve to limit possibilities. The responsibility for reducing juvenile violence lies with multiple actors across all ecological levels to reduce juvenile violence.

**Fig.2.2:** Ecological levels directly targeted by the RNR approach



Although it appears commonsensical that juvenile offender treatment programs should target behaviors and attitudes known to be associated with recidivism, it is common for correctional programs to focus on areas that are unrelated to future offense risk (Borum, 2003). Furthermore, different factors are more “treatable,” particularly in a custodial setting, than others; and some treatments focusing on non-criminogenic factors may actually make things worse. Table 2.2 displays the most common treatments targets of juvenile programs, and their relative effect size, identified in Dowden and Andrews’ (1999) meta-analysis. The term effect size refers to the measure of the strength of the relationship between two variables, in this case, the effectiveness of the treatment at reducing recidivism (the larger number being more effective).

The identification of “treatable” risk factors is a critical task of risk assessment instruments during a parole board hearing. Risk assessment is clearly not simply the identification of factors associated with the risk of recidivism, nor is risk in criminal justice a collection of various risk assessment instruments, but instead risk is "a system of logics and goals that are inscribed into official programs, policies, and mandates" (Hannah-Moffat, et al., 2010, p. 391). The Risk-Needs-Responsivity model of effective correctional treatment offers a deceptively simple logic: that in order to reduce recidivism we should assess risk, and treat criminogenic needs in a responsive, evidence-based fashion. Such a model may serve to disregard some factors, and give greater precedence to some factors rather than others. It would be unwise not to regard such risk logics as politically and institutionally inspired. Critical to our understanding of the impact of such politico-institutional risk logics is awareness of how risk assessment instruments are implemented in everyday working practice.

**Table 2.2:** Treatment targets and their effect on reducing recidivism

<i>Description</i>	<i>Effect size (r)</i>
<i>Criminogenic</i>	
Family supervision	.35
Family affection	.33
Barriers to treatment	.30
Self-control	.29
Anger/anti-social feelings	.28
Vocational skills and job	.26
Academic	.23
Pro-social modeling	.19
Antisocial attitudes	.13
Reduce antisocial peers	.11
<i>Noncriminogenic</i>	
Increase conventional ambition	.00
Physical activity	-.03
Respect anti-social thinking	-.05
Vague emotional/personal problems	-.06
Target self-esteem	-.09
Family, other	-.11
Increase cohesive antisocial peers	-.12
Fear of official punishment	-.18

SOURCE: Borum (2003)

### **The implementation of risk assessment instruments**

In the criminal and juvenile justice field, there is an unabated demand for risk assessment tools to assist in the evaluation of offenders' risks and needs (Douglas & Kropp, 2002). Risk assessment plays an important “sorting” role throughout the criminal and juvenile justice system, and is an important feature of bail considerations, pre-sentence investigations, and sentencing. Monahan (1981) citing Shah (1978) provides a comprehensive list of points in the criminal justice system where risk assessment is critical, which appears still relevant today (see table

2.3). Kemshall (1995) suggests that the contemporary preoccupation with risk in criminal justice arises from a desire to distinguish "really serious" offenders from "normal" offenders in an increasingly commercialized crime control environment. Faced with limited resources, risk assessment instruments may offer correctional managers the opportunity to ensure that interventions are targeted to those most in need of services.

**Table 2.3:** Points in the criminal justice system where risk assessment is deployed

<ol style="list-style-type: none"><li>1. Decisions concerning bail or release on personal recognizance</li><li>2. Decisions concerning the waiver to adult court of juveniles</li><li>3. Sentencing decisions following conviction</li><li>4. Decisions pertaining to work-release and furlough programs for incarcerated offenders</li><li>5. Parole and other conditional release decisions</li><li>6. Decisions pertaining to the civil commitment or release of sexual offenders</li><li>7. Determinations of dangerousness of indicted felony defendants found incompetent to stand trial</li><li>8. Decisions pertaining to the handling and transfer of prisoners</li><li>9. Decisions relating to the emergency, long term commitment, and release of mentally ill offenders</li><li>10. Decisions concerning the hospitalization of persons acquitted by reasons of insanity</li><li>11. Decisions concerning the likelihood of continued dangerousness of persons convicted of capital crimes, as a basis for determination regarding the use of the death penalty</li></ol> <p><i>(Adapted from Monahan, 1981, p. 22-23)</i></p>
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Effective risk assessment identifies intervenable needs which can be addressed through appropriate and responsive programming. Often however, the terms risk assessment, needs assessment, and risk management become blurred through their application in criminal justice settings. Gottfredson and Moriarty (2006) emphasize the difference between risk assessment and needs assessment, suggesting that prediction concerned with whether an individual will or will not recidivate is risk assessment, "whereas using predictive methods to attempt a reduction in criminality through assignment to differential treatments is needs assessment" (p. 192). Risk

management is focused on the outcomes deriving from needs assessment, specifically the "specification of...conditions that may aggravate or mitigate risk," (Douglas & Kropp, 2002, p. 619) with the ultimate goal being the prevention of future criminal behavior, rather than its prediction.

The most frequently used juvenile risk assessments are those focusing on predicting the risk of general recidivism, such as the Youth Level of Service/ Case Management Inventory (*YLS/CMI*), (Hoge & Andrews, 2002), and *Asset* (Youth Justice Board, 2006). Administered to youths aged from 12-17, the *YLS/CMI* is a 42-item instrument completed by an evaluator after a 30-40 minute semi-structured interview with the adolescent. Risks and needs are clustered in eight domains: offense and offense history, family circumstances and parenting, education and employment, substance abuse, peer relations, leisure and recreation, personality and behavior, and attitudes and orientation. Also administered to youths aged 12-17, the *Asset* instrument includes 12 domains, including offense and offense history, family and personal relationships, living arrangements, education, training and employment, neighborhood, substance abuse, lifestyle, physical health, emotional and mental health, perception of self and others, thinking and behavior, offending-related attitudes, and motivation to change. *Asset* also considers positive factors which may encourage desistance from offending, including positive adult relationships and availability of local community resources. There are also sections on vulnerability to harm and indicators of posing a serious harm to others.

Although both *Asset* and the *YLS/CMI* focus on static and dynamic risk factors helpful for predicting the likelihood of general recidivism, neither instrument is particularly useful when attempting to assess future violence (Burman, Armstrong, Batchelor, McNeill, & Nicholson, 2007), as violence assessments are concerned with the anticipated severity of an event rather

than its probability (Tuddenham, 2000; Young, 2009). Hannah-Moffat, et al. (2010) observe that most risk assessment tools pay little attention to violent behavior. Given the serious consequences of violence risk assessment, such as a loss of personal liberty and economic costs of continued confinement, violence risk assessments are among the most important judgments that clinicians are required to make (Elbogen, 2002). A small number of juvenile risk assessment instruments do appraise the risk of future violent behavior. The Child and Adolescent Risk Evaluation (*CARE*) tool, administered to children and adolescents aged from 2-19, assesses the risk of both problem and violent behavior. Areas assessed include youth characteristics, peers, school and education, family, and protective factors. One risk assessment instrument specifically designed to assess violence risk in youth is the Structured assessment for violence risk in youth (*SAVRY*).

Designed by Borum et al. (2003), the *SAVRY* defines violence as:

(a) an act of battery of physical violence that is sufficiently severe to cause injury to another person or physical violence that is sufficiently severe to cause injury to another person or persons (e.g., cuts, bruises, broken bones, death), regardless of whether injury actually occurs; (b) any forcible act of sexual assault; or (c) a threat made with a weapon in hand (Borum, et al., 2006, p. 14).

The *SAVRY* assessment is suitable for administration to male and female youths aged 12-18 (Borum & Verhaagen, 2006). *SAVRY* assessors may come from a variety of disciplines (e.g.: psychologists, psychiatrists, juvenile probation officers, and social workers). Borum et al. (2006) suggest that "at a minimum those who use the *SAVRY* should have expertise in conducting individual assessments, in child/ adolescent development, and in youth violence (p. 12). The *SAVRY* examines 24 micro and meso level risk items shown by empirical research to be correlated with violent youth behavior, grouped under four domains: historical risk, social/contextual, individual/clinical factors, and six protective factors. Historical risk factors

assessed are: a history of violence, a history of nonviolent offending, early initiation of violence, past supervision and/ or intervention failures, a history of self-harm or suicide attempts, exposure to violence in the home, a childhood history of maltreatment, parental or caregiver criminality, early caregiver disruption, and poor school achievement. Social/contextual risk factors assessed are: peer delinquency, peer rejection, stress and poor coping, poor parental management, a lack of personal and/or social support, and community disorganization. Individual/clinical risk factors assessed are: negative attitudes, risk taking/ impulsivity, substance-use difficulties, anger management problems, low empathy/remorse, attention deficit/ hyperactivity difficulties, poor compliance, and a low interest or commitment to school. Protective factors assessed are: pro-social involvement, strong social support, strong attachment and bonds, a positive attitude towards intervention and authority, a strong commitment to school, and resilient personality traits. The correspondence of each SAVRY-assessed risk factor with Bronfenbrenner's (1979) ecological framework is detailed in fig. 2.3 below.

Following interview with the juvenile, review of case file information, and corroboration of information with other sources (e.g.: family, teachers, correctional and treatment staff), SAVRY assessors determine whether each risk factor should be scored "low," "moderate," or "high." For example, under the category *anger management* problems a low-risk rating would be assigned to “youths who show age-appropriate ability to express and manage feelings of anger,” a moderate risk would be assigned to youths who have “moderate difficulty with controlling expressions of anger (e.g., occasional outbursts that involve yelling or minor damage to property)” and a high risk rating would be assigned when the “youth has significant difficulty controlling expressions of anger (e.g., frequent outbursts in which others are threatened, frightened, or harmed or in which serious property damage occurs” (Borum, et al., 2006, p. 44).

Assessors are also encouraged to indicate whether the factor is a "critical item." Critical items are defined as factors which the assessor "judges to be particularly important in influencing a given youth's level of risk" (Borum, et al., 2006, p. 18). For example, a youth may have low scores across the majority of risk factors but also have extremely low empathy and remorse for the index offense. Scoring the risk factor low empathy and remorse as a critical factor highlights the importance of the factor in determining the risk of future for the youth, and could lead to a higher assessment of risk than that assessed by the spread of risk factors alone. The items in the historical, social/contextual, and individual/clinical domains are coded low, moderate, or high, and protective factors are recorded dichotomously, as either present or absent. The final *SAVRY* "summary risk rating" of high, moderate or low is not a numerical quantification of risk, but rather a professional judgment which captures the "dynamic and reciprocal interplay between factors that increase and factors that decrease the likelihood of violent offending" (Borum, Bartel, & Forth, 2005, p. 312).

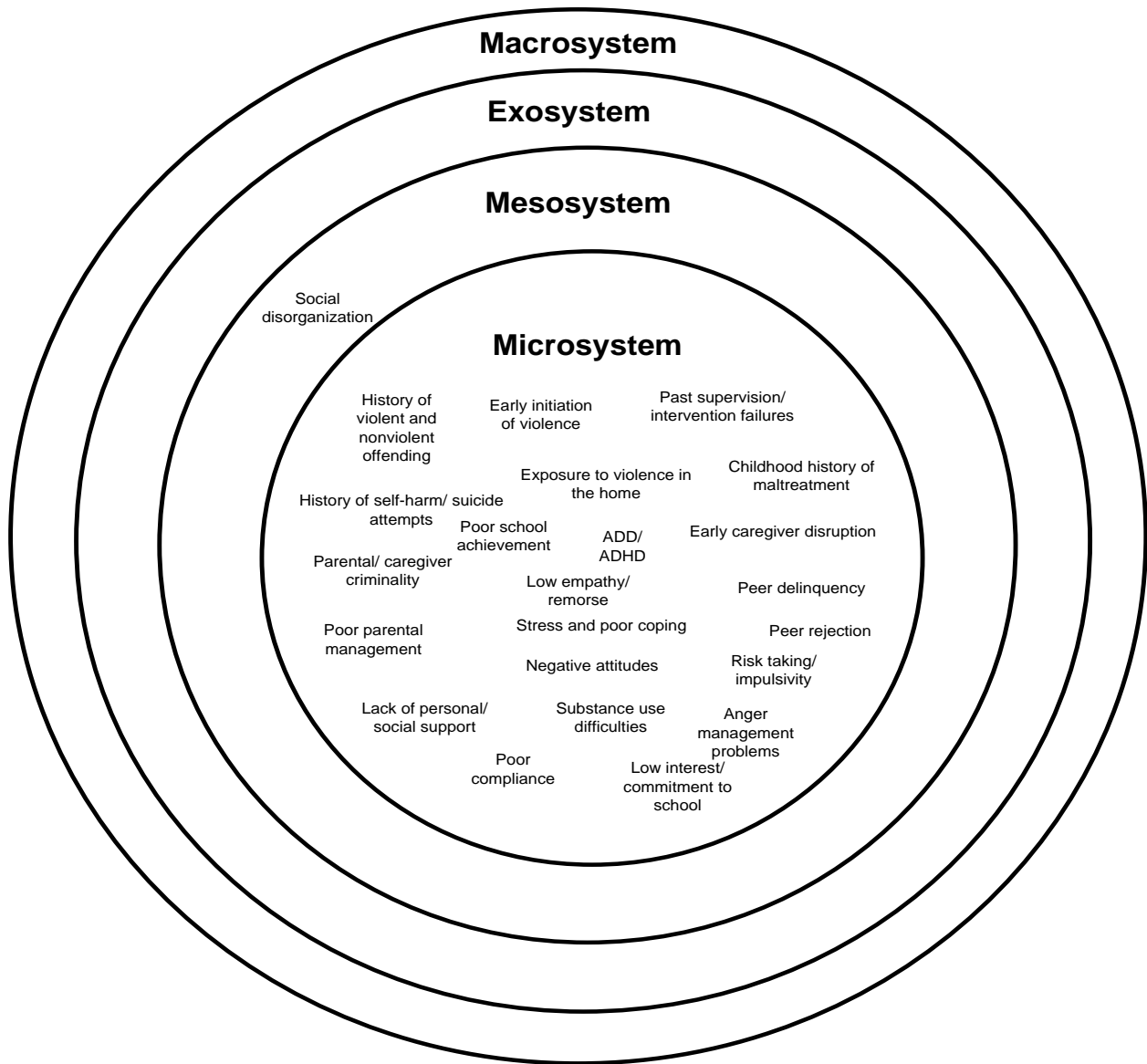
The *SAVRY* is a structured professional judgment approach to risk assessment. Taking the best aspects of clinical and actuarial assessments (Borum & Verhaagen, 2006), structured professional judgment approaches, also referred to as structured clinical judgment, empirically-guided clinical judgment, and structured discretion (Guy, 2008), guide risk assessors decision-making through the use of a checklist of empirically validated risk factors. Such an approach:

helps to focus the evaluator on relevant data to gather during interviews and record reviews so that the final judgment, although not statistical, is well informed by the best available research (Borum & Verhaagen, 2006, p. 75).

A number of empirical studies have shown that structured professional judgment approaches perform better than unstructured clinical judgments, and may perform or better than actuarial

predictions (Guy, 2008; Hanson, 1998; Hanson & Morton-Bourgon, 2007; Hanson & Morton-Bourgon, 2009).

**Fig. 2.3:** Correspondence of SAVRY risk factors with ecological levels



A good risk assessment tool will reduce the number of type I and type II errors generated through prediction. Type I errors (false positives) refer to the erroneous rejection of a true null hypothesis, and type II errors (false negatives) refer to a failure to reject a false null hypothesis.

In a now classic study, Wenk, Robison and Smith (1972) attempted to develop an prediction instrument that could identify 104 violent parole violators from a sample of 4,146 committed youths. Variables identified included an index violent offense, a history of violence, and violent offending while on parole. In addition, background information on participants was considered, including "violence proneness" (alcohol use, drug use, suicide attempts, homosexuality, escape, weapons carrying), past or present clinical diagnoses (psychosis, neurosis, brain damage, personality trait disturbance, and personality pattern), measures of mental and emotional functioning (intelligence, maturity level, MMPI, CPI) and clinical judgments (counselor's ratings of academic and vocational performance). The predictive measures had a 50% accuracy rate by correctly identifying only 52 of the 104 violent parole violators. Of concern is that 404 false positives were identified (youths incorrectly assessed as a violent parole violator when they were not. Thus, the measures incorrectly identified eight youths for every one correctly identified violent violator. Wenk et al. (1972) make two important observations relevant to those developing risk prediction instruments. Firstly, that official records are not a good measure of violent behavior, but rather, are a measure of the "certification" (p. 401) of violent events (for more discussion see Chapter 5), and secondly, that the relative rarity of certificated violent events makes prediction extremely difficult.

When considering the predictive accuracy of risk assessment instruments, consideration of the frequency (or "base rate") of the event being predicted must be considered. Rare events are difficult to predict, and therefore may critically affect the accuracy of any prediction (Beaumont, 1999; Gottfredson & Gottfredson, 1993; Lewis & Webster, 2004b). Seeking to attenuate this problem, many risk prediction researchers use the "*area under the curve of receiver operating characteristic* statistic" (AUC/ROC) (Smallbone & Ransley, 2005) to examine the accuracy of

risk assessment instruments. The AUC/ROC is a graphical representation which displays the trade-off between true and false positives. AUC scores above .70 are considered moderate to large, and .75 or above is considered large (Douglas, Guy, Reeves, & Weir, 2005). The ROC/AUC is considered by many scholars to be the best measure of an instrument's predictive accuracy (Swets, Dawes, & Monahan, 2000). A "relatively substantial" amount of research has been conducted concerning the predictive validity of the SAVRY (Guy, 2008, p. 100). Scholars have observed that the AUC scores for the SAVRY are good. For the SAVRY risk rating AUC scores have been identified as .70 (McEachran, 2001), .73 (Catchpole & Gretton, 2003), .76 (Dolan & Rennie, 2008) and .80 (Lodewijks, Doreleijers, de Ruiter, & Borum, 2008). AUC scores for the SAVRY summary risk rating are even better ranging from .86 (Lodewijks, et al., 2008) to .89 (McEachran, 2001). A recent meta-analysis of violence risk assessment analyzing 68 studies involving 25,980 participants found that the SAVRY produced the highest rates of predictive validity compared to eight other commonly used risk assessment instruments. (Singh, Grann, & Fazel, in press).

Although there has been considerable scholarly research concerning the identification of risk factors associated with violent behavior, and the predictive accuracy of risk assessment instruments few studies have examined how criminal and juvenile justice workers (parole boards, correctional staff, probation officers etc.) experience and understand risk assessment (Baker, 2008). A small body of work examining the schemas criminal justice professionals hold concerning offenders was generated in the last quarter of the twentieth century (Clear, Cole, & Reisig, 2008; Lurigio & Carroll, 1985; Ryan & Taylor, 1988; Shoemaker, South, & Lowe, 1973). Two interesting and recent UK studies examined probation officers' views of a risk assessment instrument (Mair, Burke, & Taylor, 2006) and parole board perceptions of probation

officer risk assessments (Fitzgibbon, 2008). However, this research does not address specifically how risk assessment tools are integrated into structured decision-making processes, (Olver, Stockdale, & Wormith, 2009), or indeed if risk assessment instruments guide decision-making at all.

A considerable body of empirical research exists that examines factors associated with parole acceptance or rejection. Much of the research was generated between the 1960's and 1980's, reflecting a political climate that increasingly questioned the apparent subjectivity of parole decision-making (Caplan, 2007; West-Smith, Pogrebin, & Poole, 2000). Hakeem (Hakeem, 1961) echoing an earlier observation made by Wood and Waite (1941) observes that parole decision-making is often a matter of "habits, tradition, and guesswork" (p. 155), despite the existence of parole prediction tables generated by the analysis of factors associated with parole success and failure. Similarly, Medwed (2007) comments that parole hearings are "wrought with subjectivity" and "more art than science" (pp. 505-506). Caplan (2007) provides a succinct and fairly contemporary overview of studies that examine factors influential in parole-release decision-making, for adult offenders in the United States. He observes that parole release decisions are "primarily a function of institutional behavior, crime severity, criminal history, incarceration length, mental illness and victim input" (p. 16). An offender's level of insight into the "causes" of their offending behavior also appears an important influence (West-Smith, et al., 2000), as well as the make-up of the parole board itself (Pogrebin, Poole, & Regoli, 1986).

In a recent mixed-methods study examining parole-decision-making of female offenders in Canada, Hannah-Moffatt and Yule (2011) found that shorter sentence length, and not having a psychiatric report on file increased the likelihood of parole. Victim type, offense seriousness, criminal history, and level of remorse however, were not significantly associated with parole

release, and age, race, criminal history, institutional infractions, a history of mental illness, substance abuse, security classification, and remorse did not underlie parole decision-making. Hannah-Moffatt and Yule suggest that the parole board frame women's violent crimes as the outcome of a series of poor choices, and thus parole-decision-making focuses primarily on evidence of change. Completion of correctional programs, and the ability to contextualize and verbalize learning appear critical:

Board members...reconcile past and unalterable factors in a woman's criminal background with concerns about her future dangerousness by assessing her degree of insight into her crime(s), criminogenic factors and triggers and whether she has learned alternative strategies for managing her potential risk (p. 164).

Silverstein (2006) observes that parole board decision-making is an interactive process, through which the parole board construct the offender's identity as either prisoner or parolee (see also Cavender & Knepper, 1992; Hawkins, 1973; Lofland, 1969; Radelet & Leigh, 1983). He notes that rather than relying on statistical predictions alone, parole board members engaged offenders in "conversational collaboration" (Holstein, 1988, p. 459) in order to reach a release decision. The offender's responsibility for their offending behavior is assessed through a process of negotiated interaction within the parole hearing. Offenders may successfully (re)construct themselves as caring and responsible family-men (in the case of male bikers), or helpless victims (in the case of female drug traffickers). Sex offenders' attempts to construct themselves as victims, however, were often regarded as an attempt to shirk responsibility. Silverstein's (2006) research builds upon the work of Sudnow (1965), Scheff (1965), and Hussey (1976), who observed that parole boards reach parole decisions through the lens of limited "conceptual packages." Although Silverstein sees the negotiated (re)construction of identity as critical to the parole decision-making process, he acknowledges that negotiations remain embedded within "qualifying realities" (p. 402), which include (1) a criminal history which includes noteworthy

crime-free periods; (2) classification as a minimum security inmate; (3) favorable case management recommendations; (4) attendance of the spouse at the hearing; and (5) status as a good statistical risk. Statistical risk assessment information in parole hearings, according to Silverstein, forms a boundary within which negotiated identity (re)construction occurs.

Interviewing senior probation officers and probation officers in the UK, Aye Muang and Hammond (2000) found that the majority of participants welcomed the adoption of risk assessment tools. Practitioners felt that the instruments help to promote consistency and quality, inform resource allocation and planning, and support defensible decision-making. Similarly Baker (2005), views the implementation of *Asset* in the youth justice field in the UK as an important part of "the cycle of assessment, intervention, planning, action, and review" (p. 113), and a vehicle for explaining and contextualizing decision-making. Robinson (2003) found that although probation officers welcomed risk assessment instruments for the reassurance and security they brought to their jobs, they were skeptical of management's ability to use the risk assessment information to allocate resources. Field and Nelken (2010), examining the work of youth justice workers in England and Wales found a more nuanced integration of risk assessment. They observed that report writers oscillated between constructing risk factors as "risks" or "needs," depending upon whether the youth was considered someone whom they could work with. Thus risk assessment was used to structure arguments driven by professional and personal values. Workers did, however, feel that risk assessment increased their professional credibility with magistrates.

Although workers may feel that an approach informed by risk assessment may raise their professional standing with the judiciary, scholars have opined that the judiciary are often not so enamored with risk assessment instruments. Phoenix (2006) found that lay magistrates did not

find the risk assessments offered by youth justice workers particularly helpful, and relied instead on "common sense," and their own experience of raising a child, or having been a child themselves (see also Phoenix, 2010). Scholars have noted that judges, rather than using risk assessment instruments, preferred to rely on intuition and "perceptual shorthand" (Silver & Miller, 2002; Steffensmeier, Ulmer, & Kramer, 1998, p. 767). Examining the decision-making processes of court judges, Ebbesen and Konecni (1975) found that they reached bail decisions by consideration of only one to three factors. Such an observation confirms the widely accepted research finding that many decisions are reached through the consideration of only a small number of factors. As Reilly and Doherty (1989) posit: "A robust finding in research on human judgment is that relatively few cues account for virtually all of the systematic variance" (p. 123).

The heuristics and biases tradition (Tversky & Kahneman, 1974), also known as prospect theory, has dominated scholarly work on decision-making for over 30 years (Schwalbe, 2004). Focusing on cognitive biases, also known as cognitive illusions, heuristics and biases researchers explore the systematic errors involved in judgment and prediction. Although Goldstein and Gigerenzer (2009) suggest that the term "heuristics and biases" is tautological, given that all cognitive heuristics generally ignore some information in favor of other information, scholars are in general agreement over the basic tenets of the heuristics and biases approach to cognition. Researchers have found that we are likely to over-predict the likelihood of extremely rare but vivid events (such as terrorist attacks, or airplane crashes) and underestimate the likelihood of common occurrences (such as car accidents). Heuristics are mental shortcuts that allow us to process a large amount of complex information in order to reach a decision. Heuristics are "efficient, ubiquitous, and invisible" (Weinstein, 2002, p. 791), however research has shown that the impact of bias can be attenuated with cognitive bias training (Fischhoff, 2002),

although such attenuation is often limited (Conlisk, 1996). Heuristics and biases researchers have observed that in laboratory settings participants regularly violate probability theory when faced with choices concerning the likelihood of an event occurring. Kahneman and Tversky (1973) suggest that:

In making predictions and judgments under uncertainty, people do not appear to follow the calculus of chance or the statistical theory of prediction. Instead, they rely on a limited number of heuristics which sometimes yield reasonable judgments and sometimes lead to severe and systematic errors (p. 237).

A frequently studied example pertaining to decision-makers' violation of probability theory is the personality sketch of Linda:

Linda is 31 years old, outspoken and very bright. She majored in philosophy. As a student, she was deeply concerned with issues of discrimination and social justice, and also participated in anti-nuclear demonstrations (Tversky & Kahneman, 2002, p. 24).

Participants are then asked to rank eight statements that best describe Linda:

Linda is a teacher in elementary school.  
Linda works in a bookstore and takes yoga classes.  
Linda is active in the feminist movement. (F)  
Linda is a psychiatric social worker.  
Linda is a member of the League of Women Voters.  
Linda is a bank teller. (T)  
Linda is an insurance salesperson.  
Linda is a bank teller and is active in the feminist movement. (T & F)  
(Tversky & Kahneman, 2002, p. 24)

The personality sketch of Linda is designed to indicate that Linda is representative of someone who is a feminist (F), and unrepresentative of a bank teller (T). Concerning the last statement, that Linda is both a bank teller and a feminist, scholars have suggested that Linda is more likely to be a bank teller than both a bank teller and a feminist, because a conjunction of two events can never be greater than any one of its single constituents (Tversky & Kahneman, 1982, 2002).

Numerous studies, have demonstrated that participants overwhelmingly commit the "conjunction

fallacy" by ranking the statements as  $F > T$  &  $F > T$  (Crandall & Greenfield, 1986; Markus & Zajonc, 1985; Morier & Borgida, 1984; Tversky & Kahneman, 1982). Tversky and Kahneman (2002) suggest that participants regularly commit the conjunction fallacy because they focused their thinking on the similarity and representativeness of the statements, rather than paying attention to laws of statistical probability.

Although Gigerenzer (1991) suggests that peoples' responses to the Linda sketch are not actually a violation the laws of statistical probability, because a probability estimate cannot emerge from an analysis of a single-case example, he agrees with Prospect theorists that people rarely make decisions based on sound theory, but rather make fast and frugal judgments when making decisions under uncertainty. The three common mental shortcuts identified by the literature are: (1) the availability heuristic; (2) the representativeness heuristic; and (3) the anchoring and adjustment heuristic (see Chapter One). Certainly, parole board decision-making involves the synthesis and analysis of a large volume of (at times contradictory) information, within a relatively short-time scale. Although the New Jersey juvenile parole board hold an "inordinate amount of hearings" (Frendle, 2004, p. 5) by holding a panel for each incarcerated juvenile every three months, and thus have a longer amount of time to deliberate, their decisions cannot feasibly involve the rigorous statistical calculation of multiple probabilities. Instead, it is likely that parole board members, as all decision-makers, employ mental shortcuts in order to reach decisions (Tversky & Kahneman, 1973, 1974, 1981, 1992, 2002). The introduction of a structured risk assessment tool may serve to direct such shortcuts, reducing biases and ensuring that decision-making is driven by contemporary empirically-based research. Unfortunately, the few empirical studies that do examine the influence of risk assessments' actual influence on

practitioner decision-making are restricted to specific agencies, and the results are often reflective of local agency cultures (Schwalbe, 2004).

Gigerenzer (1991) warns us that the availability, representativeness, and anchoring and adjustment heuristics may end up telling us both everything and nothing, for "(a)ll three heuristics...can *post hoc* be used to explain almost everything" (p. 16). Furthermore, much of our understanding of the heuristics and biases approach is drawn from controlled laboratory experiments, and therefore may not be reflective of the cognitive analysis conducted by "professional" decision-makers in real-world settings.

Seeking to elucidate biases in professional decision-making in real world settings, Croskerry (2002), studying the medical literature on physician decision-making identifies 32 possible cognitive dispositions that may lead to diagnostic errors. Of these 32 dispositions, 20 appear particularly applicable to parole board members' decision-making processes (see table 2.4 below). Certainly, fundamental attribution errors and the unpacking principle may prevent parole board members considering the relevance of exo and macro level factors in their violence assessment. The seven cognitive dispositions of anchoring, availability, confirmation bias, diagnosis momentum, framing, sunk costs and vertical line failure, may further encourage a focus on micro and meso level risk factors. The implementation of a risk assessment instrument that only focuses on micro and meso level factors may further compound such an omission, resulting in a failure to fully comprehend the interrelated and interconnected nature of juvenile offending offered by Bronfenbrenner's ecological framework.

**Table 2.4:** Cognitive dispositions that may engender error in juvenile parole decision-making

Cognitive disposition	Relation to risk decision error
Aggregate bias	Believing that aggregated data does not apply to the specific juvenile under consideration.
Anchoring	Locking into specific information early on, and failing to adjust this initial impression in the light of new information.
Ascertainment bias	The parole board member's opinion is shaped by prior expectations (stereotyping).
Availability	Judging things as more likely when they come most readily to mind.
Base-rate neglect	Ignoring the true prevalence of an occurrence, by inflating or reducing its base-rate.
Commission bias	Perceiving an obligation toward beneficence. Believing that potential harms can only be prevented through active intervention.
Confirmation bias	Seeking information to confirm an opinion, rather than looking for evidence to disconfirm an opinion.
Diagnosis momentum	Once labels are attached to juveniles they become increasingly fixed, to the exclusion of other possibilities
Feedback sanction	A long period of time may pass before the error is discovered. Poor feedback processes may prevent feedback from reaching the parole board member.
Framing effect	How outcomes are framed by parole board members strongly influences decision-making. Perceiving that the majority of juveniles' recidivate may influence thinking regarding individual risk.
Fundamental attribution error	The tendency to blame individuals for their problems, rather than acknowledging situational factors.
Hindsight bias	Knowing the outcome (incarceration) will profoundly influence perception of antecedents, and prevent a realistic appraisal of what actually occurred.
Order effects	Information transfer as a U-function: we tend to remember the beginning part (primacy effect) or the end (recency effect). The primacy effect may be augmented by anchoring.

**Table 2.4 (cont'd.):** Cognitive dispositions that may engender error in juvenile parole decision-making

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Overconfidence bias	The universal tendency to believe we know more than we do. Overconfidence reflects a tendency to act on incomplete information, intuitions, or hunches. Too much faith is placed in opinion instead of carefully gathered evidence. The bias may be augmented by both anchoring and availability, and catastrophic outcomes may result when there is a prevailing commission bias.
Posterior probability error	Occurs when the parole board members estimation of risk is unduly influenced by what has gone on for the juvenile before.
Premature closure	The tendency to apply premature closure to the decision-making process, accepting a risk decision before it has been fully verified.
Representativeness restraint	The representativeness heuristic drives the parole board member toward looking for prototypical manifestations of offending: “If it looks like a duck, walks like a duck, quacks like a duck, then it is a duck.”
Sutton’s slip	Takes its name from the apocryphal story of the Brooklyn bank robber Willie Sutton who, when asked by the Judge why he robbed banks, is alleged to have replied: “Because that’s where the money is!” The diagnostic strategy of going for the obvious is referred to as Sutton’s law. The slip occurs when possibilities other than the obvious are not given sufficient consideration.
Sunk costs	The more parole board members invest in a particular risk decision, the less likely they may be to release it and consider alternatives. For the parole board member, the investment of time and mental energy and, for some, ego, may be a precious investment engendering a myopic assessment.
Unpacking principle	Failure to elicit all relevant information (unpacking), in establishing a differential assessment of risk, may result in significant possibilities being missed.

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(Adapted from Croskerry, 2002, pp.2-3)

## **Conclusion**

Although principles of risk prediction have been with us perhaps since the first humans walked the earth, the foundations of contemporary risk assessment can be traced back to the development of statistical understandings of probability during the Enlightenment era. Scholars writing in our late- or postmodern era suggest that we may be facing new forms of risk, and greater uncertainty. Such uncertainty is often underpinned by growing skepticism towards, and dissatisfaction with, scientific explanations. Simultaneously, perhaps in response to greater uncertainty, some scholars have suggested that a “new penology” has emerged, whereby risks are seen as something to be managed and contained, rather than problems to be treated and eradicated. Although the identification of factors predictive of parole success and recidivism has interested scholars for over 80 years, the contemporary “new penology” has generated an almost insatiable appetite for risk assessment instruments among criminal justice institutions. Such instruments however focus only on micro and meso level risk factors, and may serve to direct attention away from fundamental structural problems. When considering juvenile violence risk assessment in relation to Bronfenbrenner’s (1979, 1989, 1994) ecological framework our understanding of violence is considerably restricted. Risk assessment instruments when used well however, may reduce the subjectivity of parole decision-making, and ensure the equitable treatment of juvenile offenders. Unfortunately, if misused, risk assessment tools may serve to generate and reinforce labyrinths of risk, physically and metaphorically incarcerating juveniles within prison walls constructed from their past behaviors.

Despite extensive research pertaining to the identification of risk factors associated with juvenile violent offending, there is a dearth of knowledge concerning how decision-makers incorporate risk assessment instrument information into their work. Juvenile violence risk

assessment is certainly a challenging arena. The rapid developmental change experienced by adolescents suggests that there is a need for ongoing review of risk assessments. Such assessments must incorporate an understanding of risk and protective factors at all ecological levels, whilst recognizing the reflexivity of factors within and between different levels. The heuristics and biases tradition, however, suggests that decision-makers will take cognitive shortcuts, when assessing information under conditions of uncertainty, regardless of training and knowledge provided to them. Such shortcuts may be even more prominent when a large amount of diverse information is presented. Drawing upon research into physician decision-making, twenty-two common cognitive errors in decision-making were identified as potentially impacting on the parole-decision process.

A mixed-methods study that seeks to assess the impact of the implementation of a structured violence risk assessment instrument on juvenile parole decision-making, elucidate the meanings juvenile justice actors ascribe to risk, and understand how such conceptions shape juvenile justice system responses appears timely, and has the potential to fill a significant gap in the literature. Research on how parole board members assimilate risk assessment tools into their work, appears to be an important consideration, as we witness the rapid adoption of risk assessment instruments in juvenile and adult correctional work.

## CHAPTER 3: RESEARCH METHOD

"This excellent arrangement pleased me, and I began to praise God that He had divided the estates of the world in such fine fashion. But it displeased me that these streets intersected and ran into each other at various points. This seemed to be an indication of confusion and a cause of straying"

(Comenius, 1623, p. 69)

### **Researcher perspective, identity and role**

Research involving humans is often messy and subjective. Such subjectivity arises from the views and previous experiences the researcher brings to the study. Although qualitative approaches are often criticized for subjective findings, subjectivity also permeates quantitative studies. Which variables to measure, and what survey questions to ask are shaped by the theoretical, and therefore personal preferences of the researcher, thus introducing a degree of subjectivity into quantitative study. As Howe and Eisenhart (1990) observe, "all scientific investigation is inherently laden with theory, inherently an outgrowth of human purposes and theoretical constructions, it is, broadly speaking, inherently interpretive" (p. 3). Given the inherently subjective nature of all scientific inquiry, it has been critically important to draw upon insights offered by others of the phenomena observed in my study (Halliday & Schmidt, 2009). Alternative insights were garnered through discussions with my dissertation committee Dr. Jeff Mellow (Chair), Dean Todd Clear, and Dr. Vicki Lens, and faculty members at John Jay College of Criminal Justice, the CUNY Graduate Centre, Columbia University School of Social Work, the College of New Jersey, and Florida State University. Alternative insights sought were diverse, and included the tensions inherent in a post-positivist paradigm, possible reasons for white urban flight in New Jersey, the integration of exo- and macro- level risk factors in risk assessment,

negative scoring of protective factors in risk assessments, and perceptions of “toxic” communities.

In addition, immersing myself in the central parole board office in Trenton, New Jersey during the quantitative data collection period afforded me the opportunity to regularly converse with juvenile parole board members and the parole hearing team, and clarify my thoughts and understanding of the interview data as the qualitative analysis progressed. Examples of areas of clarification included thoughts concerning the role of heinousness in risk assessment, reasons for the decline in the incarcerated juvenile population, intra-state recording and sharing of offense records, and the role of parole conditions in release plans.

Rigorous field notes and memos which not only described events but encouraged me to reflect upon my own biases which emanate from my position as a white, middle-class, forty-something, former probation and parole officer, Englishman, and doctoral student aware of both the evidence-based and critical literature concerning risk assessment, were maintained. I brought to the study my experiences as a probation and parole officer, an alcohol counselor, and a homelessness worker in the UK. Introducing myself as a parole officer from the UK helped foster more of an "insider" identity, and demonstrate enough knowledge to avoid the danger of being dismissed as frivolous or stupid (Lofland & Lofland, 1995). Conversely, my identity as a “foreigner” enabled me to probe the familiar, while avoiding "trite, standardized or superficial answers" (Moyser, 1988, cited by Lofland & Lofland, 1995).

Since living in the United States I have often heard Anglophilic responses to my English accent. “If you say anything in an English accent it sounds smart!”, and “I could listen to your accent all day!” are common responses when meeting new people. Such responses are all the more pointed when I hear people telling my wife, who is an Asian immigrant, "It's good that you

don't have much of an accent." For my wife, her accent is one to be suppressed, or eliminated, while for me, my accent is something to be celebrated. English accents, as Jones (2001) observes, can engender privileges and respect not enjoyed by immigrants from other countries. She notes that in certain situations British immigrants in the U.S. "self-consciously exaggerated their accents to parody their Englishness" (p. 133). Upper and middle class English accents, referred to as "received pronunciation" (Jones, 1926, p. ix) are more likely to engender Anglophilic responses than lower-class ones, possibly conjuring images of royalty, a nation steeped in "historical tradition," Merchant Ivory films, and newscasters. Participants often commented on my English accent, either to tell me how everything sounds more intelligent, or just to engage in everyday forms of border-patrol (Chen, 2000) with the question "Where are you from?"

My previous experience as a probation and parole officer in the UK also assisted me in with some study participants. It seemed to provide me with a level of credibility among the parole hearing team, through my loose association with a shared professional identity. Mindful that juveniles may consider such an affiliation as "unsafe," I presented myself to them as a "student." Of course, interviewing staff about their decision-making processes, and juveniles about their understanding of risk can be threatening, regardless of whether the researcher is an insider or an outsider. Furthermore, as Mitchell (1993) notes, participants will often reinterpret and transform the identity of the researcher during the study. Antagonism could have arisen from my University being situated in New York rather than New Jersey, by my class, or by my race. Certainly, respectful and earnest, active listening skills were important for overcoming potential participant apprehensions, and critical for eliciting rich and useful data.

## **Background to the study**

Hoping that risk assessment may improve the consistency and accuracy of decision making, the New Jersey State Parole board (NJSPB) consulted with psychologists from the University of Medicine and Dentistry of New Jersey (UMDNJ) and contracted for the adoption of the Structured assessment of violence risk in youth (*SAVRY*) risk assessment tool. UMDNJ psychologists read juvenile case file information, interview juveniles, and prepare a *SAVRY* assessment. A summary of the assessment is then included in the case file considered by the juvenile parole board at parole hearings. The *SAVRY* summaries appeared to range in length from two pages of single-spaced text, to six pages. It is hoped by parole managers that the structured risk assessment information provided in the summary will encourage parole board members to safely release more juveniles early on parole. All adolescents released from state facilities are subject to a mandatory period of parole supervision, however some juveniles may be released on parole prior to the end of their maximum term (Stout, 2003). The parole board estimates that at present somewhere between 80 and 92% of committed juveniles "max out" on their sentences, that is, they are not released early on parole. The parole board members themselves have also requested the implementation of structured risk assessments to help manage the uncertainty of discretionary parole decision making, and were involved in the process of choosing an appropriate instrument.

The New Jersey Juvenile Parole board considers approximately 300 committed juveniles held in secure care and community facilities each year (Frendle, 2004). Committed juveniles are seen by either parole board members or hearing officers every three months throughout their sentence. The purpose of the meeting is to determine the reasons for the juveniles' continued confinement, to consider whether the juvenile will cause injury to persons or substantial injury to

property if released, and to decide if the juvenile's tentative release date should be reduced or increased (N.J.A.C. 10A:71-3.22-3). Juveniles are eligible for release on parole once their judicial restriction date (JRD) has passed. The JRD is set after 33% of the initial sentence has been served. For some juveniles, their commitment may be a welcome relief from the dangers they experience every day in the street. For others, a break from substance abuse and access to regular meals, healthcare, and education in correctional facilities may improve medium-term health and educational outcomes. For some committed juveniles however, incarceration may lead to increased exposure to the criminogenic effects of incarceration, and greater disconnect from pro-social supports (Lipsey & Cullen, 2007; Smith, Goggin, & Gendreau, 2002). With this in mind, increasing safe early releases appears to be an important and laudable goal. The New Jersey State Parole Board's "roll-out" of the SAVRY risk assessment instrument provides an ideal opportunity to observe and understand the impact of structured risk assessment upon parole decision-making, and the New Jersey juvenile justice system.

### **The imperative for mixed-methods risk research**

The study adopts a primary mixed methods design. It is a mixed methods study because it utilizes both quantitative and qualitative methods (Creswell, 2009), and it is a primary mixed methods study because the data subject to analysis arises from interviews and observations of human subjects (Sandelowski, Voils, Leeman, & Crandell, 2011). Case (2007) suggests that there is a need to balance the largely quantitative focus of risk research with "a deeper, qualitative investigation of the opinions, meanings and motivations of key stakeholders in the (juvenile justice) process" (p. 98). Applying quantitative and qualitative methods in a mixed method design is certainly a step toward such desired balance. Qualitative methods, which

nurture "an interpretive, naturalistic approach to the world" (Denzin & Lincoln, 2005, p. 3), are highly appropriate for peering into the black box of risk assessment and management practices, and complements more traditional quantitative data analysis. Although research in correctional risk assessment has hitherto been predominately quantitative in nature, risk assessment is clearly not an apolitical or objective process (Hannah-Moffat, 2005) and assessments are shaped by the perceptions of individuals embedded within political-institutional contexts (Maynard-Moody & Musheno, 2003; Schlager, 2009). Qualitative methods enable the exploration of the subjective experiences and interpretations of the risk assessment and management process frequently ignored by quantitative analysis. Researchers using qualitative methods can "illuminate both the ordinary within the worlds of fabulous people and events and also the fabulous elements of ordinary, mundane lives" (Ellingson, 2008, p. 1).

Combining elements of qualitative and quantitative research approaches mixed methods researchers aim to maximize breadth, depth of understanding and corroboration (Johnson, Onwuegbuzie, & Turner, 2007). The incorporation of both qualitative and quantitative methods seeks to draw on the strengths and minimize the weaknesses inherent in both methods (Johnson & Onwuegbuzie, 2004). Qualitative research methods, as Morrow & Smith (1995) remind us, are particularly suited to uncovering meanings people assign to their experiences, while quantitative methods seek to provide replicable and generalizable data. While an understanding of the meaning participants ascribe to events are heavily restricted in quantitative studies (Sandelowski, 2000b), qualitative studies allow us the space and opportunity to uncover the unanticipated (Becker, 1996). By adopting both methods this study is open to an exploration of the unanticipated, while keeping a foothold in the traditional risk assessment literature. Circumventing the "ideological hegemony" (Becker, 1986, p. 147) engendered by a

predominantly quantitative literature base, this mixed methods case study draws upon qualitative methods to explore the meanings of risk assessment for both the assessors and the assessed, and quantitative methods to determine whether the use of structured risk assessment increases the parole boards' likelihood to release juveniles before their "max" date.

The qualitative inquiry seeks to answer the central research question: *How do juvenile justice actors experience and understand risk assessment processes?* Subsidiary questions unpack these experiences and understandings by asking: *How do juveniles experience labyrinths of risk?* and *What is the nature of risk labyrinths?* Using Rigakos' (1999) risk labyrinth metaphor, which suggests that individual offenders "are forced to negotiate a labyrinth of risk tied to their biographies" (p. 140) the assumptions of progression and rehabilitation inherent in the *Risk-Needs-Responsivity* model are examined, and compared with real-life experiences and understandings. In addition, the release rates of a sample of committed juveniles assessed using the SAVRY instrument are compared with a matched sample of committed juveniles from the previous two years, to determine whether the use of structured risk assessment increases early release. In this quasi-experimental design, it was hypothesized that use of the structured risk assessment tool will impact parole releases; however the direction of the impact was unknown. Such a dual-methodological approach provides a much-needed counter-balance to the current risk assessment literature.

### **Paradigmatic considerations**

Elliott, Fischer and Rennie (1999) urge researchers to "own" their particular perspective by detailing "theoretical orientations and personal anticipations" (p. 221) both at the start and during the study. Similarly, Creswell, Hanson, Plano Clark, and Morales (2007) emphasize that

researchers must make explicit their paradigm stances throughout their project. Seeking to go beyond simplistic socially constructed dichotomies such as qualitative/quantitative, hard/soft, and arts/science, Ellingson (2008) suggests that paradigms exist on a continuum from art/impressionist, through the middle-ground, to science/realist perspectives (see fig. 3.1). Although some might take issue with her explication of each paradigm, for example quantitative researchers may argue that they deal with "concrete details," and are also "adventurous," and qualitative researchers may feel that they embrace ambiguity while engaging in inductive research, Ellingson's conceptualization of a fluid paradigmatic continuum is helpful for researchers seeking to make their paradigmatic stance explicit.

By their nature, mixed method studies involve contradictory paradigms of inquiry. The quantitative inquiry of this study is rooted in a post-positivist paradigm – which holds that an objective reality exists, but is imperfectly apprehensible (Haverkamp & Young, 2007; Ponterotto, 2005), while the qualitative inquiry is rooted in a constructivist paradigm, that argues that reality is individually and culturally constructed. The quantitative inquiry uses offense severity scales to determine the seriousness of the index offense and previous offenses, and reconviction rates to predict the likelihood of reconviction. The underlying post-positivist assumption here is that offense seriousness and reconviction are tangible, albeit murky, phenomena that can be captured, as long as accurate proxy measures exist. Assuming an interpretivist/constructivist paradigm the qualitative inquiry examines how participants construct, understand, and experience risk. Paradigmatic positions become even more complicated in the analysis stage, as I seek to understand and integrate findings. Ellingson's (2008) artistic paradigm is adopted to help cast insight onto the qualitative and quantitative findings. The works of literary authors, including John Amos Comenius (1623, 1668) and Jorge

Luis Borges (1964) and the labyrinthine metaphor from Greek mythology is drawn upon to explore and understand complex shifting realities. Metaphors, Carpenter (2008) suggests, enable the opportunity to step back from the data, and "gain a gestalt understanding of the meanings of the data" (p. 277). Although we must be wary as metaphors can reflect and reinforce privileged views (Richardson, 1994), and rather than illuminating previously unnoticed experiences they may cast interpretive shadows (Carpenter, 2008), the use of metaphors can enhance coherence and understanding in the analysis stage (Sandelowski, 1998). During analysis, the art/impressionistic paradigm can be engaged to help provide coherence between the post-positivist and interpretivist/constructivist paradigms.

**Figure 3.1:** The paradigmatic continuum

<b>Art/ Impressionist</b>	<b>Middle ground approaches</b>	<b>Science/ realist</b>
<b>Goals</b>		
To unravel accepted truths To construct personal truths To explore the specific To generate art	To construct situated knowledges To explore the typical To generate description and understanding To trouble the taken-for granted To generate pragmatic implications for practitioners	To discover objective truth To generalize to larger population To explain reality "out there" To generate scientific knowledge To predict and control behavior
<b>Questions</b>		
How do we/ can we cope with life? What other ways can we imagine? What is unique about my or another's experience?	How do participants understand their world? How do the participants and author co-construct the world? What are the pragmatic implications of the research?	What does it mean from the researchers point of view? What is the relationship among factors? What behaviors can be predicted?

**Figure 3.1 (cont'd.):** The paradigmatic continuum

Art/ Impressionist	Middle ground approaches	Science/ realist
<b>Methods</b> Autoethnography Interactive interviewing Participant observation Performance Sociological introspection Visual arts	Semi-structured interviewing Focus groups Participant observation/ ethnography Thematic, metaphoric, and narrative analysis Grounded theory Case studies Participatory action research Historical archival research	Coding textual data Random sampling Frequencies of behavior Measurement Surveys Structured interviewing
<b>Researcher</b> Researcher as the main focus, or as much the focus of research as other participants	Participants are main focus, but researchers' positionality is key to forming findings	Researcher is presented as irrelevant to results
<b>Vocabularies</b> Artistic/ interpretive: inductive, personal, ambiguity, change, adventure, improvisation, process, concrete details, evocative experience, creativity, aesthetics	Social constructionist/ post- positivist: inductive, emergent, intersubjectivity, process, themes, categories, thick description, co-creation of meaning, social construction of meaning, standpoints, ideology (e.g.: feminism, postmodernism, Marxism)	Positivist: deductive, tested, axioms, measurement, variables, manipulation of conditions, control, prediction, generalizability, validity, reliability, theory driven

(SOURCE: Ellingson, 2008, pp. 8-9)

Differing world views, such as those contained within post-positivist and interpretivist/constructivist paradigms, as Sandelowski (2000a) suggests, cannot be combined or reconciled, as each paradigm asks different questions, and uses different techniques to answer them. Instead, this mixed-method study frames its inquiry with “two or more world views, each of which remains distinct from each other” (Sandelowski, 2000a, p. 247). Although irreconcilable, both paradigmatic approaches complement each other during the analysis stage, enabling a sound vehicle for exploration and interpretation.

## **Mixed methods, paradigmatic status, and triangulation**

Scholarly arguments concerning the superiority of quantitative methods over qualitative methods and vice versa have been described as the "paradigm wars" (Datta, 1994; Gage, 1989; Rossi, 1994). Although Tashakkori and Teddlie (2008) suggest that the thirty year paradigm wars are finally over, and a new era of pragmatism has dawned, foot soldiers still patrol the research field, serving as editors and reviewers for academic journals, presenting at scholarly conferences, and teaching research methods to fresh legions of recruits. Some scholars in the criminal justice field, seemingly like Lieutenant Hiroo Onoda hiding in the Philippine jungle for 29 years following the end of World War Two, have yet to believe the message that the war is over. For others, methodological allegiances remain, often determined by the comfort level of the researcher, perceived audience for the research findings (Creswell, Plano Clark, Gutmann, & Hanson, 2008), and accessibility of data. The relentless pressure to publish may also shape the eventual research design chosen (Fox, 1983). Ferrell et al. (2008) suggest that contemporary criminology has become colonized by quantitative approaches, "bringing the everyday world under the imperial power of sample design and data sets" (p. 168). Although such conspiratorial musings perhaps overstate the case, the preference of journal editors for quantitative studies in the fields of criminology and criminal justice is apparent.

Some proponents of mixed methods research have suggested that mixed methods research has recently achieved its own paradigmatic status alongside quantitative and qualitative research (Johnson, et al., 2007). Although the debate concerning the paradigmatic status of mixed methods research remains unresolved, largely because of disagreements concerning the nature and impact of research paradigms (Torrance, 2012), it is apparent that mixed methods research designs do not simply incorporate both qualitative and quantitative methods, but can be

viewed as a separate and distinct research design (Creswell, et al., 2008). Going beyond combining qualitative and quantitative methods, mixed methods researchers also consider the timing of the collection of the data, the stage in the research process when methods become "mixed," and the emphasis given to each method during the analysis phase. Creswell et al. (2008) provide a good definitional starting point for mixed methods research:

*A mixed methods study involves the collection or analysis of both quantitative and/or qualitative data in a single study in which the data are collected concurrently or sequentially, are given a priority, and involve the integration at one or more stages in the process of research. (p. 165)*

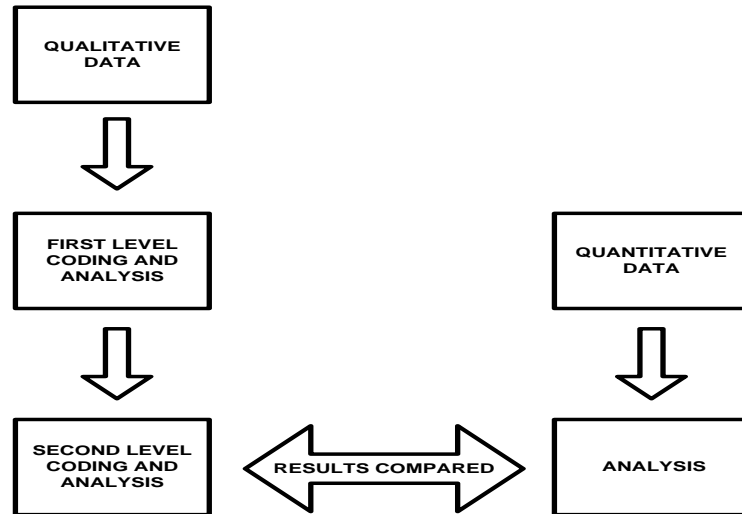
A mixed method approach utilizes the strengths of both quantitative and qualitative perspectives, enabling an expanded understanding of the research questions (Creswell, 2009).

Methodological triangulation may be *simultaneous* or *sequential*. (Field & Morse, 1985). Simultaneous triangulation is the use of both quantitative and qualitative methods at the same time, while sequential triangulation involves using the results of one method to plan the next method. Both the timing of the qualitative and quantitative data collection, and the emphasis each method assumes during analysis is captured in Morse's (1991) useful notation system. Morse suggests that if qualitative and quantitative data are collected simultaneously a plus (+) sign should be used, and if the data are collected sequentially an arrow (→) should be used. The notational order and capitalization, such as "QUAL+quan" or "QUAN+qual," depends upon whether the research question is primarily qualitative or quantitative. Morse (1991) observes that the theoretical drive does "*not* refer to the valuing of the qualitative or quantitative paradigm, the amount of effort required nor the amount of time spent answering the qualitative or quantitative question" (p. 153). Katharyn May, in her dialogue with qualitative researchers, suggests that the

data-approach that "drives" the data should take precedence, although Kathleen Knafel questions whether one method always needs to take precedence over the other (May, 1991, p. 225).

The qualitative research question of the current study probes *How do juvenile justice actors experience and understand risk assessment processes?* Such a question corresponds with the substantial literature review that recognized the need to gain insights into how parole board members construct juvenile violence risk. The quantitative research question is: *Does the implementation of a structured risk assessment increase the number of juveniles released early on parole?* The direction finally chosen (increasing) was one of convenience, rather than a direction drawn deductively from the literature, as this question has not been addressed in the literature previously. The overall theoretical drive of the study therefore appears to follow a more inductive, rather than a deductive process. Thus, a QUAL+quan simultaneous triangulation design was adopted for the current study. The qualitative data was not used to plan the quantitative sampling, nor did the collected qualitative data directly inform the quantitative inquiry, hence the simultaneous, rather than sequential design. Although simultaneity usually implies two processes occurring at the same time, true simultaneity is perhaps impossible in mixed methods research. Arranging interviews with multiple actors in a variety of places can be a more time consuming endeavor than extracting data from parole case files. Furthermore, time had to be built into the study to allow for SAVRY assessed juveniles to reach potential parole release dates. The visual model depicted in fig. 3.2 seeks to demonstrate the time-ordering of the research design. The qualitative data were collected and coded before the quantitative data. The data were analyzed separately, and then results compared to elicit further insight and understanding.

**Fig. 3.2:** Visual model for the simultaneous triangulation design adopted by the study



(SOURCE: Adapted from Plano Clark and Creswell, (2008))

### **Case study design**

The simultaneous triangulation mixed method study adopts a broader case study design. Yin (2009) offers a twofold definition of a case study design. Firstly, the case study must investigate a contemporary phenomenon in depth in its real-life context, especially when the boundaries between the phenomenon and context are not clearly evident, and secondly, data collection and analysis rely upon multiple sources of information. Current risk assessment practice is certainly a contemporary phenomenon shaping work within the juvenile justice system, and it is located within a real life workplace context. The boundaries between risk decision-making, the application of risk designations and the institutional context are certainly blurred. Research undertaken by both Lipsky (1980) and Maynard-Moody and Musheno (2003) indicates that moral judgments infuse all areas of institutional decision-making. Case studies are

a useful approach for examining institutional relationships, processes, and experiences, and " a means of investigating complex social units consisting of multiple variables of potential importance " (Merriam, 1988, p. 41). Being particularly useful for research in complex settings (Anderson, Crabtree, Steele, & McDaniel Jr, 2005), case studies have been conducted which examine the sustainability of a health promotion program (Pluye, Potvin, Denis, Pelletier, & Mannoni, 2005), a campus response to a student gunman (Asmussen & Creswell, 1995), the design process of educational computer simulation software (Khan, 2008), and the evaluation of tobacco control programs (Richard et al., 2004).

A case study approach seeks to explicate the nuanced experiences of the risk assessment process. In the study, general patterns of risk conceptualizations were garnered from ethnographic observations of parole board hearings, Juvenile Justice Commission staff at work, and juveniles engaged in day-to-day activities in secure care institutions, and semi-structured interviews with the parole board and parole hearing team, Juvenile Justice Commission staff, and committed juveniles. In addition, 550 juvenile parole case files were read to extract key variables. A further 21 juvenile parole case files were selected for an in-depth analysis. The interviews with a variety of different juvenile justice actors constitute "a main road to multiple realities" (Stake, 1995, p. 64), while the observations, case-file analysis, and key variables data provide multiple sources of information. Such triangulation serves as an alternative to validation, while rendering the hidden world of risk decision-making visible (Denzin & Lincoln, 2005).

### **Site selection, data collection aims, access strategies, and sample definition**

In late 2008 the New Jersey State Parole Board contacted Distinguished Professor Todd Clear at John Jay College of Criminal Justice, and advised him that they were planning to

introduce a new juvenile risk assessment instrument, and were interested in discussing the possibility of an evaluation study. Subsequent meetings between myself and Dr. Clear, produced a study design and research questions, and a proposal was submitted to The Nicholson Foundation in New Jersey for funding. Established in 2002, The Nicholson Foundation was established by William B, and Marion G. Nicholson to "work with families and communities to help their children become healthy, productive adults and realize their potential, by enhancing and connecting programs across the human-services delivery system" (The Nicholson Foundation, 2012). After a number of planning meetings with stakeholders from the New Jersey State Parole board, the New Jersey Juvenile Justice Commission, The Nicholson Foundation, and the University of Medicine and Dentistry, New Jersey, and contact with Psychological Assessment Resources, Inc., the company who currently owns the SAVRY instrument, funding for the study was approved in April 2009. Two applications for the adult and juvenile sections of the study were approved by John Jay College's Institutional Review Board in November 2009 and April 2010. In addition the New Jersey Juvenile Justice Commission approved the study through their own research review board in December 2009, and a Memorandum of Understanding between John Jay College, the New Jersey State Parole Board, and the New Jersey Juvenile Justice Commission was signed in January 2010.

## **Interviews**

Given Quinn's (2005) observation that interviews are "the fullest and most decipherable records available" (p. 4) to researchers, it was appropriate that a considerable proportion of the data was drawn from interviews. Interviews were conducted with juvenile parole board members, the juvenile parole hearing team staff, NJJC employees, and committed juveniles. The interviews were semi-structured, and interviews were informed by an interview protocol

detailing the main questions to be asked (see Appendix B and C). During the interview the protocol was drawn upon only when necessary, as the ultimate goal was to draw out rich descriptions of risk rather than cursory answers (Rubin & Rubin, 2005). The interview protocol was therefore used as a focusing tool rather than an interview framework. Seeking to be attuned to the wanderings of the participants, rather than charting a precise route (Warren, 2002), reflections, summarizations and additional open-ended questions responsive to the participant's narrative sought to elucidate "depth, detail, vividness, richness and nuance" (Rubin & Rubin, 2005, p. 129).

The first parole hearing team interviews occurred in August 2009, with additional interviews in March and November 2010. Observations of parole hearings occurred between March - June 2010, and case files were examined and transcribed in June 2010. Interviews and observations with staff and juveniles in NJJC facilities occurred from January - August 2010. Variables for the quantitative section of the study were collated from parole case files between August - October 2011.

#### *New Jersey juvenile parole hearing team*

Parole, described as "the original early release program" (Clear & Dammer, 2003, p. 16) manages the release to the community of incarcerated offenders prior to completion of their sentence, and supervises parolees in the community. For committed juveniles in New Jersey, the bifurcated parole process is managed by two institutional entities. Release decisions are made by two parole board members from the New Jersey State Parole Board, supported by Juvenile Unit, while supervision is managed by the New Jersey Juvenile Justice Commission (NJJC). The NJJC also manages "secure care" facilities for committed juveniles in New Jersey.

In New Jersey, the parole board comprises of a Chair and Vice-Chair, 14 Associate Board Members, and three Alternate Associate Members. Parole Board Members serve six-year terms, and are appointed by the State Governor with consent from the State Senate. Only two Parole Board Members and the Chair are authorized to make parole decisions regarding juveniles. The Juvenile Parole Board members are supported by the Juvenile Unit, a team comprising of a Chief of Unit, an Executive Assistant, a Senior Management Assistant, and two Hearing Officers. Oversight of the Juvenile Unit falls to the Regional Supervisor, who divides his time between adult and juvenile Parole Board Teams. At the beginning of the study one of the Juvenile Associate Board Members was on long-term sick leave, leaving one Associate Board Member responsible for juvenile parole decision making. Once both Associate Board Members were back in work a further change occurred following the nomination of a new Associate Board Member in January 2010 by Governor Corzine, during the transitional phase prior to Governor Christie's administration taking office. As a result, one Associate Parole Board Member left his position, returning to his prior role as a hearing officer in the Juvenile Parole Unit.

My access to parole board and parole team participants was coordinated by the Chief of Unit and Executive Assistant. Interviews were conducted with the three parole board members who held responsibility for juvenile parole release decisions during the study period, the Chief of the Juvenile Unit, the Executive Assistant, the Senior Management Assistant, and the two hearing Officers. In addition, informal discussions occurred with the Regional Supervisor, Juvenile Parole Unit staff, and Parole Board members. In particular, informal discussions often occurred in the file room in the central parole board office during the quantitative data collection phase, and on occasion when staff members offered to drive me back to Trenton Transit Centre. Such informal conversations yielded the opportunity to answer specific questions concerning

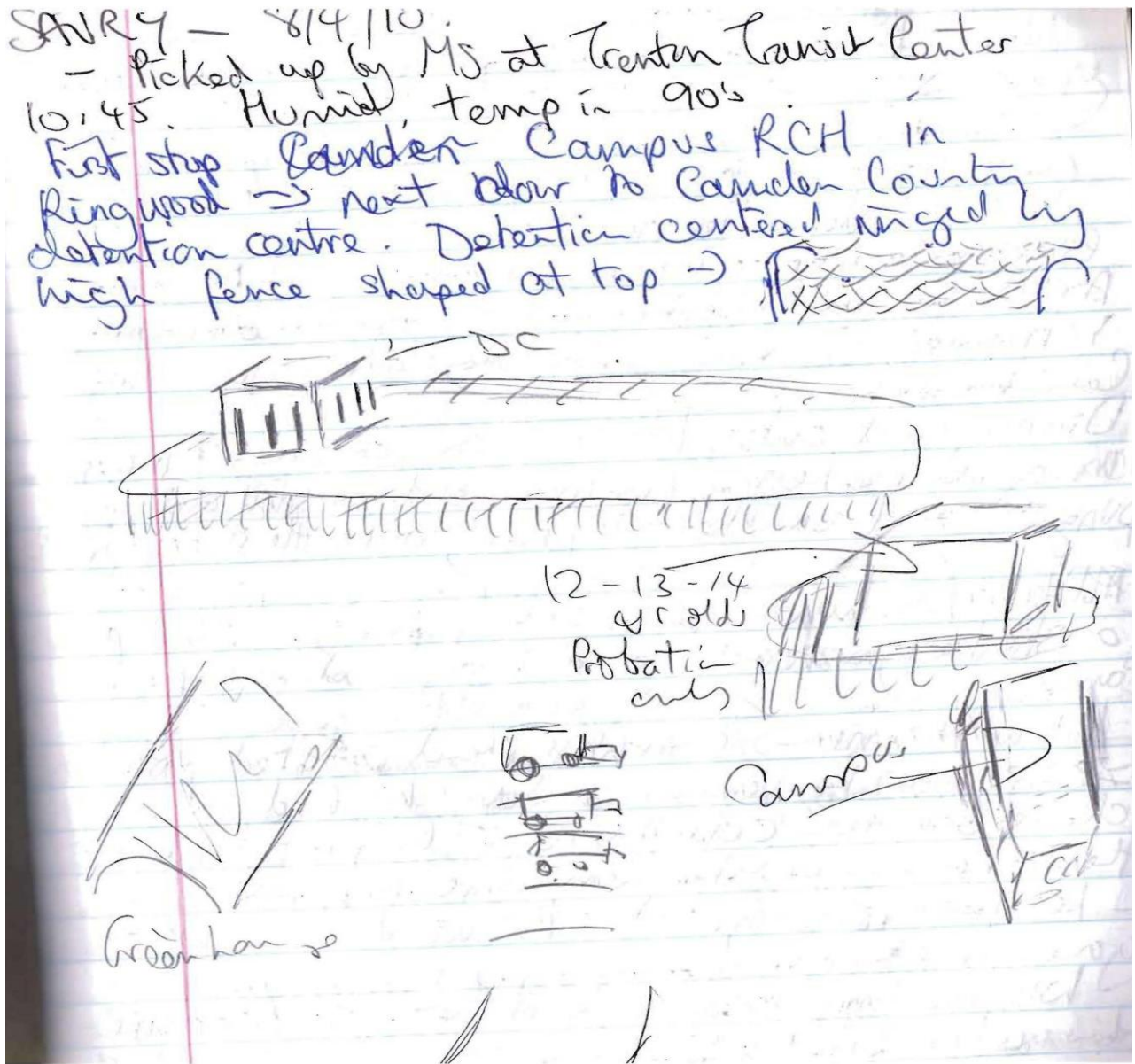
policies and procedures, check and clarify emerging themes, and probe individual perceptions. Indeed, Kvale and Brinkmann (2009) suggest that informal discussions may often provide more valid information than interviews that directly ask participant's about their behavior.

All interviews of the parole board members and juvenile unit occurred in a private room, with the door closed, in the central office of the New Jersey State Parole Board. Participants were asked to sign an informed consent form prior to the interview starting. Some participants read the form themselves before signing, while others asked to hear a verbal summary of the main points. If participants agreed to digital recording of the interview, a recorder was turned on after the informed consent form was signed. Two participants refused recording of the interview. In such instances detailed notes were written during the interview, which were then transcribed within 24 hours of the interview. I was able to send one set of notes to the participant to elicit information concerning perception of accuracy, however no feedback was received. Participants were asked to complete a short demographic information form at the beginning of the interview (see Appendix E).

Five of the participants were male, and four were female. Parole participants' age ranged from 33 to 65 years, with an average age of 50. At the time of interview the length of service of parole participants ranged from 11 months to 32 years with an average of length of service of 19 years and 1 month. Prior to interview, participants were asked to list the three most important factors that needed to be addressed to help a juvenile desist from offending. The factors identified were education/employment (5), peer group/ gangs (4), parents/ family (4), location/ environment (4), housing (1), substance abuse (1), mental health (1), lack of resources to address needs (1), and personal choice (1).

Following each interview and informal conversation, field notes were written. Stressing the importance of field notes Lofland and Lofland (1995) suggest that researchers should spend the same amount of time as the interview or observation itself carefully describing the scene and noting impressions and thoughts. A scanned page from my field notes can be seen in fig. 3.3.

**Fig. 3.3:** Example from field notes



Established in 1995, the New Jersey Juvenile Justice Commission (NJJC) "is the single agency of State government with centralized authority for planning, policy development and provision of services in the juvenile justice system" (NJJC, 2010). In New Jersey, when a young person between the ages of eleven and eighteen (or younger if the crime committed is arson, or if committed by an adult would be considered to be a crime of the first or second degree) is adjudicated delinquent, the court may:

Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract. (N.J.S.A. 2A:4A-43b,16b)

At the beginning of the study, the NJJC managed three secure facilities, 16 community residential homes, and four day programs for juveniles. At the end of the study, following budgetary cut backs, the NJJC managed three secure care facilities, 13 community residential homes, and three day programs. All committed male juveniles are initially assigned to the Juvenile Reception Unit (JRU), situated on the "campus" of the New Jersey Training School for Boys (NJTS), approximately three miles from the centre of Jamesburg, in Monroe Township. Female committed juveniles are sent to the Female Secure Care and Intake Facility (FSCIT), also close to Jamesburg (see Appendix F). Following a two week assessment examining the juveniles physical, psychological, educational, and vocational functioning, and administration of the Problem-Orientated Screening Instrument for Teenagers (POSIT) questionnaire (see Latimer, Winters, & Stinchfield, 1997), juveniles are then located within either the NJTS, the FSCIT, the Juvenile Medium Secure Facility (JMSF) in Bordentown, or in residential community homes. Often situated in state forests, the residential community homes are considered "less restrictive" than secure care facilities (NJJC, 2010), however walking off grounds could result in a return to

secure care, and the filing of a new charge of "escape." Juveniles residing in community homes are brought to NJTS, FSCIT, or JMSF for their parole hearings. During the study, juveniles who had been sentenced as adults and were serving their sentence in Department of Correction facilities had their parole hearing via video-link to the State Parole Board Central Office.

As an "outsider" to New Jersey's Juvenile Justice Commission, it was necessary for me to draw upon the help of others in order to gain access to actors in the institutional landscape. Formal agreement for the study was agreed by the New Jersey State Parole Board chairman Yvette C. Ross, and the then Executive Director of the NJJC Veleira N. Lawson (see memorandum of understanding, Appendix D). The NJJC Deputy Executive Director of Operations was identified at the beginning of the study as a suitable "project gatekeeper" to help me gain access to NJJC employees.

A list of NJJC staff who would be willing to participate in an interview was requested. A list of email addresses of 25 NJJC staff was provided. The staff worked at different residential facilities across New Jersey, including both secure care and residential community homes. Twelve of these staff responded to emails, and interview dates were arranged. The NJJC staff was interviewed in private offices in the facility in which they worked. The majority of staff responding (8) were based in the community homes. The interviews of all participants based in community homes were digitally recorded. I was unable to take a recorder into the secure care facilities, even though this had been allowed by the Senior Management team. Staff at the facility gates insisted that I left my recorder in a locker. In these instances, handwritten notes were compiled during the interview, and these were added to with reflections and comments within one hour of the interview ending. As most facilities are located far away from major

public transportation routes, I needed to hire a car to get to them. After interviews I would drive to the nearest rest area, and then compile notes and reflections in cafeterias.

After completing my twelfth interview from the selected list, the interview participant felt that I was not getting a "true" picture of life in NJJC facilities. As his work involved visiting all of the secure care and community facilities, he offered to "show me the real NJJC." During the summer of 2010, I accompanied him on his visits, and he arranged for me to interview staff and committed juveniles within the facilities. My "on-the-ground" gatekeeper, as opposed to the "official" gatekeeper proved to be invaluable in facilitating my access to a wider range of staff than the original email list. Staff interviewed ranged from superintendents, youth workers, teachers and cooks. A sampling table was maintained to ensure that maximum variation of job titles was achieved. Maintaining a table detailing the characteristics of each staff and juvenile participant was a useful way of monitoring the sample, avoiding "sampling drift" and ensuring the selection process remains dynamic and responsive (Arcury & Quandt, 1999). Certainly there is no computation for the "correct" sample size of participants in a case study (Sandelowski, 1995). I stopped interviewing new participants once informational redundancy was reached. A full list of participants can be found in Appendix G.

### *Incarcerated Juveniles*

Access to the 10 incarcerated juveniles was achieved through approaching juveniles while visiting secure and community facilities (see Appendix G). Only five of these interviews were recorded, owing to restrictions on carrying recording equipment into the facilities. For interviews without a recording I took notes during the interview, and then compiled field notes immediately thereafter. Juveniles were interviewed individually, apart from one occasion where

three juveniles were brought to me by teaching staff as a group. In this instance we held a “focus group” to discuss the interview questions. All juveniles formally interviewed were aged between 18 and 20 years old. I also had informal discussions with 30 juveniles about life in the facility, their hopes and dreams, and their experience of parole hearings over lunches in the canteen, and during recreation.

### **Parole board observations**

While interviews can provide vivid, nuanced answers, and an insight into the temporal range of participants which extends both into the past and into the future (Warren, 2002), direct observations of parole hearings provided additional data concerning the "here-and-now" of risk decision-making processes. In his study of adult parole hearings in Canada Silverstein (2006) notes that the parole hearing provides an important forum for parole board members to observe and have dialogue with offenders, in order to construct the individual as either a prisoner or parolee. Drawing on Goffman's (1959) dramaturgical framework, Cavender and Knepper (1992) suggest that parole board hearings take on a ceremonial quality. They posit that parole hearing ceremonies serve both rehabilitative and institutional functions:

Ceremonies are more than simple "pomp and circumstance," and they produce more than dispositions: they are staged to confront juveniles with their wrongdoing, perhaps to elicit commitment to improvement. Ceremonies also subordinate defendants/ clients and reinforce organizational authority and solidarity. They perpetuate the organization's working ideology (p. 388).

In order to access the ceremonial stage of the parole board hearing 45 hearings were observed. The observed hearings took place in both JRAC and JMSF, and on one occasion I observed a hearing conducted via video conferencing involving a juvenile incarcerated in an adult institution.

A variety of different types of parole hearings were observed including time goal meetings (the initial parole hearing), and regular parole hearings occurring every three months during the juveniles committal. The hearings observed included hearings with just one parole board member and the juvenile, however it was more usual to run with two parole board members, a hearing officer, and the juvenile. On one occasion an interpreter was used, via a telephone conference call. During the hearings I sat on the same side of the table as the parole board members, with the juvenile on the other side. A parole board member asked the juvenile if they were happy for me to observe their hearing. No juvenile requested that I leave. Notes were taken during the interviews, and then combined with field notes and reflections afterwards.

All of the juveniles in the observed parole hearings were male. Their ages ranged from 15 to 19 years, with a mean age of 16.7. Four were aged 15, 13 were aged 16, 18 were aged 17, nine were aged 18, and one was 19 years old. Thirty-two were African-American, nine were Hispanic, and four were White. Most juveniles had been convicted of multiple charges. All bar two juveniles had been committed for at least one violation of probation. The main offenses, either as a fresh charge while on probation, or as an underlying charges were robbery (20), supplying a controlled drug (13), burglary or theft (3), unlawful possession of a gun (3), endangering the welfare of a child (2), conspiracy to commit armed robbery (1), aggravated assault (2), and assisting escape (1).

I was concerned at the start of the study that, given the novelty and potential threat of observation for participants, parole hearings may suffer from a degree of "staging" as the classic Hawthorne studies discovered (Roethlisberger & Dickson, 1949). It is worth noting, however that some of the most interesting and informative behaviors happen on the stages of our own creation (V. Lens, personal communication, May, 2010). Certainly, during non-participant

observations the researcher seeks to "observe events as they naturally occur" (Flick, 2006, p. 219), and the presence of the researcher may influence the observational stage. Flick (2006) suggests that non-participant observation should ideally occur in public spaces with no restrictions on the number of individuals observed. Juvenile parole hearings are private events with a limited number of actors. It is therefore essential that I consider the likely impact of my presence on the data being gathered. LeCompte and Goetz (1982) suggest that entanglement with participants is a particular concern for researchers engaged in overt observations. They suggest that participants may become dependent on the researcher for status enhancement or to satisfy psychological needs. Certainly it is a concern that parole board members may have consciously or unconsciously modified their behavior in my presence. Some may have "played it tough" to impress me, or "played it by the book" to protect themselves, or made particular lines of inquiry to demonstrate to me that they really cared. The likelihood of such entanglements was perhaps mitigated by the structure of the work task facing parole board members. Parole board members are engaging in an activity they have done regularly. Juveniles are brought before the board one after the other, with little break in between. Parole board members face the difficult task of rapidly assessing file information, and interviewing the juvenile in order to reach a decision in a limited amount of time. With such immediate pressures the role of the observer-researcher perhaps assumes a lesser importance against the task in hand.

LeCompte and Goetz (1982) suggest that some researchers try to avoid the risks of entanglement by maintaining a neutral and detached approach. A good example of such an approach can be found in Prozeky's (2009) observations of adult parole hearings for her doctoral dissertation. Prozeky comments that inmates attempted to engage her during the hearings however " I neither answered inmate questions nor acknowledged their attempts to address me"

(p. 56). The reader is left wondering, however, if such clinical detachment was maintained with the parole board members too, who were also participants being observed during the hearing. LeCompte and Goetz (1982) suggest that neutral detachment may serve to destroy rapport, or lead participants to infer hostility or indifference. During my parole hearing observations I was, at times, drawn into the dialogue. On one occasion the parole board member asked me to speak to an 18-year-old juvenile while he completed a form. I managed this situation by asking the juvenile how things have been over the last three months (the length of time since his last parole hearing. I felt that this was a fairly neutral question, which allowed the juvenile to respond how he saw fit. He responded by saying:

I was doing good. I was down at Ocean residential, but then I took a big loss. My cousin died, and I wanted to go to his funeral. I forgot that although I'm in the community I'm still locked up. I then was charged with escape, so I got another charge.

At this point the parole board member interjected:

Parole board member: (reading from the file) February 2nd. It says you escaped from Ocean County Mall, on a family visit.

On this occasion although my engagement shaped the process, in that my initial question led to a response which the parole board member followed up on with file information, the direction of the interview lies within the bounds of what is typically discussed in hearings. Certainly, my question elicited rich information that may or may not have arisen had I chosen not to ask a question. Interestingly, my engagement did not appear to impact upon the parole board member's interview style, nor the interaction between the parole board member and the juvenile.

My role as "observer" appeared to both develop and change as the observations progressed. At the beginning I appeared to be in an "outsider" role, sitting quietly at the table taking notes. At times I was referred to as the "Brit, and " participants appeared to take delight in explaining Americanisms, such as "packing heat," to me. At other times my affiliation with

academia was stressed, where I was called "Professor," and "the student," and my "advice" was sought regarding the predictive nature of risk assessment. Still other times I was seen as a proponent of the SAVRY risk assessment instrument. In the early days, when a SAVRY assessment was a novelty, the document would be extracted from the file, and passed to me during the parole hearing. When the SAVRY file summaries were insufficient for the parole board members' needs, such as containing a list of risk factors, but little synthesis and no risk management plan, parole board members would use me as a sounding board for their complaints. At these junctures I felt I was playing a role closer to an "insider" than that of an "outsider," although of course, not being employed by the parole board I would never occupy the role of true "insider." For the juveniles attending the parole hearing it is possible that I was viewed as "one of them," and therefore a parole board insider. Certainly, given that I was wearing my own clothes, rather than a khaki jump suit, had graying hair, and I was holding a pen and a notebook, my identity was always as "outsider" to the world of incarcerated juveniles. My skin color, and accent set me firmly apart from the juvenile group, and of course, I would always be leaving the facility in a few hours. Corbin Dwyer and Buckle (2009) suggest that the oft-discussed insider-outsider dichotomy is perhaps unhelpful for qualitative researchers. They suggest that the hyphen between insider and outsider is perhaps the most important thing to consider. The hyphen represents an ambiguous "tensioned space" (p. 60) between the researcher and participants:

There are complexities inherent in occupying the space between. Perhaps, as researchers we can only ever occupy the space between. We may be closer to the insider position or closer to the outsider position, but because our perspective is shaped by our position as a researcher, we cannot fully occupy one or the other of those positions (p. 60).

The fluidity of my position within the tensioned space is apparent during my observations of the parole hearings. Interactions defined me alternatively as an academic expert, a student, and a

colleague. Given the fluid, transitional, and ambiguous nature of my role during observations, it was important for me to generate reflective memos from my typed field notes, exploring both the content of the observation, and my thoughts and feelings concerning the observed interactions. In addition the direct observations of parole hearings were evaluated in the light of interview content, and events observed were used to both confirm and contradict interview data during the analysis stage of the study.

### **Juvenile Justice Commission observations**

To gain a clearer understanding of the institutional environment in which committed juveniles reside opportunities were sought to observe activities within the NJJC. Visits to both secure and community facilities with my "on-the-ground" gatekeeper afforded me the opportunity to observe a number of within-facility activities, including roll-calls, education and information sessions, vocational training, recreational time, and mess-hall (dining-room) interactions. I ate canteen lunches, often frozen individual pizzas, french fries, and a sickly sweet bottle of iced tea, alongside committed juveniles. I observed volleyball matches, visited on-site vocational carpentry and plumbing workshops, watched a Superintendent interrogating a group of juveniles following an assault, observed the hostile reception given to a non-profit organization employee delivering a workshop on acquaintance rape, observed a computer class in a new "learning classroom," visited a history class, observed juveniles completing house chores, toured dormitories, visited a Behavioral Management Unit (BMU), wandered a graveyard within a facility, and stroked horses in the stables. Such immersion, Emerson, Fretz and Shaw (1995) note:

enables the fieldworker to directly and forcibly experience for herself both the ordinary routines and conditions under which people conduct their lives, and the constraints and pressures to which such living is subject" (p. 2).

Observation of these daily institutional activities is akin to what Gresham M. Sykes refers to as the researcher "circulating in a social system to record an event from many different vantage points," (Sykes, 1958, p. 136) allowing me to "hang out" with employees and juveniles, listening to "casual conversations and (making) incidental observations" (Maxwell, 2005, p. 79). Although the duration of my observations was considerably shorter than Sykes' sustained immersion in Trenton State Prison, my presence allowed me to gain a taste of everyday experiences in the closed world of juvenile facilities, beyond that which is accessible through interviews and observation of formal activities alone. Similarly, when based in the State Parole Board Head Office during the quantitative data collection phase I was privy to the everyday parole team interactions, such as discussions in the filing room and comments beside the copier. Both conceptions of risk are formulated within, and shaped by, the institutional contexts in which they are based. Experiencing everyday institutional interactions helped me to gain insight into the institutional context within which risk assessment emerges.

### **Case file analysis**

Data collected from interviews and observations and focus groups were considered against; and contrasted with, case file information. An examination of case files provided detailed data concerning how risk factors are presented in court, institutional and parole reports. Case file examination also provided me the opportunity to follow both the progress of the juvenile through the institution over time, as well track the development and repetition of themes, such as drugs use, anger management, and responsiveness to treatment from one

institutional report to the next. Although McNeill and Batchelor (2002) observe in their study of 23 Scottish young offenders juvenile that case file information is often incomplete, an examination of parole case files can provide the researcher with keen insights into the bureaucratic process. Hayes and Devaney (2004) suggest that case files "are not merely interesting because of their content, they are also of interest because of the context of their production and their consumption" (p. 314). Although case file information provides the researcher with a distorted window on life (Chambers, 2007) the distortion illuminates organizational priorities, practices, and ritual. It was common for parole board members to use fluorescent pens to highlight descriptions in reports, and write notes and comments in behavioral case notes before and during parole hearings. For example, in one 18 year old juveniles file the following lines were underlined or highlighted:

No future goals or interests.

He appeared to be not completely candid with his responses.

Any further treatment would only be redundant at this time.

Moderate SAVRY for future violence.

What does this mean? (handwritten in margin next to the line: "(He) went so far as to say that he never believed this would happen to him, and that if he is sentenced to Jamesburg he will only do a third of the time, which shouldn't be more than 3 months.")

Examination of these underlinings, highlights, and handwritten notes provided useful insights into the individual prioritization of information in the parole decision-making process. In addition, analysis of case file information enabled me to identify what appeared to be absent from the parole files. For researchers, rather than bemoaning "incomplete" file information, an examination of what appears to be missing from case files can be suggestive of both organizational priorities and intra- and inter-organizational barriers to information sharing.

The case files played a prominent role during parole board hearings. Stacked on a trolley they were an indicator of the number of juveniles awaiting to be seen during the hearing. One

parole board member would rifle through the file information while the other asked the juveniles questions. Information in the files would be regarded as "truth," and drawn upon to determine a juvenile's honesty during the hearing. For example, after hearing a garbled account of the index offense of first degree robbery an eighteen year old juvenile is advised by a parole board member:

PBM 2: Everything's in here (points to file). If there's a contradiction we're gonna think you're not being truthful

Drawing on Francis Bacon's axiom that "knowledge is power," Harris and Webb (1987) suggest that the knowledge contained within case files can be regarded as an overt manifestation of the power held by the compiler. Certainly, case files reinforce the existing power dynamics inherent in a juvenile parole hearing. In addition to the files being held up as repositories of truth, parole board members would, at times, use the physicality of a file to emphasis a point such as pointing at an individual file, tapping it with a finger, and on one occasion throwing it down on the table. The larger files, secured with rubber bands were commented on as an indicator of serious behavior problems, although the size of any particular the file was usually determined by the length of the juvenile's period of commitment.

Twenty-one case files of SAVRY assessed juveniles were selected for analysis. The file data examined included parole reports, psychiatric reports, treatment reports, preadmission reports, facility exit reports, psychiatric evaluations, email correspondence, letters, parole hearing notes, and SAVRY risk assessments. All information was collated by reading the information into a digital recorder, and noting handwritten comments and highlights. Although JJC contact notes were printed in each file these notes were not recorded verbatim, although specific contact entries such as fights and behavioral concerns were compiled.

Cases chosen varied in terms of age, county, index offense, and committal length. At the time of their offense the juveniles ranged in age from 15 - 18 years-old, and originated from Essex (4), Ocean (2), Camden (3), Passaic (3), Union (2), Cape May, and Hudson counties. Their index offenses were: receiving stolen property (2), possession of controlled drugs, conspiracy (2), robbery by force/ with a firearm (6), possession of a handgun, robbery and theft (3), robbery and lewdness, aggravated assault, possession of weapon, kidnapping and carjacking, aggravated sexual assault, and attempt to allude police. All but three of the juveniles were also adjudicated delinquent for at least one violation of probation, and often-times three or four violations. Thus, for many juveniles their incarceration was imposed after a protracted series of supervision and intervention failures. Their sentence length they received ranged from 12 months to 96 months. In regards to SAVRY assessments for future violence, one juvenile was assessed as being at a low risk, one was described as being in the "low-to-moderate range," 15 were assessed as presenting a moderate risk, two were described as being "at the high end of moderate," and two were assessed as being a high risk. 19 of the 21 juvenile cases examined were male.

### **Qualitative data coding and analytic approach**

The transcriptions of all interviews, observation field notes, and memos amounted to approximately 1,225 pages of text. Three distinct coding methods were adopted during the first coding cycle: attributive coding logs, an initial coding strategy (first cycle coding), and pattern coding.

Firstly *attribute coding logs* (Lofland, Snow, Anderson, & Lofland, 2006) were added to the beginning of each interview and observation transcript. These logs contained information such as date and time of the interview or observation, age and ethnicity of the participant(s),

setting where the interview or observation took place, and additional data from the demographic information form if available. Saldaña (2009) observes that attribute coding is particularly useful for researchers analyzing data from multiple participants across multiple sites, and varied data forms. In addition to providing helpful information regarding the interview and observation context that would be useful for analysis and interpretation, the attributive codes were also useful when constructing a sample frame as the study progressed. The sampling frame helped to ensure that participants worked at different levels within organizational hierarchies, worked in facilities with various security levels, and had differing lengths of service.

Secondly, an *initial coding strategy* (Charmaz, 2006) was deployed. Each line of the transcripts was read and a short sentence was quickly recorded next to the line. Such a spontaneous coding approach allows the codes to emerge from the data rather than following preconceived and predetermined categories. Charmaz (2006) offers a succinct description and explanation for such a coding approach:

Codes emerge as you scrutinize your data and define meanings within it. Through this active coding you interact with your data again and again and ask many different questions of them. As a result, coding may take you into unforeseen areas (p. 46).

An example of the first cycle line-by-line coding undertaken is displayed in table 3.1.

The transcript snippet reproduced in table 3.1 is a parole board member's response, during interview, to a question concerning media scrutiny of his decisions. He begins by directly answering the question, before reflecting on the responsibility of parole decision making in terms of public safety, and the uncertainty they face when making such "responsible" decisions. He then delivers a short monologue on how he advises juveniles that now is the time to focus on achieving a successful future through education. He returns to the theme of responsibilities, suggesting that achieving educational success is harder as you get older, as the responsibilities of

life get in the way. The codes generated in the initial coding strategy included In Vivo, process and descriptive codes.

**Table 3.1:** Example of first cycle coding of an excerpt of an interview transcript

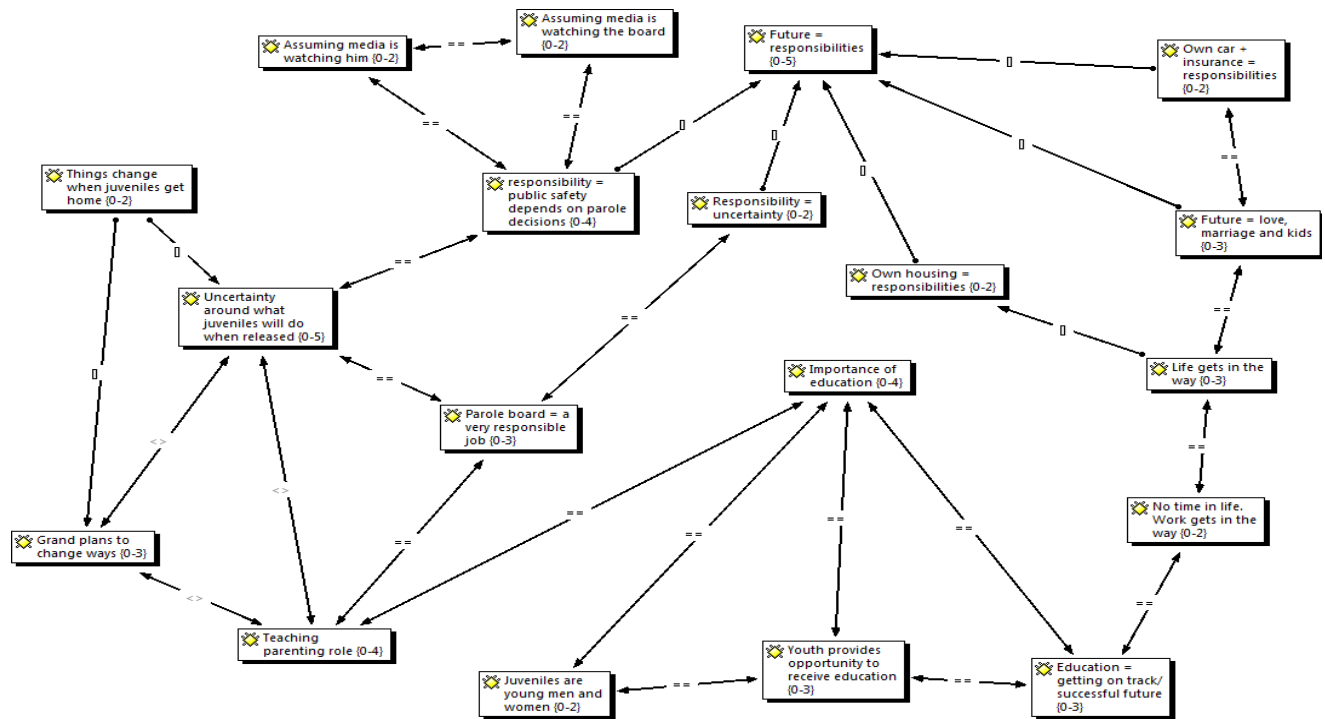
Narrative	First cycle codes
<p>Interviewer: So on one level you are accountable to the media. Are they watching you?</p> <p>PBM 1: I assume they are. I assume they watch me. I assume they're watching all of the board members. Not just me. This is a very responsible job. I mean public safety is at stake with the decisions that we make and we have no idea what some of them are going to do when they are released from jail on parole or post-incarceration supervision. It's...ugh, it's a responsibility because you never know. You just don't know. People sit across you and say "I've given up my game, I'm not gonna do this, I'm not gonna do that, I'm gonna do this, I'm gonna do that. Then they go home and life changes.</p> <p>I like to tell them, the young men and women I deal with, it's better to do these things now, get your education and start college if you can. Put yourself on track towards a successful education and a successful future because down the road life gets in the way. And periodically they ask, "what do you mean?" And I say you fall in love, you get married, you have kids. That's life getting in the way. You get responsibilities. You gotta take care of a home, then there's a home that you purchase or that you have to rent, and apartment, it doesn't matter. You have to take care of a car, insurance. Life gets in the way. You don't have time. Then you have work. You don't have time to go to school. Not the way you can now, on a full-time basis. That's what I mean by life gets in the way.</p>	<p>Assuming media is watching him. Assuming media is watching the board.</p> <p>Parole board = a very responsible job. Public safety depends on parole decisions</p> <p>Uncertainty around what juveniles will do when released</p> <p>Responsibility = uncertainty</p> <p>Grand plans to change ways</p> <p>Things change when juveniles get home</p> <p>Juveniles are young men and women</p> <p>Importance of education</p> <p>Education = getting on track/ successful future</p> <p>Life gets in the way</p> <p>Teaching/ parenting role</p> <p>Future = love, marriage and kids</p> <p>Future = responsibilities</p> <p>Own housing = responsibilities</p> <p>Own car + insurance= responsibilities</p> <p>No time in life. Work gets in the way</p> <p>Youth provides opportunity to receive education.</p> <p>Life gets in the way</p>

In Vivo codes are codes drawn from the actual words participants used. Saldaña (2009) suggests that coding with the actual words used by participants can serve to give genuine voice to participants, ensuring that terms used are derived from the participant's world, rather than the words being interpreted through the lens of the researcher's academic discipline. An example of an In Vivo code in the interview excerpt (see table 5) is "Life gets in the way." Process codes seek to capture action in the data, typically using gerunds (words ending in "-ing") (Charmaz, 2002). Saldaña (2009) suggests that process codes can be useful when exploring the actions, interactions, thoughts and emotions occurring in response to a particular situation or problem. Examples of process codes in the interview excerpt (see table 5) are: "Teaching/ parenting role," "Assuming media is watching him," and "Teaching, parenting role." Descriptive codes summarize in a short word or phrase the basic topic in the line of data, or as Saldaña (2009) suggests, descriptive codes are the response of the researcher to the question "What is going on here?" (p. 70). When coding I sought to avoid single word coding, as advised by Kathy Charmaz in a workshop I attended, as such an approach may miss important nuances. An example of descriptive codes used in the interview excerpt (see table 5) are "Importance of education" and "Uncertainty around what juveniles will do when released"). On occasion, however, it was useful to use single word codes, particularly when coding my parole board observation field notes. Seeking to capture possible cognitive dispositions underlying parole decision-making, I assigned single word codes such as "anchoring?" and "availability?" In these instances, mindful that I was imposing a pre-existing theoretical position upon the data, I prefaced these single-word codes with a question mark, and wrote them in the left-hand rather than the right-hand margin.

First cycle coding generated between 60 and 100 individual codes for each 60 minute interview. First cycle codes were entered into Atlas ti.6 software, as nodes, and the program was

used to create a visual diagram of code relationships. Fig. 3.4 depicts an example of the first cycle code relationships in the previous interview extract.

**Fig.3.4:** Example of first cycle code relationships



From these initial level codes operational, coding, and analytical memos (Strauss & Corbin, 1998) were generated, affording me the opportunity to further interact with the data, thus providing "a space and a place for exploration and discovery," (Charmaz, 2006, pp. 81-82). These memos were also coded, ensuring that my reflections contributed to the development of the first cycle codes. The initial level codes were then examined using the "constant comparison" method (Glaser & Strauss, 1967), to determine whether the codes assigned reflect the same concept.

First cycle line-by-line coding enabled me to capture the originality within the data, ensuring that the codes are generated by the data, rather than the data being simply mined for

themes compatible with a pre-existing theoretical lens (Rubin & Rubin, 2005). A grounded theory approach was then used, through clustering of the initial level codes, providing a direct visual image, while expediting the generation of additional memos (Charmaz, 2006). The meanings stakeholders ascribed to their experience of the implementation process emerged through a considered search for patterns and consistency (Stake, 1995).

Finally, *pattern coding* was adopted to make sense of the first cycle codes. Pattern codes are “explanatory or inferential codes, ones that identify an emergent theme, configuration or explanation” helping us to “understand the patterns, the recurrences, the plausible whys” (Miles & Huberman, 1994, p. 69). Such an approach is particularly pertinent in case study research, as the researcher is seeking to identify common themes across multiple cases and environments. Thus, in the example of first cycle codes in figure nine, the codes appear to cluster around three central themes: the parole decision as responsibility, uncertainty upon release, the role of education in success. Additional examples of these tentative pattern codes were found through examination for the first level codes. As the analysis progressed the number of tentative pattern codes became overwhelming, and so I returned to my qualitative research questions, and only focused on the tentative pattern codes that appeared to provide useful insight. These form the meta-themes around which the analysis section of this dissertation is structured.

The meta-themes were discussed with parole staff to improve validity, generate further analysis, and encourage involvement in the analytic process. This occurred mainly during the quantitative data collection phase, when I was based in the parole central office. In addition a meeting was held with key parole staff in May 2012 where emerging meta-themes were discussed, and a series of emails were sent explaining the themes, and requesting comments and input from the parole team.

A potential danger of pattern coding is that the richness of the data becomes lost, as nuanced meanings become condensed into an overarching meta-code. An important step I took to balance this, and to add a degree of credibility to the process, was to include verbatim transcript excerpts to demonstrate the meta-themes. Weiss (1994) suggests that only the participants true words can embody the true meaning of their experience. Although such Comtian truth is perhaps impossible to achieve in our postmodern world beset by a “pervasive sense of radical, unsurpassable uncertainty” (Calinescu, 1987, p. 305), accurate representation of participants words helps to inject richness into the study discussion, and allows the reader to determine approximations of truth.

### **Quantitative data**

The quantitative data were manually drawn from parole case files. Initially data from 512 case files were examined, of which 261 had received a SAVRY assessment and 251 had no SAVRY assessment. From the 512 cases 66 cases (12.9%) were excluded because they had yet to be released, or there was insufficient data to compute a risk of reconviction score. Calculating the risk of reconviction score (see below) required the presence of nine separate variables. If one variable was not recorded in the file I was unable to run the reconviction algorithm. Thus, the final sample was 445 juvenile cases comprising of 236 juveniles assessed using the SAVRY, between August 2009 and July 2011, and 209 juveniles not assessed using the risk assessment instrument.

#### *Descriptive statistics of the sample*

The mean age of the entire sample was 18 years ( $SD = 0.60$ ), and 93.7% were male. African American juveniles comprised 67.6% of the sample, 20.2% were Hispanic, 11.7% were White, and 0.2% were coded as Other (Asian, and Arab). The juveniles resided in all bar two of

New Jersey's counties prior to their commitment. The two counties not included in the sample were north-western Sussex and Warren counties. About a quarter (23.6%) of juveniles in the sample previously resided in Camden county, followed by Hudson county (10.3%), Essex county (9.7%) and Atlantic county (7.6%) The average sentence received by juveniles was just under 23 months ( $SD = 13.9$ ). 42% of juveniles were committed for either an index offense of violence, or an underlying violent offense. Less than one-fifth (19.8%) of juveniles were committed for an index offense of possession or supply of controlled drugs, and 15.5% were committed for the index offence of robbery, with no physical contact with the victim. 7.8% were committed for an index offense of theft (including car theft), 4.9 were committed for burglary, and 3.5% for sexual offenses. Early parole was granted for just over half of the juveniles in the sample (51.2%).

#### *Offense seriousness*

Police and court records, pre-disposition reports, and pre-admission reports were examined for descriptive information regarding all current index offenses. Where the current offense was a violation of probation the underlying offense descriptions were also examined. Current offense seriousness was determined using a version of Quinsey and Maguire's (1986) offense seriousness scale. Juveniles scored one point for each of the following seriousness indicators present: victim's death, a sexual element, offending on more than one occasion, weapon wielded, gun fired, no previous relationship with victim, and bizarre elements, for a maximum of seven seriousness points.

Current offense seriousness scores ranged from 0 - 4. Of the entire sample of juveniles, 50 (11.2%) scored the lowest seriousness with 0, 250 (56.2%) scored 1, 119 (26.7%) scored 2, 22 (4.9%) scored 3, and 4 (0.9%) scored the highest level with 4. The mean seriousness score of the entire sample ( $\bar{x} = 1.28$ ) suggests that as a whole, the juveniles' primary offense were

relatively low on the offense seriousness scale adopted. Of note, however, is that for 271 of the juveniles (60.9%), their commitment also involved at least one violation of probation or parole. One such juvenile, an eighteen-year old male from Camden county, after striking his victim in the head with brass knuckles, was committed for an offense of aggravated assault and violation of probation, with five underlying charges of probation violation, criminal mischief, improper behavior, and conspiracy to burgle.

Of the SAVRY assessed juveniles, 31 (13.1%) scored the lowest seriousness with 0, 136 (57.6%) scored 1, 57 (24.2%) scored 2, 10 (4.2%) scored 3, and 2 (0.8%) scored the highest level with 4. Of the non-SAVRY assessed juveniles, 19 (9.1%) scored the lowest seriousness with 0, 114 (54.5%) scored 1, 62 (29.7%) scored 2, 12 (5.7%) scored 3, and 2 (1.0%) scored the highest with 4. The SAVRY assessed juveniles' current offense seriousness score was slightly lower ( $\bar{x}$  = 1.22) than the non-SAVRY assessed sample ( $\bar{x}$  = 1.35).

Given that the seriousness scores are an interpretation of file information, as they result from the quantification of qualitative information, the scores may be open to considerable researcher bias. To test this, a second rater, a graduate student with a background in psychology, independently rated 50 randomly selected cases using the seriousness scale. The kappa for the sample = .894 ( $p < .0001$ ), suggesting that the inter-rater reliability is very strong.

### *Risk of reconviction*

Seven data points were extracted from file information to determine a risk of reconviction score for each juvenile. These were: the date of first sanction (first court appearance, or police caution/ warning); date of current sanction; length of time between current and previous offense; total of all sanctions; age at first sanction, gender, and principal current

offense. Risk of reconviction was assessed using Howard, Francis, Soothill, and Humphrey's (2009) *Offender Group Reconviction Scale* (OGRS 3). The model estimates the probability of an cases' proven reoffending, based on static risks, represented as  $\exp(z) / (1+\exp(z))$ . In the model  $z = A + B1 + B2 + B3 + B4$ , where A represents time between the current and previous offense, B1 represents the Copas rate, B2 is the sanctioning history, B3 is age and gender, B4 is the principal current offense. The Copas rate is: (number of sanctioning occasions / 10 + years between first and current sanction)\* 1.251124. Howard et al. (2009) comment that the Copas rate reflects, in a single measure, both the intensity and length of the juvenile's criminal career. Table 3.2 presents the estimates used for sanctioning history, age and gender, and principal current offense. The OGRS 3 algorithm predicts likelihood of reconviction within two years, and provides a risk rating of low, medium or high. OGRS 3, which is suitable for use with adults and juveniles, has been shown to have strong predictive validity, with an AUC of 80% for all offenders, and an AUC of 84% for incarcerated populations (Howard, et al., 2009).

Of all juveniles in the sample 39 (8.8%) were assessed using OGRS 3 as presenting a low risk of reconviction over the following two years, 50 (11.2%) were a medium risk of reconviction, and 356 (80%) were assessed as presenting a high risk of reconviction. The mean risk of reconviction score of the entire sample ( $\bar{x}=2.71$ ) suggests that the sample tended towards the higher end of the risk of reconviction scale. This is perhaps not a surprising observation given that incarcerated juveniles have often exhausted a number of community alternatives (diversion, probation, intensive probation) prior to receiving a period of commitment.

**Table 3.2:** Estimates of juvenile sanctioning history, age and gender, and principal current offense used in the OGRS 3 algorithm

Risk factor	Category	Estimate
A: Reoffending in 1 or 2 years?	Within 1 year	1.402562384
	More than 1 year	2.121705678
B2: Sanctioning history – current sanction is...	1st caution/reprimand/warning, never convicted	0
	2nd caution/reprimand/warning, never convicted	0.083100501
	1st conviction, never cautioned/reprimanded/warned	0.126142106
	Any other caution/reprimand/warning	0.34859587
	Any other conviction	0.463062792
B3: Age and sex	Male, aged 10 or 11	0
	Male, aged 12 or 13	0.083922902
	Male, aged 14 or 15	0.075775765
	Male, aged 16 or 17	-0.061594199
	Male, aged 18 to 20	-0.625103618
	Female, aged 10 or 11	-0.785038489
	Female, aged 12 or 13	-0.613852078
	Female, aged 14 or 15	-0.669521331
	Female, aged 16 or 17	-0.959179629
Female, aged 18 to 20	-0.897480934	
B4: Principal current offence	Violence	0
	Robbery	-0.634795912
	Public order	0.181917975
	Sexual (not against child)	0.003276327
	Sexual (against child)	-0.653434071
	Soliciting or prostitution	0.760608858
	Burglary (domestic)	-0.12394352
	Burglary (other)	0.240604429
	Theft (non-motor)	0.661244321
	Handling stolen goods	0.351866973
	Fraud and forgery	0.159910192
	Absconding or bail offences	0.733378677
	Taking & driving away and related offences	0.380059431
	Theft from vehicles	0.427225615
	Other motoring	0.262228428
	Drink driving	-0.121439408
	Criminal damage	0.204960477
Drug import/export/production	-0.795556373	
Drug possession/supply	0.077165871	
Other offence	-0.060667525	

(SOURCE: Howard et al., 2009)

Of the SAVRY assessed juveniles 26 (11.0%) were assessed using OGRS 3 as presenting a low risk of reconviction over the following two years, 30 (12.7%) were a medium risk of reconviction, and 180 (76.3%) were assessed as presenting a high risk of reconviction. Of the non-SAVRY assessed juveniles 13 (6.2%) were assessed using OGRS 3 as presenting a low risk of reconviction over the following two years, 20 (9.6%) were a medium risk of reconviction, and 176 (84.2%) were assessed as presenting a high risk of reconviction. The SAVRY assessed juveniles' risk of reconviction score was slightly lower ( $\bar{x} = 2.65$ ) than the non-SAVRY assessed sample ( $\bar{x} = 2.78$ ).

#### *Distribution of the sample*

Examination of histograms suggested offense seriousness scores and risk of reconviction scores were not normally distributed in the data. In terms of offense seriousness the majority of cases were coded 1 on a 0-4 scale. In relation to risk of reconviction the majority of cases scored high, on a low, medium, high scale. The Mann-Whitney U test also confirmed that data was not normally distributed. Due to the non-normal distribution of data non parametric tests were used to analyze the data.

#### *Comparing the excluded and included cases*

The excluded cases were examined to determine whether they significantly differed from the included cases. The Kruskal-Wallis test demonstrated that the excluded and included cases did not significantly differ in terms of risk of reconviction scores ( $p = 0.805$ ), and age and gender ( $p = 0.572$ ), however significantly differed in terms of index offense seriousness ( $p = 0.004$ ).

In addition to the seven variables comprising the risk of reconviction score, the offense details comprising the offense seriousness score, and data relating to age at first conviction,

gender, and whether a SAVRY assessment was undertaken, information was also collated on final parole decision (parole or max), date of sentence, and date of release. Using the date of sentence and date of release information the "number of days served" variable was calculated. The number of days served by juveniles in the sample ranged from just 25 days to 1,566 days, ( $\bar{x} = 517.51$ ,  $\sigma = 256.08$ ). The number of days served by the SAVRY group ranged from 43 days to 1493 days ( $\bar{x} = 574.46$ ,  $\sigma = 266.47$ ), and the number of days served by the non-SAVRY group ranged from 25 days to 1566 ( $\bar{x} = 453.20$ ,  $\sigma = 227.87$ ). The number of days served variable was then entered into a cox regression survival analysis to determine how use of the SAVRY risk assessment instrument impacted the parole board's decision to release a juvenile early on parole, or allow the juvenile to "max out" on their sentence. The data were then considered against the categories and concepts emanating from the qualitative data, to understand the impact of the SAVRY risk assessment instrument on parole decision-making, and determine whether and how risk assessment tools serve to ensnare juveniles in perpetual labyrinths of risk.

## FINDINGS AND DISCUSSION

### CHAPTER 4: PERCEPTIONS OF RISK

"For the whole world is a great labyrinth with innumerable lesser ones enclosed, so that there is no one who does not wander about some labyrinth, and some may wander about many. If we could look at the minds of all men, we would see entangled thoughts, fantastic wanderings, and great circling about"

(Comenius, 1668, p. 16)

The findings are presented in three distinct chapters. Chapter 4 explores perceptions of risk and risk assessment among the parole board members and the parole hearing team. Chapter 5 examines the criminogenic risks and needs of incarcerated juveniles, and Chapter 6 explores the labyrinths of risk metaphor, seeking to explore parole board decision-making, and specifically answering the research question *does the implementation of a structured risk assessment increase the number of juveniles released early on parole?*

#### **Implementing risk assessment instruments**

Joan Petersilia (1990) reminds us that the history of criminal justice is "littered with promising interventions" (p. 126) that ultimately have failed. She suggests that the ideas behind such interventions are not "self-executing" and in order to become successfully embedded they require the presence of particular organizational conditions. Fixsen, Naoom, Blase, Friedman, and Wallace (2005) posit that successful implementation requires the convergence of multi-level organizational conditions, specifically the interaction of *influence factors* (i.e.: political, economic and social forces) with *organizational components* (i.e.: staff selection, administrative

systems and support, organizational culture, and *core implementation components* (i.e.: training, coaching, feedback and performance measurement). They suggest that differing levels of core and organizational components, and influencing factors will determine the long term success and sustainability of the intervention (see table 4.1).

Political, economic, and social conditions certainly influence the decision to adopt risk assessment instrumentation. In a penal climate of mass incarceration, decreasing budgets, and increasing demands on government to minimize, manage, and mitigate risk, risk assessment tools are often perceived as a politically and economically expedient means of engendering "reliable, valid, and objective determinations of future risks and to enhance managerial accountability" (Hannah-Moffat, 2010, p. 3). Many criminal justice agencies have implemented some form of risk assessment instrumentation (Lowenkamp, Latessa, & Holsinger, 2004), and a determination to implement comparable "cutting-edge" developments may influence state parole boards' adoption of risk assessment.

In spite of a political climate that generally enables the adoption of risk assessment instruments; public ambivalence towards scientific calculations of risk (see Chapter 2) may temper wholehearted political support. Public opinion in support of risk assessment is likely to be shaken when parolees commit particularly heinous, high-profile offenses. It is unlikely, however, that there is political mileage to be gained from campaigning on an anti-science, anti-risk assessment platform in such events. It is more conceivable that such events may lead to calls for parole to be abolished entirely. Indeed, 16 states have chosen to abolish discretionary parole for all offenders (Bureau of Justice Statistics, 2012). If legislators do not however, choose to advocate for the abolishment of parole, it is likely that instead they will advocate for more effective risk assessment instruments, and staff improvements in risk assessment and offender

management. Thus, it is possible that a failure in risk prediction may serve to strengthen political and social conditions supportive of risk assessment adoption.

**Table 4.1:** Postulated relationships among core implementation and organizational components and external influence factors

External influence factors	Organizational components	Core implementation components	Possible fidelity outcomes	Possible sustainability outcomes
Generally enabling	Strong	Strong	High	Long term
		Weak	Low/ Medium	Medium term
	Weak	Strong	High	Medium term
		Weak	Low	Short term
Generally hindering	Strong	Strong	High	Medium term
		Weak	Low	Medium term
	Weak	Strong	Medium/ High	Short term
		Weak	Low	Short term

(SOURCE: Adapted from Fixsen, et al.(2005)

A generally enabling political, social, and economic climate conducive for risk assessment adoption may be tempered by weak organizational components. Crucial organizational components include the presence of top, middle and line management support, and ongoing mechanisms to assist staff delivering the initiative (Fixsen, et al., 2005). Clearly, such organizational support flows from the collective attitudes, norms, and beliefs of staff. If the

staff in an organization feel that structured risk assessment is unnecessary or superfluous to their work, the impact of the risk assessment instrument is unlikely to be strong or sustainable.

### **Perceptions of risk assessment instruments**

In New Jersey one parole board member described themselves as a "champion" of risk assessment adoption. Having previously served as a parole board member in adult parole, the parole board member strongly believed in the efficacy of risk assessment instruments. The parole board member felt that risk assessment helped parole board members synthesize large volumes of information, and saw value in "an objective assessment of risk," which draws on the knowledge of "folks who are specialists in human behavior." Similarly, another parole board member felt that risk assessments provided "a fresh outside set of eyes based on extensive education and training." The same parole board member explains:

I think it's good to have an independent risk assessment done...to have an independent assessment of their file and an interview by someone who is an expert in the field...to me that's beneficial because it's a step back and a clean view, and you can see what factors their decision is based on, so to me it's helpful.

Both parole board members noted above appreciated that the risk assessments were completed by trained psychologists, and that the "scientific training" undertaken by the writers brought important objectivity to the parole decision-making process. Given that juveniles attend a parole hearing every three months, it was felt that objectivity was particularly necessary, as the developing relationship and rapport between the parole board member and the juvenile may, to a degree, cloud judgment.

## **Sorting and synthesizing “truth”**

Risk assessment was perceived as offering an efficient means of sorting and synthesizing a large amount of information enabling one parole board member to "put my thumb on key components" in order to reach a parole decision. The purpose of the parole decision was succinctly described to a juvenile during his parole hearing:

I need to decide whether you're a danger to the community, whether you're a danger to property, or a danger to yourself.

In order to make such an assessment parole board members are faced with the challenging task of sifting through a large quantity of case file information both prior to and during the parole hearing. Commenting on the parole board hearing days, one parole board member indicated: “It’s a lot of reading. It’s a pretty grueling day.”

During observations of parole hearings it was apparent that parole board members are adept at rapidly reading files and drawing out pertinent indicators that may influence a juvenile’s risk of recidivism. During hearings case file information was presented to juveniles as the arbiter of truth:

Parole Board Member: Everything's in here (points to file). If there's a contradiction we're gonna think you're not being truthful.

Similarly, at times the file information was presented to juveniles as “all-knowing”:

Parole Board Member: Everything is in this paperwork. The only thing that isn't is how many times you breathe during this interview!

Each parole hearing afforded juveniles the opportunity to attempt to negotiate file knowledge. Negotiation occurred when the juvenile considered the information detailed was out-of-date, or inaccurate. During the parole hearings I observed many attempts to renegotiate file

information however they were rarely successful. The following interview excerpt details the negotiation around a male 15 year-old African American juvenile's reported gang identity:

Parole board member: Are you a Blood?  
Juvenile: That's what you got me down as.  
Parole board member: Well, I'm asking you.  
Juvenile: Not anymore.  
Parole board member: So you used to be a Blood.

Similarly, a sixteen year-old Hispanic juvenile's attempts to reconstruct file information concerning his gang membership were also resisted by parole board members:

Parole board member: Are you gang-involved?  
Juvenile: No, I just hang out with people in the same projects.  
Parole board member: It says here that all your family is in a gang. You're all Trintarios. You were born into the gang.  
Juvenile: People assume I'm in a gang. I'm around them, but I'm not in it.  
(Later, at end of hearing)  
Parole board member: We recommend alcohol and substance use evaluation, and Phoenix gang intervention

Juveniles also often attempted to reconstruct file information concerning their involvement in institutional infractions. As with attempts to reconstruct gang identities, juveniles were rarely successful in changing the recorded accounts.

Parole board members during interviews with me, however, recognized that file information was not always accurate or up-to-date. One board member cited a case where the SAVRY assessment described the juvenile as having no history of violent behavior, yet the court information detailed that during the index offense of robbery the victim had been savagely beaten. A social work report describing a juvenile as being "not problematic to this interviewer" was considered to be poor information by parole board members, when the case file contained information on numerous infractions within the facility. When reading case files I came across parole reports where the name and gender of the juvenile changed midway through the

description, perhaps indicative of the author cutting and pasting paragraphs from previously prepared reports. The parole board members reported, however, that such informational inconsistencies were often resolved by parole hearing team staff contacting the original report writers in the JJC, for clarification, and on occasion to order a new report.

Parole board members were acutely aware that various case file data held differential value, and perceived that an important part of their task included extracting “good” and “pertinent” information from the files. The parole board members felt that less useful information included: reports about hygiene (a common descriptor in correctional officer reports), how often the juvenile receives visits, whether the report writer has a good rapport with the juvenile, and reports that detailed what the juvenile intends to do, rather than what he or she has accomplished. The parole board members searched numerous pages of case files in an attempt to elicit information that demonstrated “how he will react to the same affiliations, peer pressure, people, places and things, and how he will resist being lured back into criminal behavior” (PBM 3). Prior to the introduction of the SAVRY instrument, one of the most prized informational documents was a report written by a psychologist or psychiatrist. A parole board member advised me that at times the parole board requested a psychological report after a parole hearing, however Juvenile Justice Commission staff would ask why they wanted one. The parole board member felt that the SAVRY document was useful in that it contained similar information to psychological reports, however it avoided the need to engage in political maneuverings in order to access the required information.

“Good” and bad data were often identified by comparing the information in parole reports with other often contradictory information. Other comparable information sources included progress notes, infraction reports, pre-admission reports, and the parole board members

own professional opinion. Similarly, rather than seeing the "expert-produced" SAVRY risk assessment as something to be accepted wholesale, parole board members saw the risk assessment as one additional opinion to consider alongside other reports, and their own views. One parole board member felt that the SAVRY assessments encouraged greater reflection, prompting them to think: "Okay, this is something I need to delve into further." Another parole board member explains:

You can see what factors the decision is based on, so to me it is helpful. I can say, okay this is what I think, and this is what the independent risk assessment says - and I think hey! My thoughts do jive with that, and my thoughts don't jive with that. And if they don't, then why don't they? It's a valuable tool.

Interestingly, the parole board member is using the SAVRY risk summary to reach his own clinical conclusion concerning the risk juveniles' pose. Such an approach appears wholly appropriate given that the SAVRY is a tool for improving structured professional judgment.

### **A systematic process following a deductive path**

The SAVRY, although a risk assessment instrument, is not the risk assessment per se. Borum, Bartel and Forth (2003) advise us that the SAVRY, is designed to "assist professional evaluators in assessing, and making judgments about, a juvenile's risk for violence" (p. 6) and it should be used as "an "aid" or a "guide" in professional risk assessments and intervention planning" (p. 12). Violence risk assessment, as Borum and Verhaagen (2006) suggest, "should be a systematic process following a deductive path" (p. 77). Placing the SAVRY risk summary in a parole file appears to encourage parole board members to venture down such a deductive path, their analysis guided by the factors that research shows are most related to recidivism. Through the SAVRY risk summary parole board members are encouraged to "reason carefully

and explicitly through the weighty burden of ominous risk factors” (Borum & Verhaagen, 2006, p. 87).

Having the SAVRY summary in the juveniles file may help protect against the availability and anchoring heuristics, which posit that decisions are often made on the basis of what most readily comes to mind, and “locked into” early on. Instead the SAVRY may help the parole board members to navigate a carefully considered path of empirical risk factors. A reminder of salient factors may also serve to disarrange diagnosis momentum, where there is a tendency to fix a label on a juvenile and exclude other possibilities. Similarly, being led through an array of risk factors may help to minimize the likelihood of the Sutton’s slip cognitive disposition occurring, whereby the decision-maker considers only the “obvious” information.

### **Subjectivity in structured professional judgments**

Proponents of actuarial risk assessment tools may argue that such subjectivity in risk decision-making is inherently dangerous, given that when a parole board member’s thoughts do not “jive” with the SAVRY risk assessor their conclusions may be based on hunches and prejudices. Actuarial proponents may suggest that a risk assessment based solely on static risk factors, such as number of previous offenses, and age at first arrest/ conviction, offers a less subjective prediction of risk. It is important to note, however, that both actuarial and structured professional judgment approaches are subjectively interpreted by parole board members when a parole decision is considered. “Objective” actuarial risk scores, that quite accurately predict the likely outcomes for groups become transformed into subjective assessments of risk when parole board members are required to apply the score to a specific individual. As Hoffman and Beck (1974) remind us:

All actuarial devices predict outcomes for groups and not for individuals. That is, an actuarial device may be able to tell you quite accurately that two-thirds of all cases in a particular risk category will fail, but it cannot tell which ones will fail. When a particular inmate comes up for parole, the decision maker still will not know whether he will succeed or fail on parole. All that he will know is the percentage of inmates with similar characteristics who may be expected to succeed or fail on parole (p. 203).

The parole board member is required to make a decision on specific juveniles. As one parole board member succinctly explained to a 19 year-old juvenile hopeful that his good behavior in custody would lead to his release:

There's all this history. I need to decide whether you're a danger to the community, whether you're a danger to property, or a danger to yourself. I've given you 40 days back – you earned it. Be good and stay out of trouble!

Actuarial risk scores, just as risk assessments rooted in a structured professional judgment approach, may be minimized or even discarded once they are received by practitioners. In her study of 17,926 probation and parole case files in England and Wales Ansbro (2010) identified 362 files where there was considerable discrepancy between the actuarial risk rating and the probation officers' final assessment of the risk of harm. She found that low actuarial risk scores were overridden with a high risk of harm score in 271 of the 362 discrepant cases (75%).

Actuarial risk scores are often, if not always, subjectively interpreted when practitioners seek to apply the risk assessment to individual cases. Given the inherent subjectivity in the way risk assessments are received and subsequently interpreted it could be argued that a structured professional judgment approach offers a more defensible base for parole decision-making than actuarial risk scores. The SAVRY risk summary is likely to be more helpful to parole board members as they make risk decisions because, ideally, the decision pathway is clearly laid out. As parole board members consider whether their thoughts “jive” with the original risk assessors they are being gently led along an elucidatory research-defined path of empirically determined

risk factors. With actuarial scores the decision-maker is required to interpret a numerical score or risk level, with little knowledge of the underlying algorithm that informed it. The authors of the SAVRY, Borum, Bartel and Forth (2003) explicate this in their manual: “We deliberately chose not to use numbers in coding the items to avoid any implication that the numerical score would have any particular scientific or empirically-derived significance” (p. 18).

Numerical risk scores may not guide parole board members along a carefully considered risk-decision pathway, perhaps increasing the likelihood that the risk flag will be misinterpreted or ignored entirely. The following parole board discussion highlights this point. The discussion occurred during a juvenile parole hearing after the juvenile, a 17 year-old African American serving a sentence for firing a gun in the air during a street fight, had been asked to step outside for a few minutes. The parole board members are considering whether to rescind a previous decision parole in light of new institutional charges. The parole board members attempt to summarize his risk by highlighting the juvenile’s SASSI-A (Substance Abuse Subtle Screening Inventory- Adolescent) score alongside information regarding his offense and his infraction history:

Parole board member (1): It seems like this is the first time that he’s thought about his behavior. He’s seeing how it all connects.

Parole board member (2): But he doesn’t meet the standards for parole. I’d like to see him complete Anger Management.

Parole board member (3): He denies his substance misuse. He says it’s a mistake, yet his SASSI is 3.1.

Parole board member (2): He’s got two new charges, and limited insight.

Parole board member (3): But the longer he’s in here the more trouble he’ll get into. I’m scared any progress he makes will be lost.

Parole board member (2): But he was told that he had to remain charge free until his release. And shooting in the air, in terms of risk to society, it doesn’t get any riskier than that! His allegiance hasn’t changed. His writing glorifies violence.

Parole board member (3): He’s realizing that he had a date, and now he’s losing it.

Parole board member (2): We are here to protect the public, and so we have to occasionally disappoint kids.

Parole board member (3): We need to reschedule this. We need to get a SAVRY, or a psych.

The juvenile's SASSI-A score of 3.1 (considered indicative of a "high" risk for substance abuse by parole board members) is flagged however the reasons for his high SASSI score are not discussed. The numericized assessment of the juvenile's risk of substance misuse limits the parole board members exploration of the context of the juvenile's substance misuse problem. In this instance, a structured professional judgment risk assessment may have been helpful to the parole board members charged with making the risk decision. Indeed, their conclusion that they need to request a further assessment is revealing. The SAVRY assessment is given the same "weight" as a psychological report, and viewed as necessary to inform the parole decision process. Structured professional judgment approaches may be more useful to the parole board than actuarial scores, as they help parole board members to reach decisions that are carefully and systematically informed by empirical research. Such a structured approach may assuage Garland's (2001) fears that contemporary criminal justice practices have become a trade "in images, archetypes, and anxieties, rather than in careful analyses, and research findings" (p. 135).

### **The unpredictability of risk**

Although the parole board members were generally welcoming of the SAVRY risk assessment tool, appreciating that it was "a tool within a bag of tools" for efficiently considering large volumes of, at times contradictory, information, at times both parole board members and parole hearing team staff acknowledged that they were skeptical of the predictive ability of risk

assessment tools. Such skepticism appears to support Giddens (1991) and Beck's (1992) observation that there is a dialectical tension between scientific expertise and the public's counter-expertise. Much of the resistance to scientific "expertise" seemed to stem from the recognition that it was ultimately impossible to predict the future. As one parole board member commented:

You are making an informed decision, and you can't predict what this person is going to do a month, 6 months, 18 months down the road. You have no clue. And anybody who tells you they do are telling you a story. Okay, you've got indicators, but that's all they are. They're indicators. They may or they may not, it depends on the circumstances.

Similarly, a parole hearing team member acknowledged the unpredictability of risk during his interview:

Y'know it's not, it's not an exact science. It's human nature that you're dealing with. You can have the best of the best and they go out and do something horrendous that lands us on the front page of the paper, but that goes with the territory, y'know"

Here, the parole board member acknowledges the unpredictability of risk, and alludes to the possibility of being blamed for failing to take steps to prevent the risk. Although the potential to be held liable is not explicitly mentioned, the parole board member fears not that a new offense will be publicized, but that they will "land" on the front page of the paper. The disconnection between risk uncertainties and the specter of potential negative publicity, for this parole board member, is palpable. The perception that risk was ultimately unpredictable was aired by the following parole hearing team member:

I tell the panel: Now you have the best job in America! They say, why's that? I say, because your decision is an educated guess! You don't know what this kid's going to do. You don't know if he's going to turn out to be the next President of the United States or the next serial killer!

The parole staff are certainly correct in their assertion that it is difficult to make extremely accurate predictions concerning individual criminal behavior. Such skepticism can also be found in the field of criminology and other social sciences (Hannah-Moffat & Shaw, 2001). Even the most stalwart proponents of risk assessment would agree that it is impossible to predict future criminal behavior with 100% accuracy. Laplace's (1825/1902) utopian hopes that scientific knowledge will lead to a point where "nothing will be uncertain and the future, as the past, would be present to its eyes" (p. 4), has been largely consigned to the theoretical trashcan. Given the rapid "profound and pervasive changes" (Borum, et al., 2003, p. 4) that occur during adolescence prediction of accurate offending behavior is even more challenging, although the high baseline rate of juvenile recidivism does suggest that we have a better than one in two chance of correctly guessing a juvenile's likelihood of re-arrest one year after state incarceration (see: Snyder & Sickmund, 2006). The parole hearing team's skepticism of "expert knowledge" does appear to correspond with Giddens and Beck's position that there is a contemporary tension between scientific and social rationalities. At times the parole hearing team staff drew attention to the differential status of their knowledge in relation to "academic knowledge" during both interviews and informal discussions. As one parole hearing team member commented when asked about the perception that the juvenile parole release rate was low:

Okay, I'm going to give you my assessment. I don't have my PhD hanging on the wall, but I know all this discussion going on. I know all the controversy and I know all the questions that are relating to why these kids are not getting paroled.

The same staff member later commented:

Well, I'm not a rocket scientist, just somebody who's been here at the parole board for 30 years, and has just kind of observed from the background if you will.

The parole hearing team member, appears to be acknowledging that their knowledge is not recognized in a public and academic sense (a PhD hanging on the wall), however values the knowledge they have garnered through workplace experience. One could ponder the value the speaker affords each type of knowledge. Certainly the image of a PhD hanging on the wall is evocative of an ostentatious display of a knowledge detached from everyday experience, and the description of her own experience as “just somebody who has been here...for 30 years” and “just kind of observed” assumes a mock self-depreciating position. The parole staff team did however value the knowledge offered by the psychologists through their SAVRY assessments. A parole board member advised me that:

Professionals, doctors, are doing these SAVRY's. They've had a certain set of education, training, and professional experience.

### **Professional status of risk assessors**

Confirming the findings of Hannah-Moffat and Shaw (2001), who in their study of study of correctional facility employees found that risk assessments written by psychologists were perceived to “pull the big weight” (p. 36) with the parole board, one hearing team member commented:

Y'know, the board members, if they are going to be making decisions they want to see on the report, y'know, Ph. D. They want to see Doctor of Education, they want to see that.

Another parole team member confided:

I think, one of the things that I really like (about the SAVRY)... is that the professionals that are actually conducting the instrument are true professionals and have a higher degree, and have a decent salary, because...I believe that what's going to come out of that instrument is only as good as the person conducting the instrument. Garbage in garbage out.

Interestingly, in the previous two excerpts the parole hearing team staff seems to suggest that the status of the report writer is critical to the reception of the report. Although there was recognition that some psychiatric and psychological reports were “atrocious,” that a report or assessment was prepared by a psychologist generally reassuring:

It gives me a very good comfort level that it's not the parole board staff doing it, and it's not a JJC youth caseworker doing it, because if that were so I won't be thrilled by it at all.

Notwithstanding the importance the parole hearing team accorded the report writer's status, the team also held the individual psychologists leading the SAVRY assessment team in high regard. Such respect seemed to stem from the evident collaboration between the parole hearing team and the psychologists in the planning phase of the SAVRY implementation process. One member of the parole hearing team explained:

We looked at all the instruments all over the country to try to find the best instrument for the juveniles, we wanted an instrument that was a risk instrument and a needs instrument, and so we looked at all different documents.

In addition, there was evidence of ongoing positive collaborations both seen during an observation of a SAVRY Working Group meeting, and with the ease in which it was reported that the parole hearing team could telephone the SAVRY team to order additional reports when SAVRY assessments were seemingly contradictory or below par.

### **The precautionary principle**

Although there was evidence of good collaborative working, at the beginning of the SAVRY roll-out some parole hearing team members were concerned that the SAVRY risk assessment may be used to inflate juveniles' risk. The underpinning reason for implementation of the SAVRY instrument was to increase parole board members' confidence in assessing risk, so

that more juveniles could be released early on parole. Two important and interconnected assumptions underlie such a conceptualization. Firstly, that risk assessment improves parole board members' confidence, and secondly, that an increase in risk confidence will result in more early releases. It is critical we peer into the "black box" in any evaluation (Scriven, 1994), and seek to understand the "inner components or logic of a program" (Astbury & Leeuw, 2010, p. 364). One parole team member began to poke inside the black box during his interview:

So when you talk about the SAVRY, are you going to use it to say he can adjust these [risk factors] when out on the street, or are you going to use it to say he really hasn't addressed these, so I'm going to keep him in? And my fear is, this is why I say it's not going to work, they're going to use it more as a reason to keep people in. It will all be based on his past experiences.

The parole hearing team member fears that the SAVRY assessment will be used to justify continued incarceration, as an examination of static and dynamic risk factors may heighten concerns about the risk posed by a juvenile. Such a conceptualization raises important arguments concerning the adoption and implementation of risk assessment instruments. Proponents of risk assessment may suggest that risk assessment is a worthy venture, as empirically-based factors that research has shown increase the likelihood of further offending are conscientiously appraised. Individuals, therefore, who are assessed as posing a lower risk of re-offending, should theoretically receive less criminal justice programming, and be more likely to receive early release on parole than those assessed as posing a higher risk. Given, however, the scientific uncertainty associated with risk prediction, for we can never be 100% accurate in our risk predictions, the parole hearing team member in the above extract is concerned that the parole board will inflate risk, as criminal justice practitioners may adopt a "better to be safe than sorry" stance. Similar concerns about the inflationary effects of risk assessment instruments are aired by another parole hearing team member:

I've been looking at psychologicals, and risk assessments, and MMPI's, and Static 99's and all of these things for years...and usually, usually, their conclusions are more severe than my conclusions, okay?

Kemshall and Wood (2008) suggest that a “better to be safe than sorry” approach to the risk assessment of the dangerous few appears to be rooted in the *precautionary principle*, a term which emerged from environmental protection laws. Although numerous definitions of the precautionary principle exist (Sunstein, 2003), the precautionary principle suggests that when a risk of harm is identified through plausible scientific evidence, and there is scientific uncertainty relating to the likelihood of the risk actually occurring, inaction is intolerable, and action is justifiable. The precautionary principle suggests that in the face of risk uncertainty we have an “obligation to use a safety margin at all times in the decision-making process” (Borgers & Van Sliedregt, 2009, p. 183). Given that all risk decisions are made under conditions of uncertainty (Garland, 2003; Tversky & Fox, 1995), the precautionary principle implies that risk decision-makers should “err on the side of caution.” As a consequence criminal justice practitioners may inflate risk, “just in case.”

Kemshall and Wood (2008) note that the implementation of Multi Agency Public Protection Arrangements (MAPPA) in England and Wales led to risk inflation, and that “the principle that cases should be managed at the lowest level possible has been hard to operate consistently” (p. 618). They suggest that the accurate identification of the most dangerous individuals has led to “a precautionary principle approach” (p. 618). Kemshall and Wood’s linking of a cautionary approach to risk and the precautionary principle, however, is problematic. Parker (1998) suggests that the precautionary principle implies “that where a substance or technology is potentially damaging to the environment, regulation should be considered irrespective of final scientific proof” (p. 634). An incarcerated juvenile is neither a substance nor

a technology, thus a coherent argument could be fashioned that posits that the precautionary principle does not apply to the management of specific individuals who pose harm to others. Furthermore, the precautionary principle seems to have emerged in response to a growing awareness of environmental level risks, such as climate change, oceanic pollution, and the introduction of genetically modified foods. Such risks have the potential to effect large numbers of the population, rather than the individual level harms a juvenile may pose. Certainly, the risk some juveniles pose could be regarded as extending beyond the initial physical, emotional, and psychological harms inflicted upon identified individual victims. The impact of crime may impact upon all neighborhood members, leading to a further shrinking of the collective *Umwelt*, our perceived area of security, and increasing neighborhood feelings of apprehension (Young, 1999). As one parole board member suggested, when he was asked if the juveniles we had seen that morning for parole hearings should have been incarcerated at all:

(T)hey have committed a crime which disturbed the peace and harmony of the State.  
Write that down, I like that!

The community impact of crime was also emphasized, during a parole hearing, to a sixteen year-old juvenile serving a two year sentence for selling crack cocaine:

Parole Board Member: Who were you selling drugs too? African Americans or Whites?

Juvenile: Both of them.

Parole Board Member: So you were destroying both communities.

Juveniles do commit serious community level harms when they shoot, steal, rape, rob, and deal drugs, but should these harms be considered serious enough to warrant adoption of the precautionary principle? Petrenko and McArthur (2011) posit that harms should be “sufficiently severe” (p. 353) to justify adoption of the precautionary principle, and suggest that the

specification of a threshold outlining when harm becomes morally unacceptable could ultimately be useful.

Although, as Petrenko and McArthur (2011) suggest, a threshold of harm may be useful for determining when the precautionary principle is invoked, in criminal justice we do have risk assessment tools that help decision-makers determine the probability of a risk of harm occurring. The SAVRY assists professionals as they appraise “the likelihood that the youth will engage in some type of *general violent behavior* over a specified period of time” (Borum, et al., 2006, p.

13). As previously stated, the definition of violence used by the SAVRY is:

(a) an act of battery of physical violence that is sufficiently severe to cause injury to another person or physical violence that is sufficiently severe to cause injury to another person or persons (e.g., cuts, bruises, broken bones, death), regardless of whether injury actually occurs; (b) any forcible act of sexual assault; or (c) a threat made with a weapon in hand (Borum, et al., 2006, p. 14).

Although such violence is serious and certainly has a community impact, it could be argued that such harm is at a different level to the harms discussed by proponents of the precautionary principle. Possible harms from oceans rising, industrial pollution, and nuclear fallout affect the health and well-being of large swathes of the population. Finally, the precautionary principle is a *guiding principle*, that encourages decision-makers to “consider the likely harmful effects of their activities on the environment” (Cameron & Abouchar, 1991, p. 2) prior to engaging in those activities. The SAVRY helps “*to assist* in structuring the [risk] assessment so that important factors that are well-supported by research will not be missed and will be emphasized in formulating a final professional judgment about risk” (Borum, et al., 2006, p. 13). Risk assessment per se does not engender a “precautionary principle approach” as Kemshall and Wood (2008) suggest, but rather may encourage decision- makers to make the best possible decisions when faced with future uncertainties. A focus on risk factors may encourage decision-

makers to be more cautious, but surely a cautious approach is what underpins the precautionary principle? There is a risk, however, that a cautious approach may easily become a speculative approach. Speculative approaches to risk decision-making may lead to *possibilistic* rather than *probabilistic* thinking where we begin to confuse what is likely to occur with what could possibly happen (Furedi, 2008). If a risk assessment instrument, as Canton (2012) suggests, encourages the conceptualization of juveniles as “embodied sets of risk factors” (p. 5), a speculative approach may be adopted by decision-makers to deny early release on parole. Under such circumstances risk assessment instruments, as Rigakos (1999) would argue may ensnare juveniles in a labyrinth of risk tied to their biographies. Up to this dissertation, the research literature was unclear on whether using a risk assessment tool increases speculative decision-making, or protects against speculative decision-making.

### **Risk assessment as an old chestnut**

Today, contemporary politics and social theory accords risk a center stage position (Garland, 2003), and risk in the criminal and juvenile justice systems are no exception. Hillyard and Tombs (Hillyard & Tombs, 2007) suggest that new knowledge has emerged in criminal justice “based around actuarial decisions, probabilities and databases” (p. 21). Although an interest in risk posed by individuals coming under justice system has been fueled by advances in our understanding of risk and protective factors, facilitated by advancements in the capacities of statistical software, it is important to maintain a degree of historical perspective. Is the introduction of new risk technologies, such as the SAVRY instrument, indicative of a (post) modern preoccupation with risk, or have criminal justice staff always grappled with the risks individuals pose? One parole hearing team member offered her opinion:

All these instruments basically review the same factors. Thirty years ago we came up with an instrument, we did our own, and we came up with nine factors, and we just rated it and kind of played around with it, it's almost the same as what these are. Y'know these are scholars that have done research and they've done studies, and it's all sold for money, and it's all...a compilation of different factors. And if that's what we need to assess a case, so that we have another pull, so be it.

Such a position suggests that criminal justice practitioners have sought to identify risk factors for many years, and the conceptualization of risk as a peculiarly (post)modern phenomenon is perhaps overstated. Certainly, in the mid-nineteenth century John Augustus, the “father” of the American probation system, writes in his autobiographical account that he became “considerably acquainted with the prisoners, their offences, their wants and condition” (Augustus, 1852/ 1939, p. 16), in order to restore offenders “to temperance, usefulness and respectability” (Whitaker, 1845, p. 27). Although the term “criminogenic risk and needs” is not present, “becoming acquainted” with prisoners “offences,” “wants” and “condition” is not dissimilar to a risk assessment that focuses on static factors such as prior criminal history, and dynamic individual, social and contextual factors. Furthermore, restoring “temperance, usefulness, and respectability” sounds like an early risk management plan. Augustus tackled the “criminogenic risks and needs” of offenders by securing housing, education, training, and employment, ensuring abstinence from alcohol through a pledge, facilitating family reintegration where possible, and addressing the “criminal thinking” of “moral lunatics” by “warning them of the woes their wicked course will bring upon them” (Mitchell, n.d.). Risk technologies may have heralded the scientification of administration (Stone, 1993), however the practice of regarding offenders as a collection of static and dynamic risks and needs has been integral to criminal justice work for many years.

## CHAPTER 5

### THE CRIMINOGENIC RISKS AND NEEDS OF INCARCERATED JUVENILES

"Time and again you have promised me riches and knowledge, comfort and security. But what do I possess? Nothing. What have I learned? Nothing. Where am I? I myself don't know. I only know this, that after so much confusion, so many labors, and after having been exposed to so much danger and having thoroughly wearied and exhausted my mind, I have finally found nothing but pain in myself and hatred toward me in others"

(Comenius, 1623, p. 164)

At this juncture it may be opportune to consider the risks and needs of the juveniles in New Jersey's juvenile justice facilities, and how such risks and needs were viewed and responded to by juvenile justice actors. In order to do this I will begin by outlining three juvenile justice "case," one assessed as posing a low risk of violent reoffending, one assessed as posing a medium risk of violent reoffending, and one assessed as posing a high risk of violent reoffending. The specific juvenile cases chosen are relatively typical of the case files reviewed, and appear to represent the "average" juvenile incarcerated in New Jersey's JJC facilities. They range in age from 16- to 18- years, and their terms of incarceration imposed by the courts ranged from two- to four- years courts imposed sentences sent. Compiling such "biographies" enables me to capture the "texture" of personal experiences often missing from statistics and graphs (Farmer, 2004). Information for each juvenile was drawn from case file information that included a SAVRY risk assessment, parole reports, court information regarding the current offense, and day-to-day Juvenile Justice Commission contact sheets. The names of the juveniles have been changed, as well as the names of treatment facilities, and identifying geographic information.

## **Juvenile 1: Joshua**

Joshua is an African-American 17- year-old juvenile from Union County New Jersey, committed to the Juvenile Justice Commission for 48 months following charges of aggravated sexual assault, after he anally penetrated a male cousin aged six years, together with his “half-brother,” and violation of probation. The underlying offense for the probation order was second-degree robbery. This is Joshua’s second commitment to the JJC.

Prior to his committal Joshua was living at home with his adoptive mother. Joshua was removed from his biological mother by the Department of Youth and Family Services (DYFS) when he was nine years old because of her drug use and criminal history. The file notes indicate that children are present at this address, but no details are given. Joshua has a sister who lives away from the family home, and he has no contact with his father. His mother describes him as “basically a good kid who has dealt with anger issues all his life.”

Joshua was expelled from school at the age of 13 years for excessive fighting. He then attended an alternative school, before being arrested at the alternative school for carrying a box-cutter. Joshua has seven previous violent convictions including, and a number of non-violent convictions, including threats of violence. He has threatened to kill classmates, given candy laced with rat poison to another student, set two fires in his home, and committed armed robbery. Reports suggest that when aged 15 Joshua became a G-Shine Bloods street gang member, where he was convicted for theft, weapons possession, vandalism, and fighting. Report writers indicate that he has no immediate plans to renounce his gang ties. Joshua denies having any gang involvement.

He has been diagnosed as having Attention Deficit Hyperactivity Disorder (ADHD), dysthymia, intermittent explosive disorder, and Axis 1 cannabis abuse. Reports concerning his

marijuana use were contradictory. One report suggests that Joshua admitted to trying marijuana with friends, but says he did not like it. Another report indicates that Joshua has admitted to smoking marijuana everyday with friends, and drinking alcohol on special occasions. Joshua does not feel that he has a substance abuse problem. Joshua was previously placed in four residential programs prior to his incarceration. The report writers note that he failed to complete any of these programs.

While committed to the JJC Joshua has not been formally charged with any infractions. At one point during his sentence, however, he was sent to the Behavioral Adjustment Unit (BAU) for an alleged extortion attempt, however charges were never filed. Joshua was described as “inconsistent” in his attitude towards educational classes, and his parole report suggests that he was picking and choosing which classes to participate in. He was described as having a “poor attitude towards school” in his art class, and “needing more focus” in his English class. In his math class he was described as “conscientious,” and “not disruptive in class.” Wing officers commented that his “attitude, clothes and cooperation often fluctuated from good to bad,” and that although he comprehended orders he would “almost always question them before he would cooperate.” Joshua initially refused to engage in treatment while incarcerated. One report details that in response to a suggestion that he enter treatment he responded: “Fuck that! I’m not going to treatment. I max in 2011, and that’s all I care about.” He then began to attend the Juvenile Sex Offender treatment program, and his peer relationships were described as “good,” before he was transferred to the BAU for the alleged extortion attempt.

Joshua’s SAVRY summary highlighted the following historical risk factors: history of violence, history of non-violent offending, early initiation of violence, past supervision/intervention failures, childhood history of maltreatment, parental caregiver criminality, early

caregiver disruption, and poor school achievement. Social contextual risk factors rated as high were: peer delinquency, and stress and poor coping. Community disorganization was rated as a moderate risk. All SAVRY individual/ clinical risk factors were rated as high, including: negative attitudes, risk taking/ impulsivity, substance use difficulties, anger management problems, low empathy/ remorse, attention deficit/ hyperactivity difficulties, poor compliance, and a low interest in school. No protective factors were identified, indeed the protective factors pro-social involvement, strong social supports, and strong attachments and bonds were all recorded as “absent.” In summary, the SAVRY report writer suggested that Joshua

uses excessive yelling, swearing, or verbally abusive language when efforts to meet his desires are frustrated, or limits are placed on his behavior...[He] has not learned to verbalize his feelings of frustration and anger in a controlled and assertive way, therefore he resorts to using aggression and becomes assaultive...When he becomes angry and embroiled in physical altercations he does not feel empathy for those that he may harm while fighting.

His overall SAVRY risk rating assessed him as being at a high risk of future violence. Joshua did not receive early release on parole, and instead “maxed out” on his 48 month sentence. He was released after serving 1195 days (three years, three months, and 10 days).

## **Juvenile 2: Andrew**

Andrew is a White 18-year-old juvenile from Essex County New Jersey, committed to the Juvenile Justice Commission for 24 months, following charges of possession of a controlled drug (12 ecstasy tablets and 28 small bags of marijuana), and violation of intensive supervision probation. At the time of his commitment Andrew was residing at New Life Drug program, an adolescent residential treatment center. The drugs were found at the residential center when Andrew’s probation officer activated a warrant for violation of probation, after he tested positive

for illicit drugs during random urine testing. A 750 ml bottle of brandy was also discovered in his room. Andrew says that he had purchased the marijuana and ecstasy because he knew he would be receiving a violation, and so no longer cared. Andrew was adamant that the individually wrapped marijuana was for his own use, saying that the drugs were in small packs because his dealer would give him a reduced price if he believed he was selling it.

Andrew is the youngest of five children. His three eldest siblings have moved away from home, and have their own families. His grandmother, mother, father, and 22 year-old sister reside at his family home. Reports suggest that Andrew's mother and father suffer from major depressive disorder, and his sister has been diagnosed with bipolar disorder, and possibly depression. Andrew has also been diagnosed as suffering from depression, and has been prescribed Lexapro, however he does not take it, because he does not agree with the diagnosis. Andrew's mother reports that when he does not take his medication he suffers from anger issues, and expresses his anger on his family members. His father complains that when Andrew is home he only "works and sleeps," and refuses to participate in family visits. Andrew's sister commented that Andrew is "self-righteous," and "only thinks about himself."

Andrew began regularly truanting from high school during the ninth grade. He says that he did not like all the rules. He has previously held two part time jobs, the first at Duane Reade pharmacy for six months and 1 day, before he left and began working at Pirate Land amusement park. He was fired after two months following a fight with his boss.

Andrew's offending history began when he was fifteen years old. He was first adjudicated delinquent for an offense of burglary, for which he received a 12-months deferred disposition and 100 hours of community service. Just after his sixteenth birthday he received a further 12 month deferred disposition for possession of controlled drugs (marijuana) in a school

zone. His deferred disposition was later vacated, and he was placed under probation supervision for 12 months. Andrew violated probation for consuming alcohol, and he was placed on a new probation order for 12 months, with a condition to attend out-patient drug treatment. He was then adjudicated delinquent for further possession of marijuana, and a new 12-month probation order was imposed. He subsequently violated this probation order when he was 17 years old, and was made subject to 18-months intensive probation supervision, outpatient substance abuse treatment, and a psychiatric evaluation was ordered. He was then adjudicated delinquent for burglary and consumption of alcohol, where he received 60 days youth detention, a new 18 month term of intensive probation supervision, inpatient substance abuse treatment, and ordered to pay \$2,275 restitution. He escaped from the residential treatment program after two weeks,

In his most recent court report Andrew's probation officer clearly regards his offense of possession of drugs as one of drug dealing. He writes:

The distribution of drugs by a juvenile to another juvenile has a serious impact on society as a whole. The lure of easy money from dealing drugs makes it very difficult for youth to see the dangers of their actions. These dangers include drawing in unsuspecting youth into the turmoil of drug use and addiction, and also creates the environment for future drug dealers. In addition the use and selling of illicit drugs puts a strain on both the legal and treatment communities. The involvement of a juvenile in drugs has a huge impact on society as a whole.

In addition, Andrew's Probation Officer believes that he has exhausted all community options at the time of writing his report. His probation officer concludes:

Any further treatment would only be redundant at this time. Andrew has had numerous opportunities to address his substance abuse issues as well as his legal issues, and continues to show complete disregard for the court, probation, JISP, and the programs that have tried to help him. He has made it clear that he will continue to do what he wants, when he wants, no matter what the consequences are. Probation and the JISP program have offered Andrew help numerous times, and have exhausted all resources. He has disregarded his own family and their feelings while trying to help him. Andrew went so far as to say that he never believed this would happen to him, and that if he is sentenced to the Juvenile Justice Commission he will only do a third of the time, which

shouldn't be more than three months. Andrew's lack of interest in treatment is indicative of him placing no value on his life, and he therefore needs intensive structure and supervision where he will be held accountable for his actions. It is therefore respectfully recommended that Andrew be sentenced in accordance with the plea agreement, and that the two year term to the Juvenile Justice Commission be imposed. Further, the court is completely justified in imposing additional time based on the motion filed by the state.

While committed to the Juvenile Justice Commission Andrew was admitted to the Alpha Mater substance abuse program. This is described as having a "rational emotive behavioral therapy focus" and it adopts a "cognitive based social learning curriculum" (the New Freedom Curriculum), "delivered within the structure of an adolescent residential community." During individual counseling Andrew was described as being "open, polite, respectful, and cooperative," maintaining "an appropriate attitude" and appearing "receptive towards treatment." In group counseling he was described as "quietly attentive," responding and sharing when required to do so. Andrew also participated in an anger management curriculum while in Alpha Mater. In education classes Andrew worked towards his high school diploma. His reading was assessed as being at the ninth grade level. Teachers described him as a "distinctive hardworking student who will relentlessly engage in lessons daily."

Andrew received no institutional infractions while committed to the Juvenile Justice Commission. Wing officers described him as "properly composed, very respectful, and responsible at all times." In his parole report Andrew's JJC social worker summarized that Andrew had learned "appropriate coping skills to address negative behavior," however he "has a lot to learn about addiction, denial, criminality, and how they are connected."

Andrew's SAVRY summary highlighted the following historical risk factors: a history of non-violent offending, past supervision/ intervention failures, and poor school achievement. Individual/ clinical risk factors noted were: poor compliance, risk taking/ impulsivity ("poor

judgment – used and sold drugs”), and substance use difficulties (“significant history of poly substance abuse since age 15. Numerous treatment episodes. Caught with ecstasy one week before he was due to be discharged from New Life residential treatment program. Came to JISP under the influence of ecstasy. Residential treatment recommended at JJC intake”), and anger management problems (“Explosive anger – used to punch walls”). The critical items identified were substance use problems and anger management. One protective factor was identified: string attachments and bonds (“Andrew’s strong attachment and bonds to his family are a protective factor. He maintains it is easier for him to talk to his parents since his arrest”). His overall SAVRY risk rating assessed him as being at a moderate risk of future violence. Andrew was released early on parole after serving 560 days (one year, five months, and 20 days) of his 24 month committal.

### **Juvenile 3: Fernando**

Fernando is a Hispanic 16-year-old juvenile from Middlesex County New Jersey, committed to the Juvenile Justice Commission for 24 months, following charges of armed robbery. Along with his 16-year old co-defendant Fernando robbed \$40 from teenager, who believed that they were drug dealers who were selling Oxycodone. Fernando pointed a BB gun at the victim, and demanded that the victim give him his money. Fernando’s commitment to the JJC was his first contact with the juvenile justice system.

Fernando’s pre-sentence investigation report describes the armed robbery in his own words:

I was at my job hanging out when my codefendant Terry came through. He had a conversation that I could overhear with the victim. He said the he could get him some OxyContin. Two for twenty dollars. Terry told me that he couldn’t really get it for him,

he asked me to do something with him. He wanted me to rob him with him. I told him no and kept telling him no, but eventually I caved in. I agreed. Terry said "I'll act like I have the pills inside a napkin, then you come and hit him and take the money." He asked me if I had a gun. I said "no, but I have a BB gun."

Later at the deli Terry and I met up with the victim. Terry asked him if he wanted to take a walk. He agreed, I think he was drunk. As we walked Terry told me to go get the pills. I went home to get the BB gun. I came back about 20 minutes later, I saw the two of them and came up behind them, and pointed the gun and demanded his money. Terry went into C's pockets and pulled out about forty dollars, and put it into my hands. Then he went into his own pockets and said "don't shoot!", and pulled out ten dollars and put it into my hands. I ran. I looked behind and Terry was running after me. He asked me "how much did we get?" I said "I don't even care." I was shook up about what I had done. He told me "it's your first time, it's no big deal. You got money in your pocket." He gave me ten dollars, and then he left.

Fernando was described in reports as "expressing nothing but remorse" for his offense. He told the report writer: "I want to give the kid back his forty dollars. This wasn't me. It was the peer pressure. I was weak. I know better, but I believe in karma and it came back on me. I have felt locked up since the day I robbed the kid. I come from a good family."

Fernando lives with his mother, father, four brothers and sister. They are described in reports as a "tight knit family." All his older siblings are attending higher education. Fernando describes his brothers as "role models," and he is disappointed in himself as he feels he has "let them down." His parents described Fernando's offense as "a wakeup call," and indicated to report writers that they would "stand by him through all his steps along the way."

Fernando's admits to having experimented with marijuana in the past but says that he was disgusted by the experience. He says that drug use is against his Christian faith, and that he found it affected his ability to play basketball. When not working at the local Food Bazaar supermarket, Fernando would play sports with friends, or work out at the gym. At school Fernando was held back in the first grade, as he spoke no English, and was held back again in the 7<sup>th</sup> grade over problems submitting timely homework assignments.

When Fernando first entered the Juvenile Justice Commission he was identified as an MS13 gang member. Fernando denied being a gang member. Later in his sentence his social worker made a note in his file that he was not a member of MS13. Fernando was described by JJC teachers as “working hard,” and having a positive attitude, and his social service staff noted he was “shy, polite and respectful.” Wing Officers noted that he was a “good natured, mature, and focused individual,” who “showered daily and always kept his appearance neat and clean.” Officers observed that he “talked trash with peers” and at times “was a little loud” but this was described as “nothing major.” A parole report adds some confusion, however, seemingly mixing him up with other residents. In one paragraph Fernando’s name changes to “Michael,” and he is reported to have engaged in two unspecified infractions, that his behavior was “borderline,” and that he was seemingly “going through the motions. In another report he is referred to as “José”

Fernando’s SAVRY summary highlighted the following historical risk factors: a history of non-violent offending, past supervision/ intervention failures, and poor school achievement. One social/ contextual risk factor was noted: peer delinquency (“occasionally associates with negative peers. First time he had done something like this. Persuaded by peer to be involved in robbery. Totally against religious beliefs. "Karma has come back to get me. I have felt locked up since the day I robbed that kid. I come from a good family, I am disappointed in myself”). No individual/ clinical risk factors were identified. The SAVRY assessor wrote:

To his credit he has shown no significant anger issues, use of substances, experiments with marijuana once or twice, ADHD, risk taking, or impulsivity. He appears remorseful and appears committed to getting a HSD NOT a GED. No disciplinary infractions

The following protective factors were recorded as being present: pro-social involvement; strong social supports; strong attachments and bonds; positive attitude towards intervention and

authority; strong commitment to school; and resilient personality traits.” The SAVRY assessor also noted that Fernando was involved in organized sports, and had previously engaged in prayer fellowship at his local church. His overall SAVRY risk rating assessed him as being at a low risk of future violence. Fernando was released early on parole after serving 413 days (one year, one month, and 18 days) of his 24 month committal.

### **Time served**

Joshua, Andrew and Fernando all committed serious offenses including aggravated sexual assault on a child, possession of controlled drugs, and armed robbery. Both Joshua and Andrew were incarcerated after seemingly exhausting treatment options, and had received treatment and probation supervision of increasing intensity. Fernando, on the other hand, had no previous juvenile justice system involvement. Joshua was denied parole, maxing out on his sentence, while Andrew and Fernando were released early on parole. Of particular interest is the percentage of time each juvenile served on his individual sentence. Examining the percentage of time served provides insight into the timeliness of early parole release. An argument could be made that receiving early release on parole is largely meaningless if a juvenile is paroled just one month before his max-out date. Joshua, identified as posing a high risk of future violence, served 82% of his total sentence ordered by the court. Andrew, identified as posing a medium risk of future violence, served 77% of his sentence. Fernando, identified as posing a low risk of future violence, served 57% of his sentence. Thus, our three cases seem to suggest that lower risk cases serve a smaller percentage of their overall sentence length than those who are assessed as a higher risk.

Joshua, Andrew and Fernando, as with all incarcerated juveniles were eligible for early release on parole at his juvenile restriction date (JRD), which is after one-third of the sentence has been served. Of note is that Andrew had advised the probation officer writing his report that he would be released at his JRD. This was a common misconception among incarcerated juvenile. One sixteen-year-old juvenile advised me that during sentencing the Judge had told him that he would serve a third of his sentence before her was released:

The Judge told me that I will serve one-third, but when you get here you find that's not true. My mother thinks I'll be out in September, but I don't want to tell her it won't be next year now. She just says "stay out of trouble and now she'll say I done something wrong.

The parole hearing team staff were aware juveniles were often under the mistaken belief that they would serve just one-third of their sentence. Two parole staff members felt that this was misinformation provided by JJC staff during the juvenile's admission to a JJC facility. Given that JJC staff were unclear as to when a juvenile would be released on parole, and that many regarded as the parole process as arbitrary, it is likely that the misinformation, as the juvenile above reports, is introduced during the sentencing phase.

### **Juveniles' perceptions of parole**

During interviews juveniles echoed the JJC staff perceptions that the parole process was unfair and somewhat confusing. Although every juvenile was able to describe to me the maximum and minimum "days" he could gain or lose at each parole hearing, no juvenile articulated what the parole board were actually assessing during the parole hearing. No juvenile interviewed was aware that a SAVRY, or any other violence risk assessment had been completed, and no juvenile was able to identify what risk factors were, nor what risk they had been assessed as posing. One juvenile remembered that he had been asked about his risk to

himself on intake (“They asked me whether I was going to harm myself”). One seventeen-year-old juvenile explained to me what happened at his parole hearings. He advised me that in the initial hearing the parole board members talked generally about his offending history, substance abuse problems, and plans for the future:

They asked me what happened, and whether I used alcohol and drugs. They want to know the reason why you did it, and what you want to do when you leave.

In subsequent hearings he said the parole board members talked about "institutional charges, and what programs I'm on, and what programs I've completed." Many juveniles felt that the parole board members focused largely on negative behaviors. As one eighteen-year-old juvenile declared:

Juvenile: They only focus on the negative stuff! They talk about my charge a year ago!

Interviewer: At your annual review?

Juvenile: No, it's every three months. They keep bringing it up. I think, don't look at my charges. Give me an incentive already!

Almost all juveniles interviewed, however, cited examples of other juveniles who had received “days off” in a parole hearing, when they felt that they should have received more days because of behavior within the facilities. Thus, it appears that many juveniles felt that parole only focused on the negative “stuff” when considering their parole, however did not pay close enough attention (or perhaps were unaware) of the negative “stuff” of their fellow juveniles.

Interviews with the parole board, parole hearing team, and observation of parole hearings suggested that the parole board focus on five key areas when reaching a parole decision. These are: institutional infractions, the index offense and offense history, substance abuse, gang membership, attendance at education and treatment programs. It is difficult to weight the relative importance of each area for parole board members, however in the parole board hearings

institutional infractions were usually discussed first, followed by the index offense and offense history information. Substance abuse and gang membership were then discussed, if applicable, and the hearings ended after a discussion concerning education and treatment programs.

### **Institutional infractions**

The institutional infractions discussed during the observed parole hearings included write ups for "unsanitary behavior" (e.g.: throwing a bottle of shampoo at a cell door), "adulterating food" (e.g.: adding hand sanitizer to orange juice), and more commonly "threatening behavior" and "fighting." Such infractions are "written up" on triplicate forms by Juvenile Justice Commission staff, who then place the various colored sheets in case files. Files made thick by numerous write ups were referred to by one parole board member as "two-handers," because both hands were required to lift the file up. Each infraction has a specific code, for example "J727" is insanitary behavior, and "J713" is feigning illness. A list of the most commonly used codes can be found in Appendix H of this dissertation. Parole reports would often list both the infraction sustained, and its specific code, seemingly adding an "official" air to the information provided.

During parole hearings the written descriptions of infractions were carefully scrutinized, and often were the first issue discussed. The priority given to institutional infractions is evident in the opening of the following 18-year old juvenile's parole hearing:

Parole Board Member: Last time we saw you, you had three charges. Hopefully this is a better report. You've been charged with using abusive language, fighting, and unauthorized items. You were found with porn. Where did you get porn from?  
Juvenile: From the computer, when I was supposed to be doing my work.  
Parole Board Member: I see you signed yourself out of Alpha Mater.  
Juvenile: I didn't sign myself out. They came and said I had to sign this paper.

Parole Board Member: A CO says you just cursed him out.

Juvenile: No I didn't, he cursed me out.

Parole Board Member: Did you say anything about his family?

Juvenile: No!

Parole Board Member: He says you said you would rape his girlfriend. Did you call him a faggot and say that you would piss down his throat?

Juvenile: No I didn't.

Similarly, a 17-year old juvenile's parole hearing opens with a discussion concerning institutional infractions:

Parole Board Member: You have six new charges.

Juvenile: It's been a rough couple of months. I've had problems. People have been trying to hit me, trying to get at me. I'm now in protective custody, and my problems have gone now.

Parole Board Member: Here's the problem for me – I have to count all this stuff.

Juvenile: I got my diploma in June, does that count?

Write-ups for fighting within the facility were taken seriously by the parole board members. The written descriptions of infractions were carefully scrutinized by parole board members, and the juvenile is asked to provide an account of his actions. One eighteen-year-old *Crips* gang member is asked to explain one write-up :

Parole board member: You have a fighting charge from the detention center. What was that?

Juvenile: They put me in with a whole bunch of Bloods. I tried to ignore them. I wouldn't just fight them, but they kept calling me names. So I had to fight them to show them who I was.

Parole board member: (brusquely) Name calling doesn't hurt.

Juvenile: (shoulders slump, hangs head, speaks quietly) At the time I thought it did.

For the parole board, such fights were something which juveniles should and could avoid, if they detached themselves from the immediate situation, carefully considered the consequences of their actions, and learned to control their anger. Such "responsibilization" demands that the young person must develop cognitive strategies for addressing their criminogenic need of impulsivity. Successful negotiation of the risk labyrinth entails addressing, to use a popular term

from the “New Freedom Curriculum,” the “stinking-thinking,” perceived to lie behind violent behavior. For juveniles, however, fighting often appeared to be a way of surviving in the labyrinth. The following interaction, between a parole board member, and a seventeen-year-old African-American juvenile with four “write-ups” for fighting, illustrates opposing constructions of violent behavior:

Parole board member: Do you think that the only way to solve a problem is to fight?

Juvenile: If I let them disrespect me everyone would pick on me.

Similarly, a seventeen-year-old white juvenile also views violence as a necessary response to potential victimization by exclaiming: “You have to fight! Either you fight or you get all your shit taken from you!” The observation that a juvenile may feel the need to commit violence in order to protect himself from possible future victimization was also identified by Crowther, Goodson, McGuire and Dickson (2013) in their qualitative study examining the perceptions of 11 adolescent boys attending a school for children with emotional and behavioral difficulties in the UK. Crowther et al. suggests that adolescent aggression can be an adapted response, serving to create an identity of toughness which helps prevent victimization, and secure friendships. Such a view can also be found in Anderson’s (2000) work, whereby inner city urban males may use to violence as a response to perceived disrespect, and Messerschmidt’s (1997) proposition that violence is a way for some men to “do” masculinity.

Crowther et al. (2013) question whether violence ever actually services to “protect” juveniles from future victimization, and suggest that violence acts may simply beget more violence:

Thus a vicious cycle ensued where they were always fighting back, but actual protection never seemed to be achieved. Instead, it seemed that participants *felt more* protected than if they were not fighting back. (p. 73)

From my observations and interviews with juveniles incarcerated in New Jersey facilities, having a reputation as a fighter did appear to afford some juveniles a degree of protection. I was introduced to one eighteen-year-old juvenile in a community program, who after accumulating a number of infractions for fighting in the initial months of his commitment, was now seemingly living infraction-free. Goffman (1961) would suggest that the juvenile's previous infractions were indicative of the adaptive process inherent in all "total institutions." After a period of situational withdrawal the juvenile had engaged in the "rebellious line," before moving into the "colonization" stage within the total institution. To me, the slight swagger in his walk, his self-assurance, and the distance other juveniles kept from him was suggestive that his institutional status had emerged from his previous violent actions. Certainly, the parole board appeared aware of this possibility. At times having no infractions was considered a red flag. One parole hearing team member explains:

You see the kids that have no write-ups, and you think, are they the real ones to be worried about? They're not fighting because they don't have to! They use others to do their work y'know. And they're the kids we really need to worry about. They're probably the most dangerous.

Similarly, a juvenile justice commission social worker felt that "true" gang members were very good at "hiding" their behavior from the parole board:

We have a lot of gang members, and some are, you know, the true gang members are very good at hiding. They're the ones that are the best workers, respectful; they know how to play the games. They get, they know how to get out sooner.

One particularly nasty form of intimidation, referred to by juveniles and discussed in parole hearings, was the practice of urinating or defecating on another juvenile's bed. Three juveniles advised me that this practice was often carried out as a "test," whereby the perpetrator waited to see if the juvenile would attempt to find out who did it to exact revenge. If the victim

said nothing he would be identified as an easy target for future extortion. Interestingly, one parole board member condoned violence when it was perpetrated in response to a urination incident. He explained to a juvenile during his parole hearing:

If a kid urinates on your bed, and you're fighting, I'm a man, I say that's fine. You're supposed to do that.

Interestingly, physical retaliation here is justified in terms of being "a man." Certainly, given the lack of privacy available to juveniles in the facility, urinating on someone's bed, perhaps the only location available for brief personal escape, is a disturbing and powerful act. Akin to Katz's (1988) "defilement of the sacred," whereby the criminal's aim is to "project something negative into the victim's world, deposit proof of his deviance, or create a moral stain" (p. 69), the violation intrudes on the victim's limited opportunity for sanctuary. The same board member condones violence during a 15-year-old's parole hearing, when an infraction for spitting in food is discussed:

C'mon man this is ridiculous. You spat into the food of another kid. That's just plain nasty. He should have whipped your ass. If you spit in someone's food, he should whip your ass!

The parole board members were aware than the institutional culture may render violence more likely. After a juvenile's role in a violent attack in the showers, committed in front of a sizeable crowd of juveniles, was discussed during a parole hearing, a board member advised me:

The fight in the shower is like going to a ball game for them. It's a toxic culture here. A culture of violence may be the backdrop for juveniles to construct and reinforce, as Katz (1988) would suggest, their "badass identity." The construction of a badass identity can be seen in a letter a juvenile sent to a friend on the outside. This letter was intercepted by facility staff,

and deemed to be “gang paraphernalia.” The juvenile draws upon rap lyrics and violent imagery to describe his badass identity:

One shot, one kill. RRR. Real recognize real. Don't stop thug wars, baby. I'm the realest nigga in the world. I'm a juvenile delinquent (picture of a smiley face with "devil" eyebrows).

The juvenile's writing enable him to rehearse a badass identity and indicate that he is "fascinated, charmed and seduced" (Katz, 1988, p. 106) by his purposiveness. The juvenile declares he is an expert in killing, as he only requires one shot to kill. It is unclear whether this allusion is drawn from video-gaming, films, or his experiences on the street. Given that each domain is not mutually exclusive, it is likely that all three contribute in some way to his constructed image of himself. Of course, as Gamson, Croteau, Hoynes, and Sasson (1992) remind us, we are not passive recipients of cultural messages, but rather active processors decoding received reality in many different ways. The construction of meaning from various domains is therefore an ongoing, reflexive, and dynamic process. Although it is unclear whether the juvenile is imagining himself as a detached sniper choosing his victim from a distance, or as a gangbanger holding a gun to a rival's head, both representations evoke an image of the self as having power over another's life. Such a need for power is perhaps unsurprising in an environment where feeding and sleeping times are dictated, and permission is required in order to use the bathroom.

The juvenile's use of the term "Real recognize real" appears to be either taken directly from the title of Memphis-based rapper Project Pat's seventh album, or from the song of the same name by Chicago-based rapper Lupe Fiasco. The phrase seems to suggest that real, genuine and authentic people recognize other real, genuine, and authentic people. Considered with the following line "Don't stop thug wars, baby" we can assume that being real means remaining true to particular street codes (Anderson, 2000), or "subterranean values" (Matza & Sykes, 1961).

Certainly, faced with institutional pressure to submit and conform, and fearful of being caught in the act of collaboration with conventional society (Matza, 2010), the juvenile may find refuge in remaining "real" to a badass identity. As Katz (1988) reminds us, conventional "success means cowardice. *Being deviant gives him an edge*" (p. 297). A psychological "edge" in a secure facility may mean the difference between barely surviving, and surviving well. Furthermore, the proud, taboo-breaking statement of ethnic identity, "I'm the realest nigga in the world," reclaims an ethnic slur, while serving as a defiant inversion of white oppression. Similarly, claiming the disparaging official label "juvenile delinquent" for himself, the juvenile achieves transcendence over the facility and juvenile justice system.

When considering violent infractions, we must be careful not to attribute all violent behavior to the institutional context alone. Certainly, the institution may exacerbate the likelihood of violent incidents occurring, and juveniles may believe that the development of a badass identity is critical for their own existential survival, however many of the incarcerated juveniles had a history of violent behavior long before entering the facility. Such a differentiation highlights the difference between the *deprivation and importation models* of prison violence. The deprivation model suggests that a violent deviant subculture emerges among inmates exposed to deprivations of liberty and identity (Sykes, 1958). The importation model suggests that inmates bring the violent culture of the streets into the institution (Irwin & Cressey, 1962). Furthermore, Bottoms, Hay and Sparks (1990), seeking to apply Giddens' (1984) structuration theory to prison violence, emphasize the critical role "routines and routinization" (pp. 85-86) may play in structuring prison violence. Thus, Bottoms et al. argue, improving relationships between staff and inmates may improve perceptions of institutional legitimacy, thereby decreasing the likelihood of violent incidents.

Although there was general acceptance among parole board members that the institutional environment was at time toxic, and one parole board member felt that violence was understandable, if not acceptable, when a juvenile finds his sleeping area or food violated, institutional infractions were commonly regarded as an indicator of raised risk. Institutional infractions were overwhelmingly interpreted as a risk factor of concern. As one parole hearing team member succinctly explains:

If you can't conform to the structure of the jail, you're not gonna conform outside!

A similar theme is developed by a parole board member:

If you're still engaged in negative behavior even while you're in custody, even after you've been sentenced, even after being in this place called jail that nobody likes - and you still decide to do negative things,... well then you're still going to decide to do negative things when you get home.

A parole hearing team member explains the dilemma institutional infractions poses for the parole board:

If you've got a kid who from the last time we saw you three months ago he's picked up five institutional charges, well that's not going to bode well for parole. How are we going to expect you to be crime free? So y'know that's something that we need to look at and take into account.

Such a position is certainly logical and appears reasonable. Defensible decision making would suggest that if a juvenile is currently committing violent acts within the institution he is likely to pose an ongoing risk when he is released. The danger is, however, that through seeking to manage a perceived future risk by ordering continued incarceration, the parole board risk confirming and concretizing risk identities, by insisting the juvenile remains in an environment where the development of a badass identity is considered necessary for survival. An understandable situational response to existential threats or perceived institutional illegitimacy may become decontextualized during the parole decision-making process, as the cause of the

violence is reduced to a simple cognitive flaw, and evidence of the juvenile's failure to reign in destructive impulses.

The disconnect between the parole board members' view that violence is a flaw in cognitive decision making, and the juvenile's view that violence is an appropriate situational response can be seen in the following parole board hearing excerpt. A seventeen-year-old boy, serving a 30-month sentence for selling heroin and crack cocaine is quizzed by the parole board as to why he had fired a BB gun in the school playground:

Parole board member: It says you shot a girl with the gun. Why did you shoot her?

Juvenile: Because she called me a bitch.

Parole board member: Was she hurt?

Juvenile: She got a little bump to her ear.

Parole board member: Can't you see shooting at people is a bad decision?

Juvenile: (Quietly) It was just a little bump to her ear.

Regardless of what the juvenile said or did in order to be cursed by the girl, the juvenile feels that the firing of the gun was an acceptable response to such an insult. Drawing upon our primordial sensibilities, such a curse serves to emphasize the dichotomy between the sacred and the profane (Katz, 1988). The girl inverts his gender, and defines him as a repulsive, non-human, untouchable other. As Katz (1988) observes: "Who, after all, wants to touch shit or scum or a bitch or a dirty whore?" (p. 37). The firing of the gun, therefore, becomes a vehicle for restoring the juvenile's masculinity, and ultimately his humanity. The juvenile's denial of the victim's suffering may not be overt callousness, but a way of devaluing his victim's experience. For the parole board however, his actions are considered to stem from a "bad decision," a failure to think through the consequences of his actions.

For some juveniles meaning can be derived from their silence in the face of questioning about violent infractions. We return to the juvenile who received an infraction for attacking

another juvenile in the showers. The juvenile avoids explaining why he attacked his victim. The parole board can only read the write-up to him, as he stares directly ahead:

Parole board member: It says the attack happened in the showers. An officer was told "Marcus just strapped him up." When they played back the video, they saw you coming out of the showers first, and then the victim came out all covered in blood. A juvenile says "Marcus fucked him up." Why did you do it?

Juvenile: (Stares straight ahead)

Parole board member: This was a very serious assault. The kid was taken to an outside hospital. Why did you strap him up?

Juvenile: (Shrugs).

Katz (1988) would suggest that the juvenile's stony silence in the face of questioning is evidence of the concretization of badass identity, a symbol of tough "impenetrability" (p. 82). Alternatively, the juvenile's silence could be regarded as an attempt to assert power in the face of questions from an adult authority. By not answering the juvenile avoids incriminating himself, and retains a small degree of power during the "dialogue."

### **The index offense and offending history**

The index offense and previous offense history were an important feature of parole hearings. Certainly such an emphasis is borne out by the research. Farrington (1995) suggests that approximately 50% of boys convicted of a violent offense between the ages of 10 and 16 will commit a further violent offense in early adulthood (cited by Borum et al., 2006), and current and previous violent offending history is included in all violence risk assessment tools.

During the parole board hearings discussion of the index offense was usually either the first topic discussed, or it was raised following a discussion of current institutional infractions. The most common offenses discussed were robberies, car jackings, drug dealing, and firing weapons. The juvenile's motivation for committing the offenses appeared to be the primary role

of the parole enquiry. Of course, motivation for offending, as Jacobs and Wright (1999) remind us is a slippery concept. They suggest that:

(M)otivation is criminology's dirty little secret – manifest yet murky, presupposed but elusive, everywhere and nowhere. If there is a bogeyman lurking in our discipline's theoretical shadows, motivation may well be it (p. 149).

To explore the murky swamp of motivation the parole board would seek information concerning the juvenile's role in the offense, the influence of the juvenile's peer network, the influence of poor decision-making ("stinking thinking,") and the ability of the juvenile to manage emotions (anger management). In addition, the parole board would seek to determine additional motivations, such as a desire for money or revenge. Finally the parole board would explore other motivating influences, such as alcohol or drug misuse, gang membership, and factors such as inadequate parental supervision, or dysfunctional relationships with parents.

Thus, one fifteen-year-old juvenile was asked to describe his role in his index offenses of burglary and theft. His offenses involved the theft of a cash register from a Kennedy Fried Chicken Store. The parole board members ascertained that he committed the offense with his blood cousins, that he acted as the look out, that he stored the cash register at his house, and that he took the entire blame for the offense because his cousins were younger than him. After this information was gathered, the juvenile's motivation for committing the offense became a key element of the parole enquiry. The parole board members asked him about why he committed the offense (to gain money), and then identified two key influencing factors (a substance misuse problem, and poor thinking skills "being drawn to negativity"). Finally, they examined his previous criminal offenses, institutional behavior and social circumstances, to identify other potential influencing factors (anger, mental health problem). A conglomeration of these risk factors (thinking skills, substance misuse, anger, and mental health problem) became the

“diagnosis,” and various assessments and treatment programs identified as the way forward. In terms of his parole decision, this information was relayed to the client as:

One-third of your sentence has already expired, and so we could parole you today, but we’re not because we think you need some help.

Identifying key motivating influences during a parole hearing is certainly a tricky endeavor. The difficulty is compounded by the juvenile often side-stepping questions, or trying to deliver what may be a pre-rehearsed script. Juveniles often recounted how they just needed to avoid negative situations or peers to avoid future offending. Such revelations occurred so regularly that they had the appearance of being scripted. Indeed, the juvenile may feel that avoiding negative “people, places and things,” would help prevent future offending, but equally it may stem from the belief that this is what the parole board wants to hear.

Given that avoiding “people, places and things” is a common phrase in rehabilitative rhetoric (Leverentz, 2010, p. 649), it is perhaps unsurprising that a juvenile may refer to it during his parole hearing. The notion that a juvenile needs to avoid people, places, and things can be interpreted as the juvenile viewing the danger as lurking elsewhere, rather than emanating from themselves. Maruna (2001), drawing on Petrunik and Shearing’s (Petrunik & Shearing, 1988) paper examining how stutterers conceptualize their stammers, suggests that offenders often conceptualize their offending as “being carried away by situations and circumstances” (p. 93), which serves to separate the “It” from the “I” and “Me,” enabling offenders “to protect themselves from the internalization of blame and shame” (p. 95). Later in his book Maruna (2001) does acknowledge that offenders often provide “a chaotic jumble of excuses and justifications mixed in with concessions and admissions of shame” (p. 134). The protection offered by a cognitive framing of events is perhaps rather porous after all. In the parole hearings

I observed, the adoption of the people places and things frame appeared to be a small step towards the juvenile accepting blame, and an acknowledgment that, in the future, they needed to take greater responsibility for their actions. The adopted frame seems to be “I need to take greater responsibility for avoiding negative people, places and things,” rather than simply that “people places and things cause me problems.”

Although juveniles appeared to believe that they needed to acknowledge personal responsibility for their criminal actions, this alone was rarely sufficient for the parole board members. For the parole board members accepting responsibility often involved the juvenile needing to recognize the role their “stinking thinking” played in their offense. What the juvenile was thinking at the time, and why he did not adopt an alternative (thinking) strategy were avenues that were often pursued. We can identify such an approach when we consider the parole hearing of one eighteen-year-old juvenile adjudicated for an offense of first degree robbery while out on parole. He was first asked to explain who his victim was, and what his involvement was in the offense, before the parole board member tackled his motivations for offending. After an initial discussion concerning the original sentence from which he was paroled the parole board member turns to the current offense:

Parole board member: Who did you rob?

Juvenile: Somebody.

Parole board member: Somebody?

Juvenile: I dunno. I was just around it and stuff

Parole board member: Think back to that day. What happened?

Juvenile: I was at my friend’s house, me and my friends...

Parole board member: How many friends?

Juvenile: Three friends. They needed a gun to do a robbery. It was my friend’s gun. I was asked to pass the gun to my co-defendant. He did the robbery.

Parole board member: So you robbed your friend?

Juvenile: No, we robbed someone else. The robbery took place somewhere else. We went to a different house.

Parole board member: How did you get there?

Juvenile: Some of us were on bikes and some of us were walking. We went to another house, where a friend was, and then he robbed him.

From the hearing extract above, it seems that the juvenile is initially reluctant to provide the parole board member with much information. To the juvenile the victim may indeed just be “somebody,” a chance person. The parole board member persists however, encouraging the juvenile to remember the day and what actually happened. The parole board member focuses on how many friends the juvenile was with, and then focuses back on identifying who the victim actually was. By asking how the defendant got to the house where the robbery took place the parole board member encourages the juvenile to place himself at the scene once more. The juvenile provides information on his role in the robbery (“I was asked to pass the gun,” “He did the robbery,” “and then he robbed him”), but the parole board member seems to sidestep these issues. The juvenile attempts to steer away from talking about specific offense details:

Juvenile: I need to stay away from the negative and do the right thing. I was doing good, and then I made a big mistake.

Parole board member: You made bad choices. As soon as the gun appeared you could have left.

Juvenile: I wish I did.

Parole board member: What were you going to get out of it?

Juvenile: I dunno

Parole board member: What were you gonna get out of it?

Juvenile: Just what they got. Money and stuff

The parole board member introduces “stinking thinking” (“You made bad choices”), and offers an alternative strategy (“you could have left”). The juvenile wishes he had left the scene, but does not pick up on the need to talk about the role of his own thinking in the offense scenario. The juvenile finally admits a primary motivation (“money and stuff”), and the parole board member returns to the theme of choices:

Parole board member: What options could you have taken?

Juvenile: I could have got a job, done positive things. I'm a Muslim.

Parole board member: Muslims don't value life?

Juvenile: (silence)

Parole board member: Robbing someone isn't part of any Qu'ran that I've read.

The "options" the parole board member alludes to are not the options like having gainful employment, and engaging in positive behaviors. The juvenile goes on to construct positive behavior as having anti-criminal associates, but the parole board member is really looking for the juvenile to acknowledge the role thinking skills may play:

Juvenile: I was just in with the wrong people.

Parole board member: You were in Costello Prep. There you did a lot of role playing of situations. Why didn't any of that stuff pop into your head?

Juvenile: I dunno.

Parole board member: Unless you think it's okay to rob people with a gun?

Juvenile: (Shakes head)

Parole board member: Help me understand. I do want to work with you. Tell me what was going through your mind?

Juvenile: I just passed the gun off, and then I got hit with the robbery.

Parole hearing team member: You passed the gun off? What does that mean?

Juvenile: The gun was by some bushes. My friend said can you get the gun and give it to me?

Parole board member: Why didn't you say no? Why not say "get the gun yourself, I'm on parole." If I'd been in jail, I wouldn't get the gun. Why didn't you say something?

Juvenile: (Pause). I did have butterflies. Nerves. I was thinking, "I'm on parole." I was thinking about leaving finger prints.

Thus, the juvenile finally admits his thoughts and feelings at the time of the offense. He remembers the emotion he felt at the time – "butterflies," and "nerves." Katz (1988) would suggest that the juvenile remembers "the sensual character of the experience" (p. 63), driven by his fear of later apprehension. The juveniles thinking is not "how can I extract myself from this deviant situation?" but rather is "what steps can I take to avoid being caught?" Later in the hearing the juvenile returns to his theme of having a "positive" lifestyle:

Juvenile: I need to stay positive, and stay out of trouble.

Parole board member: You need to tell your friends that you can't hang out with them.

Juvenile: In the future I'd like to stay away from Atlantic City.

Parole board member: Do you realize it's not a location issue?

Juvenile: Yes. It's all about choices.

The juvenile is indeed right, "it" is all about personal choices and decisions. For the parole board offending is not a "mistake" to be avoided, but a failure to apply appropriate thinking skills. Such a view was not limited to parole board staff, but was also voiced by some juvenile justice commission staff. A Superintendent in a residential community home explains:

(B)ecause guys do things without thinkin' about the consequences of their, of their decisions. And, you know, sometimes they come with a, you know, with this cop out, Kevin, about, "I made a mistake." I said, "A mistake is somethin' you don't intend to do. You made a choice. And, you know, you go out there and choose to sell drugs, you choose to rob somebody - that's not a mistake in my eyes."

The association between faulty thought patterns, poor choices and risky situations holds considerable popularity in the Alcoholics Anonymous approach to addictions (Steigerwald & Stone, 1999). In relation to juvenile offending the young person is regarded as making a series of poor decisions, including hanging with the "wrong" people, failing to anticipate emergent high-risk situations, not considering the consequences of certain courses of action, and failing to extricate him or herself from the situation in a timely fashion. The "What Works" literature certainly supports this view. Antisocial cognitions form the third risk factor of the "big four," and should be tackled with interventions directed at recognizing risky thinking and feeling, and developing alternative "less-risky" thinking and feeling (Andrews, et al., 2006). Given our observation in Chapter Two that the prefrontal region of the brain (responsible for impulse control, planning, and thinking ahead) develops at a slower pace to the limbic region (the reward center) in adolescents, it could be argued that such an emphasis on "faulty thinking" is somewhat unmerited. There is an inherent tension between a juvenile justice system that holds teenagers

accountable for specific actions, and current neuroscience that leads to a conceptualization of accountability as a developmental process. Parole board members consider the role poor thinking played in the juvenile's index and previous offenses. In the future, the juvenile is expected to identify negative "people, places, and things" and make choices that result in living crime free. To emphasize this, we return to our eighteen-year-old juvenile committed for the offense of robbery. At the end of his parole hearing the parole board member alludes to a well-known fairy tale:

You know the story of the three little pigs? Well the moral of that story was that the pig who built the strongest house kept the wolves away. So when the big bad wolf comes looking for you, you need to be strong enough to say I know you're a wolf, and I need to keep away!

For juveniles, being able to identify risky situations and appropriate strategies is an important feature of parole hearings, however at times this alone is not enough. One juvenile, committed for offenses of child endangerment after committing sexual offenses against his younger siblings, displayed considerable insight into the role his thinking played in his offending behavior. Drawing on his learning in a sexual offending program the seventeen-year-old described how he had previously fantasized about young children, that he acted out his thoughts because he was in a position of control over his siblings, and that he had assumed that his offenses would not be discovered. He was able to articulate what kinds of situations may be risky for him in future, and gave an example of turning over the television channel if a children's commercial came on that he found arousing. He was praised for his honesty, but ultimately parole was denied, and he was eventually released at his "max" date. Three significant factors appeared to feature in the decision not to allow him early release on parole. Firstly, his family was regarded as not able to provide a sufficiently strong "safety net." This was because some family members had voiced their belief that the victims were lying. Secondly, the parole board

members commented that he “understands some of his risk factors, but not all of them,” although what was missing was not aired. Thirdly, it is possible that his offense was considered “so serious” that parole was not considered a viable option.

A small number of offenses were considered by parole board members to be “so serious,” that it was extremely difficult for the parole board members to grant parole, even if the risk assessment suggested that the risk of further reoffending was relatively low. We find a similar observation in studies of adult parole decision-making (Hannah-Moffat & Yule, 2011; Hood & Shute, 2000). On several occasions, while I was collecting quantitative data in the State parole Board Office a parole board member expressed concern that the SAVRY instrument did not capture the “heinousness” of certain offenses. The parole board member was particularly troubled by the case of a girl who had been committed for an offense of murder. Although the SAVRY assessor determined that the juveniles risk was low, given that the offense was committed when she was thirteen, that she had a very limited prior criminal history, and that she was responding positively to programming within the facility, the parole board member felt that the SAVRY missed “something there.” The parole board member recounted how the juvenile had bludgeoned to death a 92-year-old woman, whom she had befriended. The parole board member was struck by the apparent callousness the juvenile demonstrated during the index offense. Reports indicated that after bludgeoning the victim, she stepped over the body several times, fixed herself something to eat in the victim’s house, watched television, and rummaged through the house before calmly leaving the scene. Despite excellent institutional adjustment, and a low SAVRY summary risk rating, the parole board member was extremely hesitant to grant early release on parole. Offense seriousness, or more specifically “offense heinousness,” appears to be an important consideration when the parole board are considering the extremely

serious offenses committed by a small number of juveniles. This may be an example of the anchoring heuristic, whereby parole board lock into offense heinousness when making a parole decision.

A closer examination of the juveniles who had committed sexual offenses in my sample appears to confirm this assumption. Although the sample is a convenience sample, and far too small to achieve meaningful statistical power, there seems to be an important pattern emerging in relation to possible offense heinousness. In my sample of 445 cases 17 juveniles (3.8%) were committed for an index offense of a sexual nature. Of these juveniles 11 (64.7%) “maxed out,” and six (35.3%) were released early on parole. Although all sexual assault and abuse is serious and can have a lasting impact upon the victim, the differences in offense seriousness between the juveniles who “maxed out” and the juveniles who received early release on parole is palpable (see table 5.1). From the description of the offenses it seems that a juvenile who has committed sexual offenses is more likely to receive a “max out” parole decision if the victim was very young (or the age-differential between the victim and perpetrator was considerable), and if the offending occurred on multiple occasions. Of note is that many of the sexual offenses of the paroled juveniles in table 8 are statutory offenses, that in a previous era would have been considered age-specific behaviors, and not appropriate for justice system intervention. For the juveniles who were released early on parole, the age differential between perpetrator and victim appears smaller, and the victim is often described as drunk. Although correlation is not causation, and a seeming pattern is not conclusive proof that offense seriousness is a critical driver of parole decisions, when considered alongside the parole board comments to me, and observation of the juveniles parole hearing referred to above, the argument that offense heinousness may trump thinking skills is considerably strengthened.

**Table 5.1:** Results of parole decision for juveniles in sample whose index offense was sexual

Brief description of index offense	Parole or Max?
Teenage male victim held down by three males. Juvenile pulled down victim's pants, and touched his genitals	Max
Numerous attacks on adult women (strangers). Forced oral sex	Max
Forced five-year-old cousin to perform oral sex and masturbate him while babysitting. Admits to two occasions	Max
Inserted pool cue into child's anus in a children's home	Max
Inserted pencil into four-year-old cousin's vagina	Max
Penetrated five-year-old brother orally and anally	Max
Forced oral sex, five-year-old cousin	Max
Anally-raped five year old neighbor	Max
Anally raped sleeping fifteen-year-old while in a residential program	Max
Sexual abuse of sibling over a number of years	Max
Sexual assaults on five- and six-year-old family friends. Placed penis on buttocks, and forced oral sex over a period of time	Max
Had intercourse with 11- year old girl he met on MySpace. 17 years old at the time	Parole
Had intercourse with a 14-year old unconscious (drunk) girl at party	Parole
Thirteen-year-old girl, intercourse, oral and anal sex. Says it was a "consensual" relationship, and victim was "after him." 17 years old at the time	Parole
Had intercourse with a drunk 14-year-old girl at friend's house (party?)	Parole
Had intercourse with 14-year-old drunk girl at party.	Parole
Groped adult victim's breasts during robbery	Parole

The use of guns in the commission of an offense was also an important factor when the parole board members considered offense seriousness. Although gun use was not a reason to preclude a decision to release early in parole, the parole board members acknowledged that this was an important factor they needed to take into account. Such a position is exemplified in the following quote from a parole hearing team member:

Owning a gun previously, that makes them more dangerous!

Similarly, a parole hearing team member suggests:

Gun crimes give me a terrible problem, a terrible problem gun crime. Guns kill people, you know, guns kill people, and guns are rampant in society today. You can get automatic weapons, come on. Guns suggest your level of violence, okay, and your involvement in criminality.

There was a general perception that juveniles were committing more serious and more violent offenses than before. As a parole hearing team member observes:

I can't tell you the last time I've seen a kid come in for petty theft or y'know petty larceny. We're not seeing those offenses anymore. The kids that we're seeing are coming in, they are all gang members, they are all coming in with weapons.

Many members of the parole hearing team felt that the success of court diversionary schemes had removed many parole-eligible juveniles from the justice system, leaving behind a hardcore group of juveniles who were difficult to parole because they had committed serious, violent offenses. The influence of the “Juvenile Detention Alternative Initiative” (JDAI) certainly appears to have had a big impact on the JJC population. Initially started in 2004, and rolled out in different counties across New Jersey over the following years, the JDAI seeks to reduce the juvenile incarceration rate through the provision of alternatives to custody, such as electronic monitoring, and the provision of community-based services. Parello (2012) observes that the number of juveniles committed to Juvenile Justice Commission facilities in New Jersey has decreased by 60.6%, from 1,034 prior to the implementation of JDAI to just 407 in 2012. Parello also notes the declining juvenile arrest rate, down 3.3% (from 53,023 to 35,347). The parole team perception that the committed population appeared to comprise of more juveniles who had committed serious offenses than before appears reasonable.

The parole board members considered that if a juvenile was “packing heat” during the commission of an offense, the seriousness of the offense was raised considerably. In the parole hearings I observed, many juveniles had a current or previous charge of firearms possession.

There was considerable variation, however, in the reasons they gave for having guns. These included having the gun to intimidate rival gang members, firing the gun in the air in an attempt to break up a fight, pointing it at a victim's head during a robbery, and taking the “rap” for a gun under a couch in a drug bust. It was apparent that for some juveniles, gun use was fairly commonplace, as is demonstrated in the following conversation in a parole hearing:

Parole board member: How would you feel having a gun held to your head? Have you ever had a gun held to your head?

Juvenile: Yes.

Parole board member: What did it feel like?

Juvenile: I can't say anything - it's in that moment.

The parole board member is right to ask the juvenile how victims may feel having a gun held to their head. He seems to be probing the juvenile's level of victim empathy, in order to assist in the reaching of a parole decision. The juvenile's admittance of his own victimization is profound however, as the perpetrator identifies himself as a victim with one word. Such a moment captures the shifting identity of incarcerated juveniles, being both perpetrators of harmful acts, and often victims of harmful actions. Another juvenile describes his experience of having a gun pointed to his head in his “autobiographical” English paper:

One day I was "trapping" in front of my house with two of my "mans" (friends). It's about 3 AM, and there was exactly nobody outside but fiends. This guy walks up and said "what's good?" We didn't mind nothing about it; he kept on walking and turned the corner. The whole time he was coming through an alley-way behind my house. I didn't see him until I felt the steel from the barrel of his gun on my head. I looked up and saw it was the same guy and was amazed. My "mans" had said "get up," but I was in shock. He said it again and pushed me up out of the seat. When I leaped up, he fired the gun. It was so close I felt the wind and the gunpowder go across my ear. At the end of the day, I got away.

The juvenile's description has a particular movie-scene quality. He feels the (cold) steel of a gun barrel and remembers the wind as a bullet flashes past his ear, it was a close call, but the hero

survives to live another day. Certainly, Jock Young (2007) would describe the juvenile's experience as an "escape from banality" (p. 169) fueled by consumption of violent media content. In the parole board hearing, a question that may have been revelatory, but was not asked, "what does it feel like to hold a gun to someone's head?" Young (2007) suggests that such transgression in an increasingly commodified and uncontrollable world can be a means of "going to the edge and grasping control" (p. 57). Understanding the meaning of gun violence for both victims and perpetrators may provide insight into the prevalence of gun crime. Brazilian sociologist Luiz Eduardo Soares in Padiha and Lacerda's (2002) film *Bus 174* provides a powerful interpretation:

A boy with a gun can make us feel something, he can make us fear. A negative feeling, but a feeling. He can recover his visibility, and affirm his social and human existence. It is a process of self-constitution. A process of self-intervention mediated by violence, by a gun. It's a pact, the boy exchanges his future, his life, his soul, for an ephemeral and fiery moment of glory. If we can't comprehend its depth and intensity, we will never learn how to act.

Although having a gun held to your head, or holding a gun to a victim's head may be an transcendent moment of glory for some of the committed juveniles, their gun involvement could be regarded more as an adolescent fascination with guns played out in front of the bedroom mirror:

Juvenile: I got caught with guns - that's only one felony.

Parole board member: Isn't one enough? Did you have a license? A permit?

Juvenile: I didn't mean to harm anyone with them. I just had it to have, to hunt and stuff. I like guns!

Parole board member: Why do you like guns?

Juvenile: I dunno.

Regardless, gun possession and use was an important aggravating factor in many juveniles' offenses, and raised serious questions for the parole board member making the decision whether to parole. As one parole hearing team member reflects:

You have the good kids who have completed anger management, completed substance abuse, but because he's here for a first degree armed robbery...we're not paroling him. So you have kids coming and saying to say, "what else do I have to do?" They say "I've completed this, I've completed...here are all my certificates, what else do I have to do?"

In the *history of violence* section of the SAVRY assessment, low risk youth are those who have committed no violent acts, moderate risk youths are those who have committed one or two acts of violence, and high risk youths are those who have committed three or more acts of violence (Borum, et al., 2006). Although the SAVRY manual notes that "prior violent behavior is perhaps the best single predictor of future violence" (Borum, et al., 2006, p. 19) and assessors are urged to consider the "frequency, recency, and severity of past violent behaviors" (p. 19), prior gun use is not specifically highlighted. The manual does note that possession of a weapon is not rated "unless the youth uses it on someone or threatens someone with it" (p. 20). It can be assumed that use of a gun would increase the assessor's perception of the severity of any violent history.

### **Substance abuse and gang involvement**

In addition to gun use, substance misuse problems and gang involvement were important topics discussed in almost every parole hearing. The high rate of juvenile substance misuse has been well documented by researchers. Although there has been a decline in cases of drug law violations processed by juvenile court systems, from a national peak of 191,100 in 2001, to 167,100 in 2009 (Puzzanchera & Kang, 2012), drug misuse remains an extremely prevalent issue

for incarcerated juveniles. Analyzing data from Cook County Juvenile Detention Center, McClelland, Teplin and Abram (2004) found that 94% of juveniles admitted to using drugs at some point in their lifetime, 85.4% had engaged in illicit substance use in the previous six months, and 66.4% tested positive for drugs in a urinalysis. Montgomery, Vaughn, Thompson, and Howard (2012) observe that prevalence rates for past-year drug use for justice involved youth range from 38% to 85%. Substance misuse appears to be a serious problem affecting many incarcerated juveniles.

Similarly, scholars have suggested that gang membership is highly correlated with delinquency. In their longitudinal study of 1,000 adolescents in Rochester, New York known as “The Rochester Study”), Thornberry, Krohen, Lizotte, Smith, and Tobin (2003) found that gang members were responsible for 82% of all serious delinquency, 70% of all drug sales, and 54% of all arrests in their sample. For the parole board substance misuse, drug dealing, and gang membership were serious social problems that existed hand-in-hand.

The parole board members were cognizant that drug problems were a serious issue among the juvenile population in New Jersey. As one parole board member declared emphatically “the bulk of the kids have drug and alcohol problems!” Similarly, a parole hearing team member observes:

Every...almost all of them use marijuana, alcohol, and some of them are doing some kind of stacking pills, or something now. They triple stack, double stack, umm like Xanax or pills, like depression pills I guess, I don't know what they are... I don't see that much like heroin. I see them selling it, but even not that much, I'd say the main two are alcohol and marijuana

There was a sense that the drugs the juveniles were using were much more potent than before, and that the substance misuse problems experienced by juveniles were more serious and more entrenched. A parole board member explains:

The drugs are not like the marijuana in the 60's. They are exotic drugs, and the kids have poly-substance abuse issues. If there's alcohol it's heavy duty alcohol. With drugs it's kiff, and huffing, and K2. Not just taking one pill, but triple stacks, or quadruple stacks. There's a worsening extent of addiction.

Another parole hearing team member noted the popularly used drugs today were different from before:

I mean all the kids seem to smoke marijuana and drink, that's pretty much given, and then everything beyond that, I've been out of for a while and I'm a little older, I'm like the 60's and 70's, so a lot of the drugs that are in vogue now didn't exist then. I'm just learning about them (the drugs) now, you know ecstasy, and this thing they call "wet, which is like embalming fluid, and they lace their marijuana with embalming fluid, and marijuana is a lot stronger today than it was 30 years ago, and they huff, but you know I'm not up on all the drugs, but hopefully the programs that we send these kids to are.

The parole hearing team acknowledged that they had received little training on drugs, and that much of the knowledge they had they had "picked up" from the juveniles themselves. One parole hearing team member remembered receiving drug training as part of a one-hour gang training session. "Double-stacking" or "triple stacking" refers to ecstasy pills that purportedly have double or triple the amount of the ingredient 3, 4-methylenedioxy-methamphetamine (MDMA), although some drug forum contributors have suggested that the use of such terms is simply a marketing ploy by drug dealers (e.g.: PsychMyke, 2007). There is some confusion in the literature concerning what the use of "embalming fluid" actually is. Although funeral homes report that there has been an increase in theft of actual embalming fluid, chemical tests on substances described by users as "wet" have revealed the presence of PCP rather than embalming fluid. Further confusion may arise because "embalming fluid" is a street name for PCP (Holland, Nelson, Ravikumar, & Elwood, 1998). Using "wet" was perceived by board members to be an indicator of more serious drug use than regular marijuana, reflecting academic observations that "embalming fluid" is a second-stage drug used after marijuana has served as a "gateway" drug

(Singer et al., 2005). Juveniles reported that using wet “makes you crazy,” “makes you psycho,” and the effects may last for days rather than hours. This view was supported by staff in the JJC Behavioral Management Unit (BMU), who reported that juveniles admitted under the influence of “wet” were often volatile and required close supervision.

When juveniles were asked about their substance misuse during their parole hearing the parole board members often asked them for specific information on the drugs used. Some parole board members would pepper their questions about marijuana use to terms such as “Piff,” “Kush,” “Haze,” and “Wet.” Similarly, if ecstasy use was discussed, juveniles would be asked whether they were “double-stacked,” or “triple-stacked” pills. The use of slang terms may have been a way for parole board members to facilitate conversation by communicating that they were “down with the kids.” The use of street slang may also serve to communicate to the juvenile that they “knew the scene” and therefore the juvenile should speak honestly about their use.

In the SAVRY risk assessment manual, substance-use-difficulties "refer to the use of alcohol, licit or illicit drugs, or inhalants that is sufficiently severe to cause problems in physical health or in one or more major areas of life functioning" (Borum, et al., 2006, p. 42). A juvenile is deemed as scoring low on substance-difficulties if he "has no current or past difficulties related to alcohol or drug use." A score of moderate is given when the youth "has not recently abused alcohol or drugs, but has a history of significant substance abuse problems (e.g., frequent substance abuse; substance dependence; substantial impairment in areas of social functioning, health, or serious criminal difficulties associated with substance use)," and when the youth "is using alcohol or drugs occasionally but is not experiencing adjustment problems as a result." A high risk score is given when a youth "is currently experiencing (or has recently experienced) serious difficulties related to alcohol or drug use (e.g., frequent substance abuse, occasional

substance abuse despite probation orders against it)." The manual also notes that "lesser degrees of substance use should be considered a risk factor if previous aggression had occurred while under the influence of drugs or alcohol" (p. 43).

The SAVRY item *substance-use-difficulties* is the only risk domain that asks assessors to consider the term "current." The manual makes it explicit that for incarcerated youth, a recent period of incarceration should be excluded. The following example is provided: "a juvenile who engages in daily drug use, but has not used for the past week because he or she has been in jail, would still be considered *currently* using" (Borum, et al., 2006, p. 18). It is unclear whether a juvenile spending a longer period of incarceration should also be deemed currently using, although the manual does suggest that "it is probably best to rate the item based on when the youth last had relative ease in being able to acquire drugs or alcohol (Borum, et al., 2006, p. 43). Of note is that the SAVRY manual does not provide guidance for assessors concerning what constitutes frequency of substance use, nor severity of criminal difficulties. Similarly, in relation to illicit drugs, the SAVRY manual does not distinguish between marijuana use and heroin or crack cocaine use.

Marijuana was the most common drug reported by the juveniles. Although concerns about future marijuana use were not a reason to deny parole, juveniles who smoked marijuana every day were considered a raised risk. One parole hearing team member explains:

(Marijuana use is) not to a reason to deny them parole, but it's a problem to be addressed if you're going to go out on parole, you can't smoke, you can't smoke marijuana every day. These kids who smoke and drink every day, they're not doing a hell of a lot more, they are not going to school, they are not working, and they're getting the money to buy their marijuana and their alcohol by selling drugs. A lot of these kids don't sell marijuana to make money, they sell heroin or they sell coke, and then they smoke marijuana, and they're breaking into cars, breaking into houses, to get money to buy alcohol. Let's face it. If you are sitting drinking and smoking all day and your 15 or 16 years old, those years can't be recaptured. I mean you are supposed to be in school learning, and you are not

doing that. And then for some of these kids unfortunately it becomes a lifestyle issue, and then it's just a lifelong cycle. Yeah unless those issues are addressed they are certainly less parolable.

For the parole board members, substance misuse was not simply the use of illicit substances, but instead was just one factor among a series of factors that indicated that the juvenile was immersed in a negative lifestyle. The “lifestyle” included dealing crack cocaine and heroin, smoking marijuana, robbing people, stealing cars, thieving, using guns, and being a gang member. A “negative lifestyle” was often seen as arising from a lack of structure and support. As one parole hearing team member explains:

A lot of these kids are coming from very unstructured environments, single family homes at best, these kids are roaming the streets day and night, y'know, no supervision, doing drugs...

The parole board acknowledged that the perceived lack of structure and support in the community may encourage reluctance to release a juvenile early on parole. As one parole board team member describes such a dilemma of structure:

Like if the kids doing well, like if he's doing really well you are almost hesitant to put him back in the community because this is the only structure he has. I mean he has a bed to sleep in every night, he's going to get fed three times a day, you're putting him back in Camden or Newark - no mother, no father, the only relative moves, you can't even keep track of their relative because the relative moves every three weeks, and they have their own substance abuse issues, they have their own criminal issues, I mean you're basically putting a kid back who's sort of stabilized, and you're just throwing him right back into like a terrible situation.

Although most members of the parole hearing team considered that many juveniles lived “unstructured” lives in the community, one team member acknowledged that what appeared unstructured was, in fact, highly structured:

They know education is important, but this is how they see it, so here's my mom, only has a high school diploma, she has a nice...she has a job, she's not making much money, she can't give me much money, but she's telling me to go to school. Okay, I go to school,

here's my teacher, who's getting frustrated every day, who's getting into arguments and fights with the kids, saying go to school get a good job. And here's again, Joe Blow on the corner, saying you don't need a education, you don't need school, you can make more money than all of them anyway. And then the kid's like confused, so they say, hmm why go to school? School's challenging! School's gonna push you, so they say I'd rather use my hands, and my little streetwise, instead of pushing myself to learn the school stuff (chuckles).

The draw of a negative lifestyle is interpreted as the result of a highly structured rational choice decision. Many members of the parole hearing team discussed the high monetary rewards associated with a negative lifestyle. One parole board member imagines:

They must be making \$1,000 dollars a day. \$1,000 dollars a day, times seven days, times four weeks a month. Tax free! I'm in the wrong business!

When asked about how much money they made from drug dealing each day juveniles estimated that their daily takings were between \$1,000 and \$3,000 dollars. Certainly, the perception that a 'negative lifestyle' offers so much monetary reward could be an important driver. In their analysis of the reported earnings of drug dealing gang members, Levitt and Venkatesh (2000) found that the "footsoldiers" earned between \$2.50 and \$7.10 per hour (1995 prices), depending on years of "service," and the average wage was considerably less than the federally mandated minimum wage. Reports from the New Jersey juveniles that they earned up to \$3,000 per day could be either blatant exaggerations, or because they were counting the money they held in their pockets. The amount of money reflects the costs tied up in the product, and therefore included their suppliers' direct costs. The sense engendered through having a large roll of bills in one's pocket may indeed be alluring, even if the money is not actually theirs.

The "draw" of a negative lifestyle and its subsequent relationship with delinquency, although somewhat tautological, was commonplace among the parole board. There was recognition that a "negative lifestyle" was an understandable response to a lack of positive

opportunities in fragmented and dysfunctional communities. A “there but for the grace of God” belief was often acknowledged. As one parole hearing team member reflects:

I think that if you even plucked us out of here and put us in that environment, it would be a challenge for us to as people that are responsible, and have a job and are law abiding, and you place us in that environment, I almost think, you know, sometimes we're setting the kids up, by putting back, them back in that environment, because how can they escape out of it? They have so many challenges...

The "environment" appears to encompass both home circumstances and the neighborhood milieu. A number of SAVRY items address home circumstances, including: *childhood history of maltreatment, exposure to violence in the home, early caregiver disruption, poor parental management, and parental/caregiver criminality.* Witnessing chronic physical aggression, experiencing physical abuse or chronic or severe maltreatment as a child, and undergoing significant discontinuity of care is suggestive of a high risk of violence in the first three items. In relation to parental management, youths should be considered to be at a high risk of violence if they receive "discipline that is either extremely inconsistent or consistently overly strict or overly permissive" (Borum, et al., 2006, p. 37). A high rating for parental/caregiver criminality is recommended when the youth's parent or primary caregiver has a history of frequent (i.e., five or more) minor or any serious criminal behavior as an adult.

The neighborhood milieu of the juvenile is assessed in the SAVRY factors *peer delinquency, peer rejection, lack of personal/ social support, and community disorganization.*

Peer delinquency receives a high score if the juvenile "frequently associates with other delinquents or criminals, including other youth who regularly engage in antisocial acts, and/or (the) youth is involved with gang activities or is a gang member" (Borum, et al., 2006, p. 33).

The view that being involved in gang activities and being a gang member should be considered

at a similar risk severity corresponds with Juvenile Justice Commission training. As one superintendent noted:

[The juvenile will say] I'm not a gang member. Oh, but I hang with my boys. And, you know, we've been trained that, wannabes are gonnabes, you know what I mean? So, if I'm just hanging with you, I'm saying that I'm not really down with what you do, but I'm there with you. You gonna want to be one of them after a while.

The SAVRY provides some examples of "peer rejection," including frequent teasing, having no or few friends, and being "bullied, overtly ostracized, or chronically marginalized and disliked" (Borum, et al., 2006, p. 34). "Significant" peer rejection either currently or formerly may lead to a high risk rating. Juveniles may receive a high rating for "lack of personal/ social support" if they have "few or no family, caregivers, and/or adults who are capable, available, and/or willing to offer emotional support and helpful guidance" (Borum, et al., 2006, p. 38). Although all categories in the SAVRY are subjectively interpreted by the assessor, the factor "community disorganization" appeared to be most prone to discrepancies. The SAVRY manual suggests that a high risk rating should be considered if the juvenile "lives in a community with significant problems relating to high rates of crime, poverty, and/or violence" (Borum, et al., 2006, p. 39). In the case file analysis, it was apparent that juveniles living in the same area, and in some cases on the same block would be variously described as low, moderate, and high risk in relation to community disorganization.

Both the parole board and Juvenile Justice Commission staff perceived the juveniles as largely coming from and returning to risky, violent, and fractured communities. Although the juveniles acknowledged needing to avoid negative people, places, and things during their parole hearings, many offered a different perspective of their home community during my conversations and interviews with them. One juvenile's eyes shone when I told him that I was visiting his home town of Camden the following week, and he urged me to visit the park near his

former school. Such warmth for his neighborhood may certainly be shaped by his experience of incarceration. Memories of happier events and places may help the imprisoned to overcome "distance, deprivations, and dangers" (Lombroso, 1911, p. 61). The juvenile's fondness for the park, however, was palpable. It was clear that the juvenile was not viewing his home neighborhood through rosy-colored spectacles, as he followed his recommendation of his local park with a warning to me to avoid particular streets and intersections.

The parole team staff acknowledged that juveniles face tremendous challenges in their home environment. This appreciation at times contradicted the paradigm of "responsibilization" in juvenile justice. The tension between environmental pressures and responsibilization is highlighted by a parole hearing team member:

How much can you hold these kids responsible and accountable, especially when they are under 18? We say there are environmental problems, and poor parenting, but we're still holding them accountable. It seems so unclear.

Despite the murky complexity of crime causation and individual responsibility, the parole board members took their decision to parole seriously. This was evident when paroled juveniles reoffended and were returned to custody. When this occurred, the parole board members would reexamine the juvenile's case file and scrutinize the parole decision they had made. Such practice may help to minimize the feedback sanction heuristic, whereby a long period of time elapses before feedback is received. Such a process, however, may encourage parole board members to be more cautious in their future decision-making, given that it is the decision failures that are reexamined, and not the instances of successful decision-making.

Parole board decision-making involves the rapid assessment of a myriad of risk information, including the juvenile's current and previous offenses, drug and alcohol use, gang involvement, gun use, institutional infractions, thinking skills, insight into offending behavior,

and the availability of family and community supports. Rather than being overwhelmed by such a deluge of information, the parole board must chart a course through these risk “factors” in order to reach a decision of whether to grant early release on parole, or recommend that the juvenile “maxes out” on their sentence. Does the adoption of a risk assessment instrument into the parole decision process serve to concretize risk factors into an ensnaring labyrinth of risk, and is the labyrinth of risk metaphor useful for our understanding? It is to these questions that we will now turn.

## CHAPTER 6

### THE LABYRINTHS OF RISK

"Here I am, I stand ready. Call me whenever you desire, wherever you desire, however you desire. I will go wherever you order and will do whatever you command. Only may your good Spirit guide me and lead me through the snares of the world as on level ground, and may your mercy accompany me on my way. Lead me through this mournful darkness of the world to the eternal light."

(Comenius, 1623, p. 225)

#### Use of metaphor

In the *Canadian Journal of Criminology*, George Rigakos (1999) explores the symbolic dimensions of risk:

Risk also becomes symbolic. In the first instance, persons are forced to negotiate a labyrinth of risk ratings tied to their biographies, and in the second because risks, in and of themselves, tend to be replicating and infinite. Central to risk society theory is its perpetually escalating character. Beck (1992) argues that for every advance in production technology a new and unforeseen risk to the environment ensues, creating the drive for the increased scientisation of production. Since risks are 'a bottomless barrel of demands,' this process regenerates continuously. (p. 140)

The *labyrinth of risk* metaphor Rigakos uses has considerable power, evoking images of juveniles forced to wander aimlessly in a confusing dungeon of despair, with little hope of finding the exit. The labyrinth built on risk ratings appears, however, not to be a fixed structure, but rather is a continually shifting, replicating and regenerating mass. The task of navigating such a labyrinth is rendered even more difficult, as the labyrinth itself is perpetually shifting.

Metaphors have the potential to enrich our understanding of phenomenon, enabling us to challenge old perceptions (Carpenter, 2008), and gain coherence during the analysis stage (Sandelowski, 1998). Metaphors, however, must be used with considerable caution. Carpenter (2008) outlines five possible pitfalls of metaphor use: 1) mixing conflicting metaphors; 2) not

following through with metaphors; 3) using metaphors that do not fit the data; 4) trivializing data with metaphors; and 5) misinterpreting metaphors.

The first pitfall, mixing conflicting metaphors, occurs when the researcher may draw on two seemingly contradictory metaphors when analyzing data. In relation to our labyrinth of risk metaphor we have avoided this pitfall by focusing on one metaphor alone.

The second pitfall, not following through with metaphors, occurs when the researcher does not fully examine the implications and associations of the metaphor, thus the use of metaphor becomes superfluous. Careful and thorough examination of the risk labyrinth metaphor therefore appears critical.

The third pitfall, using metaphors that do not fit the data, often occurs when the researcher develops a metaphor too early in the analysis. Carpenter (2008) warns that this may “lead to researcher complacency and a tendency to project the metaphors onto the data or to manipulate the data to fit the metaphors” (p. 280). Carpenter suggests that the researcher may choose a metaphor early-on which reflects his or her own biases and assumptions, thus the metaphor shapes the analysis of the data, rather than it emerging from the data. The labyrinth of risk metaphor was identified early on in the current study, and therefore there is a danger that the metaphor is projected onto the analysis. However, given that the labyrinth of risk metaphor is central to the underpinning subsidiary qualitative research questions, (How do juveniles experience labyrinths of risk, and what is the nature of risk labyrinths?) this danger is somewhat mitigated. By using a metaphor in the research questions, a critical stance can be taken concerning the applicability of the risk labyrinth metaphor, enriching rather than disabling the reflective analytic process. Analysis could render the metaphor wholly inapplicable, or alternatively the metaphor may enable a more nuanced understanding. Carpenter (2008) suggests

that the researcher should examine the “bracketing biases and motivations” (p. 281) for using a specific metaphor to ensure that the data is faithfully re-presented.

I chose the labyrinth of risk metaphor after noting it in Rigakos’s original article. I felt that the metaphor suggested an important and little explored experience of risk – that offenders may become “ensnared” within a risk assessment framework, often with little hope of eventual release. This emerged from my work managing an *Approved Premises Hostel* for the probation service, in Cardiff, South Wales. The hostel provided residential accommodation for offenders being released from prison who were assessed as posing either a high or very high risk of harm to the community. Many residents desired to return to their respective communities, however the speed and ease of their community reintegration was largely determined by their risk level. Residents talked of being able to return to their families once their risk level reduced, however reducing such a risk level was often regarded as being beyond their control. As staff we would often seize everyday reactions and interactions as possible indicators of increasing risk. I also discussed with frustrated residents the seemingly changing goal posts ensuing from risk assessment. Residents were told that completing a program may reduce the risk they pose, however once the program was completed a further program, variously described as an “enhanced program,” “booster,” or “program plus” would be required. For some residents their offenses would be considered to be so numerous, or so heinous, or their denial so intractable, or their victims regarded as so young, that their eventual reintegration would be almost unimaginable. Efforts to “risk manage” the reintegration of high risk residents through a multi-agency approach, involving the local police, housing officials, social services, and other agencies was a slow and difficult process. Resettlement plans to return a high risk offender back to a high risk offender to a specific community would often be refused because of the proximity of the

address to neighboring children, bus stops, parks, or schools. Other plans would be placed on indefinite hold until a further assessment or program was completed, or simply because the offender gave staff the “hibbie-gibbies.” The hostel residents appeared to be ensnared in labyrinths of risk that were tied to their offending biographies.

There is certainly a danger that given the seeming pertinence of the labyrinth of risk metaphor to my previous work experiences, I projected the metaphor onto the data, contorting meaning to fit the metaphor. Extensive memoing concerning my previous experiences of risk was helpful in an attempt to “bracket” my experiences. A critical component of phenomenological research, “bracketing” derives from Husserl’s (1931) concept of *epoche*, through which researchers “set aside their experiences...to take a fresh perspective toward the phenomenon under investigation” (Creswell, 2007, pp. 59-60). Although complete “bracketing-out” is perhaps impossible as all perceptions are derived from perspectives (Fischer, 2009), an ongoing process of memoing afforded me the opportunity to reflect on the perspectives I bring, and reexamine the data in light of my perspectives.

Studying risk perceptions in a different country from where my experiences arose also provided me with a degree of distance from my UK experiences. My previous experiences of risk assessment instruments emerged after the probation service in England and Wales had undergone a considerable risk re-orientation endeavor. The introduction of the Offender Assessment System (OASys), a lengthy risk assessment document, placed risk assessment and protection of the public center stage in probation work. The introduction of the SAVRY risk assessment instrument in New Jersey emerged within a very different political and organizational context. This contextual difference helped me to distance myself from my experiences allowing me to perceive the data freshly, “as if for the first time” (Moustakas, 1994, p. 34). Finally,

applying a mixed methods approach further encouraged me to take a critical stance towards the risk labyrinth metaphor, instigating critical reflection as I sought to synthesize two distinct research methods.

The fourth pitfall, using metaphors to trivialize data, refers to the oversimplification of complex phenomena. Carpenter (2008) warns that “clichés or emotionally charged metaphors may obscure the true meanings of phenomena, revealing more about the researcher’s attachment to the metaphors than the data” (p. 280). A careful examination of the risk labyrinth metaphor is clearly required to ensure that the metaphor does not mask the complexity of risk experiences. Integrating the risk labyrinth metaphor into the subsidiary research questions may encourage a position of skepticism rather than attachment to the metaphor.

The final pitfall, misinterpreting the data, refers to varying cultural interpretations of metaphors. Certainly, metaphors are “culture-specific” (Carpenter, 2008, p. 281), and may be interpreted differently by people in differing times and places. We need to be careful, however, of assuming that cultural similarities necessarily lead to homogeneity in metaphoric interpretation. After presentations using the risk labyrinth metaphor, I have observed senior scholars from similar cultures grappling with the risk labyrinth metaphor, discussing its merits and applicability to the topic. Metaphors can and do take on a life of their own through others’ interpretations, and the ensuing interpretations bring another layer of richness to academic work.

### **The labyrinth**

The labyrinth is an important symbol in Western culture, and today evokes ambiguous images of ensnarement, isolation, and hopelessness, as well as rebirth, courage and hope. The Eastern equivalent, as Jaskolski (1997) notes, is perhaps the sacred symbol of the mandala (see

fig. 6.1), a circular symbol used in meditation and healing to represent the creator and viewer's absorption with a sacred center (Cornell, 2006). As Cornell describes, the mandala is

a symbolic pattern of light or sound, reflecting the evolution of the universe and the supreme blissful realization of the soul or higher-Self within the human body/ mind – remembering an experiencing itself as a spark of the original pure clear light of consciousness (p. 14).

**Fig. 6.1:** Mahāvairocana Mandala - Tibet, 19th Century




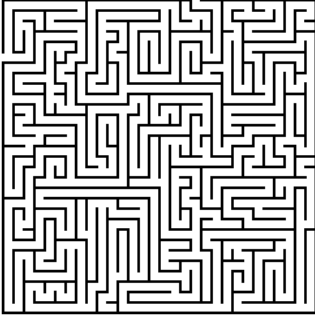

SOURCE: <http://www.flickr.com/photos/centralasian/5544337049/> (creative-commons licensed content)

Representing “the whole universe in its essential plan, in its process of emanation and reabsorption” (Tucci, 2001, p. 23), the mandala is often used as both a vehicle for meditation and a therapeutic tool (see Curry & Kasser, 2005; Smitheman-Brown & Church, 1996). Indeed Carl Jung (1989) recognized the importance of the mandala in his own psychotherapy. Jung reveals: “It became increasingly plain to me that the mandala is the center. It is the exponent of all paths. It is the path to the center, to individuation” (p. 196). Whereas the mandala is a symbol of

completeness and spiritual enlightenment, the Western labyrinth, is often suggestive of “a difficult, confusing situation of which no overview is possible” (Jaskolski, 1997, p. 5).

Umberto Eco (1983) identifies three labyrinthine forms, the Greek (or Minoan) classical labyrinth, the contemporary mannerist maze, and the postmodern “net” or rhizome labyrinth. The significant attributes of each of Eco’s labyrinths can be seen in table 6.1 (below). The classical labyrinth is unicursal, having one single circular path leading to the center, and out again. Navigating such a labyrinth is certainly a difficult and confusing endeavor, and may take a considerable amount of time; however escape is likely if the venturer doggedly persists. The mannerist maze, or contemporary labyrinth, is multicursal, consisting of several paths with multiple dead ends. Escape from a maze is perhaps less certain than escape from a classical labyrinth, and although escape is a possibility, luck appears to play an important role. The postmodern net labyrinth is a more complex and all-encompassing affair. Eco (1983) describes the net labyrinth being as being “so constructed that every path can be connected with every other one. It has no center, no periphery, no exit, because it is potentially infinite” (p. 57). Escape from the replicating and infinite postmodern net(work) labyrinth is, of course, impossible. Such an all-encompassing structure is reminiscent of the labyrinth envisioned by Argentinian writer Jorge Luis Borges (1964), who in his short story *The Garden of Forking Paths* imagines a "labyrinth of labyrinths, of one sinuous spreading labyrinth that would encompass the past and the future, and in some way involve the stars" (p. 23).

**Table 6.1:** Description of Eco's (1983) three labyrinthine forms

	Classical (Greek) labyrinth	Mannerist maze	Postmodern labyrinth
			
Entrances	One	Many	None
Exits	One	Many	None
Center	Yes	Sometimes	Never
Type of path	Unicursal	Multicursal	All paths interconnected
When unfolded it looks like...	A single line (the thread of Ariadne)	Branches on a tree	Cannot be coherently unfolded

The classical labyrinth is perhaps most closely associated with the stories of Daedalus and Icarus and Theseus and the Minotaur, from Greek mythology. Homer, and Ovid, writing in the eighth century BC, and Plutarch, writing in 75 AD, mention these labyrinthine myths. For a summary of the interlocking myths of Daedalus, Icarus, Theseus and the Minotaur see the story outlined in Fig. 6.2.

**Fig. 6.2:** The myths of Daedulus, Icarus, Theseus and the Minotaur

King Minos of Crete, seeking justification for his ascension to the throne, prayed to Poseidon the god of the Oceans, for a sign, whereupon Poseidon sent a great white bull. King Minos thought about sacrificing the bull in honor of Poseidon, but instead decided to keep the bull, and sacrifice another bull instead. This annoyed Poseidon so much that he cursed King Minos's wife Pasiphaë, the daughter of the sun god Helios and the moon god Perseis, so that she fell madly in love with the great white bull. Desiring to have intercourse with the bull Pasiphaë asked Daedulus, the craftsman, to construct a wooden bull for her to hide in. She then hid in the wooden bull, and copulated with the great white bull.

As a result of her union Pasiphaë gave birth to a half-man half-bull monstrosity, the Minotaur. Daedulus then constructed a labyrinthine structure to hide the Minotaur. To punish Daedulus for his role in the unsavory copulation King Minos then placed Daedulus and his son Icarus in the labyrinth, along with the Minotaur. Cunning craftsman that he was, Daedulus constructed wings and made his escape by flying out of the labyrinth. Daedulus warned his son not fly too close to the sun or sea, and to follow his path, however Icarus, excited by his ability to fly flew too close to the sun. The sun melted the wax holding his wings together, and he plummeted to his death in the sea.

After King Minos defeated the Athenians he demanded a tribute. Every three years the Athenians were required to feed seven boys and seven girls to the Minotaur. Theseus, son of the Athenian King Aegeus volunteered to be one of the youths sent to the Minotaur. Theseus had already demonstrated his strength and courage by capturing the Marathonian Bull. Theseus advised his father that if he was successful he would raise white sails as he approached home.

**Fig. 6.2 (cont'd.):** The myths of Daedulus, Icarus, Theseus and the Minotaur

When Theseus arrived at the labyrinth he fell in love with King Minos's daughter Ariadne. Ariadne told Theseus to use a ball of string as his guide when he entered the labyrinth, so that he could find his way out again. Theseus journeyed to the very center of the labyrinth and killed the Minotaur.

After exiting the labyrinth Theseus flees with Ariadne and the youths. They sleep on the beach, planning to set sail for Athens in the morning. Theseus, however, is woken early by Athena, the goddess of wisdom, who tells him he must set sail immediately, leaving Ariadne and the youths behind. Upset that he was separated from Ariadne, Theseus forgot to raise the white sails. His father grief-stricken when he saw the approaching black sails committed suicide.

### **Labyrinthine journeys**

Myths are real, as Bidney (1955) suggests, to the extent that they speak to our own subjective psychological truths. Myths are certainly a means to structuring our realities and expressing paradoxical human concerns (Levy, 1981) When we read the stories of Daedulus, Icarus, Theseus and the Minotaur, we may be struck by the foolhardiness of King Minos, the foolishness of Icarus, or the courageousness of Theseus. Jaskolski (1997) suggests that these protagonists are "masks of persons" (p. 10), reflections of an understanding of ourselves. The labyrinth dominates the background of these understandings, exuding ambiguous symbolic meanings. Jaskolski suggests that the labyrinth "is a symbol of the path we have to travel, but this can be a path leading either to well-being or misfortune" (p. 12). Paradoxically, although the labyrinth was built to ensnare the Minotaur, it becomes a means of journeying. Having visited

public labyrinths while writing this dissertation in San Francisco (Grace Cathedral labyrinth), Toronto (Toronto Public Labyrinth, Trinity Square Park), and Connecticut (King Street Church), I was cognizant that a labyrinthine layout encouraged movement and participation. Visitors would carefully following the winding path to the center, and then pause before retracing their steps out of the labyrinth.

The labyrinth as a journey has a long history. In the middle ages, labyrinths were constructed in cathedrals as an alternative to the dangerous pilgrimage to Jerusalem, and may also have served as a symbolic representation of traveling the road of life, with death in the center and the exit as resurrection (Hopthrow, 2010; Ulliyatt, 2010). Certainly the religious signification of labyrinths cannot be ignored. The Rev. Dr. Lauren Artress observes the spiritual significance of labyrinths:

Labyrinths are divine imprints. They are universal patterns most likely created in the realm of the collective unconscious, birthed through the human psyche and passed down through the ages (Artress, 2006).

In his satirical allegory, *The labyrinth of the world and paradise of the heart*, the Moravian writer John Amos Comenius (1623), portrays the world as a labyrinthine city, through which his pilgrim, accompanied by two guides, Searchall Ubiquitous and Delusion, must navigate. Delusion forces the pilgrim to wear a bridle “stitched together out of straps of curiosity” (p. 66), and spectacles “fashioned out of the glass of presumption,” and frames “made of horn called habit” (pp. 66-67). During his journey through the labyrinth the pilgrim meets philosophers, alchemists, doctors, lawyers, academics, priests, soldiers, hedonists, and the Queen of the world (wisdom), however finds nothing but meaninglessness, and death. He finally cries:

Oh woe is me! Will I ever find satisfaction in this wretched world? For everything is full of futility and anxiety! (Comenius, 1623, p. 163).

When the pilgrim reaches the center of the labyrinth, however, he finds not a Minotaur, but instead finds God:

Then behold, a bright light burst forth from above. Raising my eyes toward it, I saw the upper window full of brilliance, out of which a man came down to me. In form, indeed, he was similar to us people, but in his splendor he was truly God. Although his face shone greatly, yet it could be looked upon with human eyes; nor did it inspire terror, but radiated loveliness such as I have never seen anywhere in the world

(Comenius, 1623, p. 188).

In his later work *Unum Necessarium: The one thing necessary*, Comenius (1668) describes the world as “a place full of perplexing labyrinths” (p. 29), “broken and lacerated by a thousand thousand intersections!” (p. 24). For Comenius, diverse languages, wars, vanity and excess, academia, the practice of law, commerce, government, and religious councils and synods are all worldly labyrinths “so that wherever you turn you come into many kinds of thoughts, speech, actions, deeds, doubts, and failures” (p. 29). If you wish to successfully negotiate the multitude of worldly labyrinths Comenius suggests that we need to follow “the thread of simplicity” (p. 35), provided by Christ’s teachings. For Comenius (1623, 1668), the journey through the perplexing labyrinth of the world is a single, straightforward path, as long as we hold Christ’s teachings in our hearts.

After the initial decision to enter a labyrinth is made, the traveler follows a single winding path to the center. Ulyyat observes that the center of the labyrinth could be construed as both the halfway point, and the ultimate destination. Certainly, when I walk a labyrinth, the journey to the center appears more interesting than the journey retracing my steps. The journey to the center appears to be one of muted expectation, because I know that by following the path I will reach the center. When I reach the center I experience a feeling of reflective emptiness. It is an experience marked by both arrival and disappointment. I feel disappointed, perhaps, because the searched for Minotaur is never there. Hophthrow (2010) suggests that walking a labyrinth

involves three distinct phases: the walk to the center, arrival at the center, and the walk out again. She draws upon Artress's (2006) observation that the pilgrimage of the labyrinth involves a process of *Via Negativa* (emptying), *Via Creativa* (receiving the creative spirit), and *Via Transformativa* (having been transformed the transformed person returns to the outside world to transform it). The labyrinth provides the setting for the symbolic process of "Releasing, Receiving, and Returning" (Hopthrow, 2010, p. 59), and becomes a vehicle for spiritual transformation. Disappointments aside, when walking a labyrinth I do feel a small sense of peace and security. Perhaps the security comes from knowing and trusting the labyrinthine design. I know I will reach the center, as long as I stick to the winding path. Compare such tranquility with Ulyyat's description of maze-walking:

Once over the threshold...one is confronted with a choice of pathways, each choice laden with its own particular consequences, whether for facilitating progress toward the centre or for obstructing one's progress there. An initial correct choice may be followed by one or more incorrect decisions and vice-versa, neither with any sense of predictability. Maze-walking produces an erratic combination of movement and stasis as well as of uncertainty regarding one's position within the space of the maze itself and in relation to the centre. And there is no assurance that the centre will be reached  
(Ulyyat, 2010, pp. 90-91).

### **Labyrinths of risk**

Although contemporary labyrinth walkers may find spiritual symbolism and enrichment through their journey, the labyrinth is also a place of imprisonment and despair. Jaskolski (1997) playfully notes Burton's (Burton, 1652/2009) description of the labyrinthine world in his

*Anatomy of Melancholy*:

We lead a contentious, discontent tumultuous, melancholy, miserable life; insomuch, that if we could foretell what was to come, and it put to our choice, we should rather refuse than accept this painful life. In a word, the world itself is a maze, a labyrinth of errors, a desert, a wilderness, a den of thieves, cheaters, &c., full of filthy puddles, horrid rocks,

precipitiums, an ocean of adversity, an heavy yoke, wherein infirmities and calamities overtake. (p. 236)

For Burton the labyrinth is a dark, painful, and dangerous place, rather than one of spiritual enlightenment and fulfillment. The journey to the center (and out again) becomes a heroic journey of Thesean proportions.

If the labyrinth is not a maze, but a singular circular path, why did the Minotaur not escape? One answer may be that the Minotaur was not privy to the labyrinth design, and so with every step he would be unsure how close he was to the center or exit. He remains ensnared by the labyrinth. For Theseus, Ariadne's thread provides the knowledge of the labyrinthine design, or as Comenius would suggest, for us the thread of simplicity is the Grand Design. The dank and dangerous labyrinth becomes the route for personal transformation. The Minotaur is only half-animal, half-human and so he is presumed not to be on such a path of transformation. Another interpretation is offered by Kern (2000), who suggests that the journey through the labyrinth is one which involves the death of the old person and rebirth of a new person. The Minotaur becomes a mirror-image of Theseus, who must be destroyed before he can emerge anew. Kern notes that in the center of labyrinth we are forced to do a 180° turn in order to retrace our steps. We must destroy ourselves before we can leave the labyrinth.

Rigakos's (1999) use of the *labyrinth of risk* metaphor seems wholly appropriate, when we consider incarcerated juveniles. During an adjudicated delinquent's disposition hearing a juvenile may be ordered to a period of incarceration if the court considers that the aggravating factors of their case outweigh the mitigating factors. The aggravating factors include: that the juvenile has committed an act in a heinous, cruel, or depraved manner; that grave and serious harm was inflicted on the victim; that the character and attitude of the juvenile indicates that s/he

is likely to commit a further delinquent or criminal act; that the juvenile has a prior record; and if the juvenile is deemed to pose a threat to the safety of the public (N.J.A.C. 2A:4A-44). Certainly, these aggravating “risk” factors could be regarded as a metaphorical labyrinth of risk that becomes physicalized through confinement engendered by incarceration. Risk plays a prominent role in the "inclusionist-exclusionist discourse" of contemporary criminal justice, which seeks to determine whom to include through rehabilitation and reintegration, and whom to exclude and isolate (Young, 1999, p. 45). Risk assessment defines which individuals must enter the metaphorical and physical labyrinth, and who shall remain at liberty. Risk may also determine who shall stay inside the labyrinth and who may exit.

The seemingly neutral and “scientific” language of risk “disguises the condemnatory pariahdom created by classifications” (Hudson, 2004, citing Douglas, 1966, p. 66). Young (2007) suggests that in response to humiliation and exclusion, people may “create a hardening of themselves” (p. 35). Edwin Lemert (1967) warned us of the progressive reciprocal relationship between primary deviance and societal reaction to the deviance, which may result in "secondary deviance." The ultimate irony of contemporary risk-focused juvenile justice here may be that the labyrinths of risk constructed by those seeking to help young people may serve to perpetuate deviance and undermine the public safety which the risk assessment originally sought to protect. Such a conceptualization is reminiscent of Frank Tannenbaum's (1951) observation that the enthusiasm of criminal justice professionals often defeats rehabilitative aims, as “the harder they work to reform the evil, the greater the evil grows under their hands” (p. 20).

Rigakos (1999) seems to be suggesting that the labyrinth of risk is all-encompassing. Risky activities become synonymous with the individual himself, and the juvenile inmate becomes regarded solely as the sum total of perceived aggregated risk factors. Such risk profiles

may be over-generalized, self-fulfilling and reductionist (Case, 2007), leading to the concretization of criminal "master statuses" (Becker, 1963). Homel (2005) warns that risk-driven criminal justice may "intensify state interference in the lives of the marginalized, pathologizing nonconforming young people through risk management and selective control strategies" (p. 2). Certainly, Foucault (1980) reminds us that institutional players produce discourses, often driven by scientific statements, that create the very objects they propose to regulate (p. 112). The labyrinth of risk ensnares selected individuals both physically and metaphorically.

It is unclear from Rigakos's original use of the labyrinth metaphor which labyrinthine design he is referring to. That offenders are "forced to negotiate a labyrinth of risk tied to their biographies" (p. 140) could be suggestive of a maze-like structure, with juveniles continually negotiating dead ends, retracing their steps, finding their hopes for escape thwarted. Similarly, Rigakos could be referring to a postmodern net labyrinth. Certainly, his observation that risks are a continually escalating "bottomless barrel of demands" (p. 140) does seem suggestive of a recursive and reflexive labyrinthine structure, from which there is no escape. Can the classical labyrinthine structure also be applied to committed juveniles? Is the labyrinthine path not one of dead-ends and blind turns, but a unicursal path to transformation and reformation? The juvenile justice system has its roots in the efforts of the early "child-savers" (Platt, 1977). Platt, citing Enoch Wines (1879), notes that children's reformatories would help to protect children from "a catalogue of exposures, temptations, and perils" (p. 53), and suggests that such a juvenile justice system was based on the assumption that "proper training can counteract the impositions of poor family life, a corrupt environment and poverty, while at the same time toughening and preparing delinquents for the struggle ahead" (p. 53). Ideas of transformation also permeate the early prison

reformers in the United Kingdom. After visiting prisons and jails in Scotland and the North of England, in 1818, accompanied by the prison reformer Elizabeth Fry, John Gurney notes that prisons should “be rendered schools of industry and virtue, instead of the very nurseries of crime” (Gurney, 1819, p. iv). Interestingly, Gurney observes:

(T)hat jails, on the one hand, which are conducted on bad principles, crime and misery are produced and multiplied; and on the other hand, that prisons in which prisoners are classified, inspected, instructed, and employed, have a powerful tendency to that, by which crime and misery will certainly be lessened, viz. the reformation of criminals.  
(pp. iv-v)

If traditional ideas of reformation and transformation still persist in the institutional memory of the juvenile and criminal justice system, the classical labyrinthine structure does appear to be applicable.

### **Labyrinths as transformation**

Rather than viewing correctional risk discourse as a wholly negative phenomenon, Hannah-Moffat (2005) suggests that the incorporation of risk into correctional work may have positive ramifications for penal narratives. She suggests that dynamic risk knowledge encourages a focus on the meeting of needs, thus an offender becomes a "transformative risk subject," rather than a static risk subject (p. 42). The identification of dynamic risk factors provides an opportunity for the juvenile to receive treatment, become "rehabilitated," and achieve "ethical reconstruction" (Rose, 2000). Although such rehabilitation is often framed within a discourse of "responsibilization" (Gray, 2009; O'Malley, 2004), such "new rehabilitationism" (Hannah-Moffat, 2005, p. 44) dramatically changes the function and purpose of the risk labyrinth. Rather than the juvenile being the shameful Minotaur hidden from public view, the juvenile becomes more akin to Theseus, navigating the winding path to find and slay the monstrous beast.

Theseus' journey to the centre of the labyrinth is a quest for self-knowledge, and his slaying of the Minotaur the necessary exorcism of a juvenile and negative version of himself. As Jaskolski (1997) explains, facing and killing the Minotaur is a personal victory, and a turning point in Theseus' personal rehabilitation:

He can now without danger turn his back on this terrifying-fascinating reflection of himself, and using the thread of Ariadne, follow the path to the outside, back into the everyday world, but newborn and transformed into a mature adult. (p. 58)

For some incarcerated young people the guidance offered by Ariadne's thread may come in the form of a loving family member, a positive mentor, or a supportive correctional officer. A case management approach to correctional work could also be seen as a form of Ariadne's thread, when supported by appropriate and timely programs and interventions. An incarcerated juveniles journey through the labyrinth may be purposeful, a task to be endured, rather than an arduous and difficult journey. For others, however, there may be no thread, or the thread provided is too short, and the labyrinth may take on almost mythic and all-encompassing proportions. To explore the classical labyrinth metaphor further, we will need to descend into the physical manifestation of the labyrinth of risk.

### **Outside the labyrinth**

The Juvenile Reception and Assessment Centre (JRAC) situated on the outskirts of the city of Bordentown, New Jersey, stands in the grounds of the Juvenile Medium Secure Unit (JMSF) (see Fig. 6.3). Although the two facilities merged during the study, at the time of my visits, JRAC was home to 144 juveniles aged 14 to 20 years committed to a period in "secure care" by the courts. The facility is fringed by a tall metal fence, topped with razor wire. The physical labyrinth is shut off from the outside world, ensuring that the shameful Minotaur is

hidden from public view. Ovid (1810) highlights the exclusionary nature of the labyrinth in

*Metamorphosis:*

When Minos, willing to conceal the shame  
That sprung from the reports of tatling Fame,  
Resolves a dark inclosure to provide,  
And, far from sight, the two-form'd creature hide. (p. 490)

The isolation juveniles experience was emphasized in an “autobiographical essay a juvenile submitted for his English class:

You rarely get mail or visits, and barely any phone calls. There is very little contact with the outside. You can feel like nobody loves you or cares about you.

Similar feelings of isolation were experienced by one juvenile who had been waiting for a visit from his mother for the first four months of his commitment. He appeared excited that her visit had finally been “approved,” and that she was coming the following week.

The image that the juvenile facilities were cut off from the larger outside world was often evoked during parole hearings. During the hearings I observed that one parole board member twice used an analogy to suggest that the world was so much larger than where the juvenile was currently confined:

If you look out of that window you can only see a small piece of sky, but the sky is so much bigger than that (Juvenile nods in agreement). You have got to keep working at it.

The outside world, however, was often perceived as a threatening, dangerous place, and the inner facility a place of sanctuary and safety. The perception of communities as dangerous, or “toxic” posed particular problems for parole board members when considering parole. One parole hearing team member explains the dilemma:

If we send him right back to the same house, or the same projects, he's gonna be around the same people, and sometimes his Dad or his Mom or his brothers are the gang members, so like okay, what are we doing? This is a good kid who is rehabilitated, but he's only gonna stay good for a couple of months.

**Fig. 6.3:** Entrance to the JMSF facility, Bordentown, New Jersey



Another parole hearing team member suggests that incarceration is sometimes a better alternative to freedom for some juveniles:

I mean like if the kid's doing well, like if he's really doing well you are almost hesitant to put him back in the community because this is the only structure he has. I mean, he has a bed to sleep in every night, he's gonna get fed 3 times a day. You're putting him back to Camden, or Newark - no mother, no father, the only relative moves, you can't keep track of their relative because the relative moves every 3 weeks, and they have their own substance abuse issues, they have their own criminal issues. I mean, you're basically putting a kid who's sort of stabilized, and you're just throwing him right back into like a terrible situation.

The labyrinth here takes on uterine qualities, existing both as a prison and a place of shelter, a protective cave like a “uterus drawn out long, seven times convoluted” (Jaskolski, 1997, p. 45).

Developing a similar theme of a dangerous world external to the labyrinth, a parole employee suggests that the risk is located within the community:

What do we do by sending these kids right back to where they came from? We're setting them up for failure, because what we're doing is we're shipping them back to the very environment that landed them where they are.

Pessimism concerning communities appeared to emanate from a sense that greater community disconnection was leading to the erosion of traditional social controls. As one parole employee reflects:

I wasn't around in the 60's and 70's, but like the police officers used to walk the beat, y'know, my grandfather would say I knew the officers on my beats first names, I knew their families. So if my son or daughter is gonna act up, it was a phone call or they would bring them in, you had that community connection.

Given that incarcerated populations are largely drawn from a small number of disadvantaged geographically-bounded, African-American and Hispanic communities (Clear, 2007; Clear & Cadora, 2001; Clear & Rose, 2003; Lynch & Sabol, 2004), the community itself is often perceived as "risky," and parole is refused because a juvenile intends to return to a particular vilified neighborhood. Such essentialization is problematic, as it risks ignoring both the structural oppression facing communities, as well as their inherent strengths. The discrediting of adults within neighborhoods, and the construction of entire communities as "risky" or dangerous also serves to reinforce and justify the power wielded by the parole board. In the face of risky communities, the parole board may feel ever-more entitled to act in *loco parentis*, to control, discipline, and manage the juveniles in their charge (see: Geronimus & Thompson, 2004). Such fear of disadvantaged communities pervaded everyday work routines. After making the 20-minute walk from a train station to a parole office, I was greeted with concern and incredulity: "Why did you walk through there? We wouldn't even drive through there!"

## **Inside the labyrinth**

Access for visitors to JMSF is gained by ringing an intercom system placed at waist height. Signs tied to the perimeter fence dictate that inmates are to be "unloaded" at the rear of the facility. I stoop to hear any potential questions via the intercom, and the door in the fence clicks, and then glides open. Across a small court yard the only door is slightly ajar, belying the tight security of the facility. The doorway opens to a benched waiting area. A correctional officer in a law enforcement-inspired uniform of starched blue shirt sewn with blue and gold badges stands beside a walk-through metal detector. After a secondary check with a metal detecting wand, I am ushered past the "housing pods" where Black and Hispanic teenagers in beige-colored jumpsuits can be seen through large Perspex windows, lounging on chairs watching a television mounted high on the wall. Further down the corridor are a number of classrooms equipped with chalk boards, maps of the world, and posters illustrating the timeline of the American constitution. One classroom has rows of computers. The shine from their large monitors suggests that they are either new arrivals, or subject to regular, methodical cleaning. A juvenile sits alone hunched over a keyboard.

Of course, each juvenile facility in New Jersey has its own distinct architectural design. "Community" programs have a more rustic feel, reminiscent of youth wilderness camps (see Fig. 6.4), with tired pine furniture and patterned cushioned couches in the main recreational and meeting areas. The dormitory style bedrooms are austere, with a bed and small locker for each juvenile. There are no drapes at the windows. Staff advises me that this is a suicide prevention measure.

**Fig. 6.4:** Main building of a community program, JJC, New Jersey



One assistant superintendent advised me that his facility looked more like a college campus than a juvenile prison (see figure 6.5), while the juveniles I spoke with vehemently disagreed. A juvenile succinctly explains "This is jail. They say it's a campus, but it's jail!"

Although juveniles felt that they were "being taught a lesson," the context they experienced was not conducive to the pleasant intellectual pursuits possible on a sheltered and secluded college campus. One juvenile describes what he has learned since his incarceration:

There are many lessons a person learns from being locked up. Jail is a nasty place to be at. Can you imagine being in a house with an estimate of 50 people? There is barely any room, everybody getting on your nerves, and there is no privacy. Also there is a lot of nasty stuff going on. People are always spitting all over. The windows and walls are full of dried-up saliva (Juvenile's autobiographical essay, 2009).

The image of hardened phlegm on windows was repeated to me by a number of juveniles. One juvenile exclaimed over lunch in the canteen:

It's disgusting! The walls are covered with dried up spit and ejaculate. You don't touch the walls (Fifteen-year-old juvenile, describing the New Jersey Training School).

The boys' claims that hardened bodily fluids mark the walls of cells were confirmed by one correctional officer, who advised me "that's what they're like, they have no respect." He indicated that it was futile attempting to clean it up, as more matter would soon return. The walls of the physical labyrinth are unpleasant, evocative of Burton's (Burton, 1652/2009) labyrinth of "filthy puddles" (p. 236).

**Fig. 6.5:** New Jersey Training School for Boys, Jamesburg, New Jersey



Although labyrinths are intrinsically about unidirectional movement, movement is considerably restricted for the incarcerated. Sykes (1958) comments that a prisoner's loss of liberty is a double one, "first by confinement to the institution, and second, by confinement within the institution" (p. 65). Even for juveniles confined to community programs, "in-sight supervision" reduces individual movement. As one social worker in a community program explains:

At all times we have in-sight supervision, so if you're moving like from the kitchen down the hallway to the lounge area, you have to, you know, ask permission, let them know,

staff have to watch you go there. So, you don't really get far out the door, you know, 'cause staff's always watching them.

### **Inside the parole hearing**

Six fluorescent bulbs in the ceiling overcompensate for the lack of natural light, and the whitewashed concrete block walls further provide no rest for the eyes. A wall-mounted fan noisily circulates warm air, making soft voices difficult to discern. A ceiling-mounted smoke alarm and a wall-mounted fire alarm are both caged in, perhaps a further reminder that the inhabitants cannot be trusted. A large chipboard table with wood-grain veneer dominates the room. Two parole board members sit behind the table, and a hearing officer sits at the side with a trolley piled high with files. The man's cane rests upright against the wall behind him. The parole board members face a large Perspex window, through which juveniles awaiting their hearing can be seen. The juveniles and parole board members are both watchers and watched, the juveniles observing a hearing without sound, and the parole board observing interactions without context. Inside the hearing room, the parole board members discuss whether an observed hand signal is a secret gang sign. Background noise, including slamming doors, footsteps, jangling keys, and brief raised voices are heard by both the parole board and the juveniles.

Juveniles are called in individually, either by a shout of their surname, or, at times, by a stab of an index finger in their direction, followed by the same finger being jerked toward the parole board member. Each juvenile in turn sits on the other side of the table, some slouching, others upright, a few staring with defiance. All have a plastic tag, similar to a hospital tag, tied to their left wrist. Most wear beige-colored jumpsuits, however those working in the kitchens arrive in white tunics, white trousers, and a hair net, while those residing in the "behavioral adjustment unit" (BAU) wear bright orange. Although there is widespread acceptance that the shackling of

children is wrong unless they pose an imminent threat to other's safety (see: Gallagher & Lore III, 2008), all BAU juveniles enter the room with their wrists handcuffed behind their backs. Some parole board members insist that the shackles are removed for the hearing, while others ask that the juvenile be handcuffed from the front for greater comfort.

Steered by the parole board members, each parole hearing shares a similar rhythm, structure and themes. Each juvenile enters, and institutional infractions (charges) in the previous quarter are always examined first, followed by discussion of the index offense, drug use, and participation in programs and interventions. The juvenile is then asked to leave the room with the words "Step out and we'll call you right back." The parole board members then discuss how many days should be taken off, or added on to the transitional release date (TRD), up to a maximum of 45 days. The juvenile is then called back in, and advised of the parole decision. In the 45 hearings observed, 42 juveniles were advised that they did not reach the required standard for parole. From this limited number of parole hearing observations, the labyrinth of risk for juveniles in New Jersey appears almost all-encompassing.

For many juvenile justice commission staff, the parole hearing was a black-box of decision-making. Social workers disclosed to me that at times they found it difficult to understand why the parole board made early release decisions for some juveniles, but insisted that others should "max out." As one social worker explained:

"You get kids coming back (from their parole hearing) who have caught a date and I'm thinking "what?!" How did that happen?"

When asked directly what the parole board were looking in parole hearings three Juvenile Justice Commission staff advised me that the board was looking for "infractions and positive behavior all around," "that the kid is behaving and attend classes," and "God only knows what goes on in

there.” The disconnect between the parole report writers and the parole board is certainly palpable.

### **Searching for the transformative risk subject**

For the parole board to agree to the juvenile's early return to such risky communities, considerable personal transformation was required. "Correct" decision-making was an important feature of the transformed risk subject. As one parole board staff member explains:

They have to make a decision every single day about how am I gonna live my life while in custody. They have to ask, how am I gonna live today?

The parole board felt that important evidence of transformation lay in the decisions juveniles made concerning who to associate with, where to be at certain times, and how to communicate with other juveniles and correctional staff. Good decision-making, however, was never sufficient for the granting of parole. Parole board members instead were searching for deeper evidence of transformation, and a more intrinsic and meaningful gradation of change. A parole board staff member explains the search:

In the parole hearing I probe and I question to grade their change, do y'know what I mean? Is the change superficial just to get home, *or is it really what they're now about?* And there's no crystal ball, we're never going to be able to see into the future, that's why we have to ask certain questions, just to feel better about the decisions we make.

Programs specifically designed to address criminogenic needs, if delivered with fidelity, can lead to behavioral change and reduced recidivism (Andrews, 1989; Gendreau & Goggin, 1996).

Lipsey (1995) found that correctional programs are able to reduce general delinquent recidivism by approximately 10%, and the most successful programs demonstrate reductions in recidivism of between 20-30%. Programming that focuses on school achievement, concrete job skills and cognitive behavioral skills demonstrate the highest reductions in recidivism. Unfortunately, the

criminal and juvenile justice systems are awash with unevaluated programs. The correctional field, as Latessa, Cullen and Gendreau (2002) remind us, is a work environment where "quackery is tolerated, if not implicitly celebrated" (p. 43). Instilling military discipline through boot camps, or inducing fear through *scared straight* programs, although popular with the many of the public and hold intuitive appeal with correctional staff, have been shown in numerous studies to increase rather than decrease the risk of future offending (Andrews et al., 1990; Gendreau, Goggin, Cullen, & Paparozzi, 2002).

The introduction of risk assessment instruments has the potential to assist with the planning and delivery of targeted programming. Empirically determined "criminogenic" needs, such as substance misuse, anger management, and thinking skills "deficits" can become "the bull's eye toward which program content is sighted" (Jolley & Kerbs, 2010, p. 284). Matching identified needs with appropriate and validated interventions appears eminently sensible. After a dynamic risk and need is identified, an appropriate intervention can be deployed to reduce the identified risk. In terms of our risk labyrinth metaphor, the risk assessment instrument serves as Ariadne's thread, leading the juvenile to timely programs and interventions, equipping the juvenile with the skills to destroy the Minotaur that lurks within.

Juveniles incarcerated in New Jersey's juvenile facilities have access to a variety of programs and interventions. Programming varies depending on the facility, with some facilities offering more rehabilitative interventions. All juveniles in the New Jersey Training School (the largest facility) are required to attend educational classes for half a day, five days per week if they have not received their high school diploma or GED. Those that do have their high school diploma or GED may spend the educational class time engaged in work duties (kitchen work, cleaning etc.). Juveniles also spend half a day in vocational classes designed to teach juveniles

soft and hard skills. Vocational classes offered include auto-body work, auto-finishing, (car washing), plumbing, woodwork, music mixing, computers, graphic design, the sign shop, optometry, medical billing, and stable work. There were also plans to run workshops in the field of solar technologies.

It was reported that juveniles could attend a workshop for five days (one marking period), and then either stay on at the workshop, or choose a different one. Juveniles suggested to me, however, that the waiting lists for the different workshops were long and the most popular ones (i.e.: grooming horses in the stables) were almost impossible to access. Juvenile Justice Commission staff described the medical billing program as “infamous.” At the time of the research the program had just two finishers, yet the program continued to run. Staff felt that it was too difficult for their juveniles to complete.

The requirement that juveniles should be attending educational classes and vocational skills workshops during “normal” school hours was a recent Juvenile Justice Commission directive, coinciding with the beginning of the study. Although Juvenile Justice Commission social workers acknowledged the importance of such classes, many felt that the emphasis that the child must be attending classes during the day prevented them from delivering timely and responsive services. As one social worker explains:

Well, typically, I try to see the kids, you know, they bring issues up at school, or teachers will call and say they’ve got an issue in school. If it’s, you know, serious, we’ll go up to the school and, you know, pull him out of class and talk about it. But, it’s coming down from the top, recently, that they need to be in school, and we can’t really pull them out for school. So we try to see a couple of guys, handle like mini crisis issues that they have throughout the day, during lunchtime, or like right after school. And, then right after dinner.

As a result, the social workers had changed their working hours, opting to work Saturdays and Sundays so that they could more freely meet with the juveniles outside of regular class times.

During my visits to the New Jersey Training School there was evidence of programming that had started but was now closed. A culinary arts program used to operate from one, now abandoned, canteen. Staff advised me that it had been closed owing to conflict over the additional food received by attendees. As previously stated, the most popular workshop was working in the stables. Staff felt that this was an opportunity for juveniles to learn “real-world” skills suitable for future employment as stable-hands, as well as nurturing compassion and empathy. Staff recounted how juveniles had picked up young birds that had fallen from a nest, and cried over a horse. In the plumbing class I visited, the juveniles were learning how to “sweat” a pipe, as well as learning to about geometry (angles, squares, rectangles, and triangles). In the carpentry class, the juveniles were learning how to accurately measure wood by making jewelry boxes and pens. These articles were then mailed home as gifts to family.

Rehabilitative programs included substance abuse programs, mental health difficulties, sexual offending, and gang intervention. Substance abuse help was offered through the Alpha-Mater program, a 52-bed residential unit within the New Jersey Training School, and two community program facilities, which followed the New Freedom Substance Abuse Curriculum. The New Freedom Curriculum is a substance abuse program consisting of self-guided study, individual, and group work. Van Stelle (2007) describes the program as focusing on “cognitive restructuring and skills acquisition related to cognitive, behavioral, social, and vocational issues” (p. 5). Although the program developers state that the New Freedom Curriculum is based on “state-of-the-art principles of cognitive behavioral therapy and relapse prevention training” (NewFreedom, 2012), to date no outcome evaluation appears to have been conducted of the specific program. Mental health difficulties are specifically addressed in one 28-bed community facility, and psychologists from the UMDNJ and external agencies visited juveniles throughout

the JJC network. Aggression replacement Training (ART) was in the process of being rolled out across the JJC.

Although the provision of services to address criminogenic needs in juvenile correctional facilities appears laudable, Borum and Verhaagen (2006) sound an important note of caution. They suggest that research indicates that many “therapeutic” programs that deliver group work to juveniles are ineffective and potentially dangerous:

Because the practice is so common, it may be surprising to learn that interventions that put diverse delinquent and aggressive juveniles into groups have poor outcomes. In general, interventions that aggregate high-risk youth – even “therapeutic” or treatment-orientated settings – tend to be ineffective. Moreover, there is good evidence to suggest that these programs may *increase* a youth’s risk for recidivism and that this effect may be particularly pronounced for youth with initially low levels of delinquency. (p. 158)

Although the majority of incarcerated juveniles in New Jersey may be considered to pose a higher rather than lower risk of delinquency, given that incarceration is often used as the last and most serious option available to manage juvenile offending, Borum and Verhaagen’s observation should not be dismissed.

Notions of “therapeutic group work” were popular among JJC staff. Many staff spoke warmly of the work undertaken by Albert Elias, Lloyd McCorkle, and Lovell Bixby, and their development and implementation of *Guided Group Interaction* (GGI). Emerging from New Jersey’s juvenile justice system in the 1950’s GGI involves structured group counseling, whereby group members gain a sense of security by learning that their problems are not unique (Bixby & McCorkle, 1951), and assume responsibility for each other’s behavior outside of the group (Vorrath & Brendtro, 2008) . Although the work of Elias, McCorkle and Bixby took place some sixty years ago, remnants of it still reverberate in the Juvenile Justice Commission today. In the community programs, the fostering of “group norms” within units was regarded by many

staff as an important element of their work. Juveniles were encouraged to greet visitors politely, be open and honest in their interactions (with staff and each other), and to respectfully challenge others in group discussions. An incentive system operated in many community homes. Juveniles were designated at either a bronze, silver, gold or platinum level, which determined access to trips and social events. One program operated a T-Shirt scheme, whereby juveniles whose behavior was good wore green T-shirts, those who were getting in to trouble wore orange, and those who had been given a “last chance” before shipment back to a more secure facility wore red T-shirts. In other programs juveniles who had been found to break rules were ordered to do “accountability” chores. The accountability chores I observed included reluctantly pushing a broom around the day room with one hand, and wandering from room to room with window polish and a duster.

Some JJC staff described to me the juvenile justice system of the 1970’s and 1980’s. They acknowledged that some female residents had been chained to beds and suffered “unspeakable abuse,” but said it was also a period where there was a lot of care. During the current study period, a report was released by the Bureau of Justice Statistics (BJS) examining self-reported sexual victimization in juvenile facilities. The researchers found that the New Jersey Training school had the eighth highest number of self-reported sexual assaults by staff out of 195 national facilities (Beck, Harrison, & Guerino, 2010), with 23.3% of youth respondents reporting sexual victimization from staff members. The JJC stated to reporters that they had concerns regarding the BJS report, including the use of self-report as a methodological tool (Haydon, 2010). No juveniles mentioned sexual abuse during my interviews, although a small number of juveniles did talk about experiencing physical abuse at the hands of correctional staff. The most commonly cited example was correctional staff who would enter a juvenile’s room to

“teach him a lesson.” No juvenile admitted that they had directly experienced this themselves. There was a perception among some parole hearing team members that correctional staff were bringing in cell-phones and drugs for juveniles. They spoke of a juvenile mentioning this in a parole board hearing. The juvenile was encouraged to take things higher, however in the subsequent hearing the juvenile denied that he had said this to the parole board.

After each hearing, the parole board offered advice and made recommendations to each juvenile. The advice offered included: “don’t let your homies dictate life for you;” “stay out of trouble!” and “be like a sponge (to a positive role model).” Applying oneself diligently in educational classes was supported, as was attendance at rehabilitative programs, typically substance abuse, anger management, and they are the ones intervention. Mere attendance at a program, however, was insufficient. As one parole board member, discussing anger management and substance abuse programs explains:

Now granted, those things are valuable, but say you do all those things and you haven't learned a lick from them what good is that? Just because you're taking up space in a classroom doesn't mean I'm going to sign off on parole, because you went to a class? Like in the same breath you tell me you don't really have a drug problem. Well you do have a drug problem, and you do need the treatment, so you need to get something out of that treatment. Don't just go. That's not helping you at all, and it's not helping me at all. Go and learn something!

As noted before, the parole board appears to be searching for a *transformed risk subject*. The parole board required some indication that the Minotaur had been wholly and successfully slain. The metaphorical Minotaur the juveniles were required to vanquish is their old “offending self”. As one parole board member describes:

What does parole mean? It means you are on thin ice. It means you are supervised. How do you get parole? You have to show change.

The parole board were looking for a transformation that involved something akin to Rose’s (2000) "ethical reconstruction" (p. 334). Evidence of transformation included an ability to

verbalize anger control techniques, articulate insights gained into addictive behaviors, and the demonstration of "correct" decision-making within the facility. Juveniles were also required to describe how they would use correct decision-making to avoid negative people, places and things when they return to their communities. Rose suggests that it is through "moral reformation," and through "ethical reconstruction," that excluded citizens can be "reattached to virtuous communities" (p. 335). For the New Jersey Juvenile Parole Board, however, notions of "community" were considerably more nuanced. There was an awareness that the community needed to be protected from the harms the juveniles may inflict, including drug dealing, gun wielding, and violence, while there was also recognition that many disadvantaged communities were ill-equipped to help the juvenile avoid a life of crime. Even after juveniles have exited the labyrinth of risk, they face new labyrinths of risks as they return to their respective communities. The labyrinth of risk is perhaps an all-encompassing network of labyrinths.

### **Quantitative Analysis**

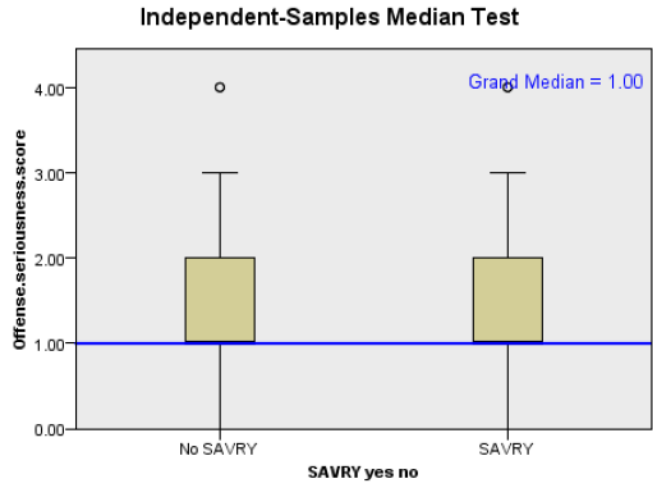
Incarceration within the juvenile justice system may certainly be likened to a labyrinth of risk, where juveniles are expected to slay the Minotaur (their "offending self") before their release. In addition, their release from the correctional labyrinth may lead to the unfolding of more risk labyrinths, as they attempt to navigate the risks they face in their local communities.

#### *Comparing the SAVRY-assessed and non-SAVRY-assessed juvenile groups*

The SAVRY and non-SAVRY assessed cases were examined to determine whether they significantly differed from each other, with the null hypothesis being that there is no significant difference between the SAVRY and non-SAVRY assessed juveniles. In relation to offense seriousness, using the independent samples median test, the medians of offense seriousness score

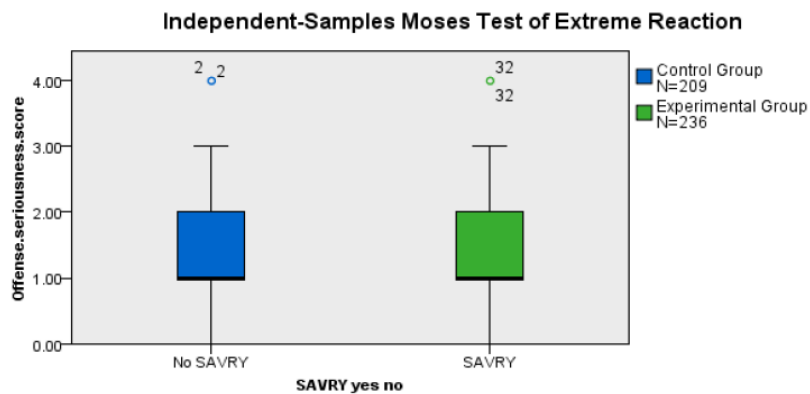
were the same across both groups ( $p = 0.134$ ), and therefore the null hypothesis is maintained (see Fig. 6.6).

**Fig. 6.6:** Independent samples median test of offense seriousness among SAVRY and non-SAVRY groups



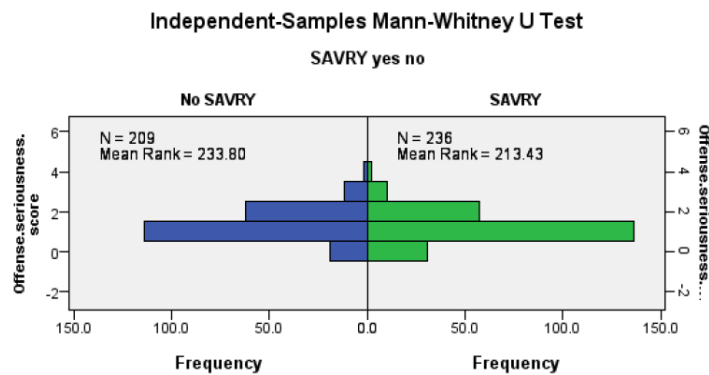
Further, using the independent samples from the Moses test of extreme reaction, a test that compares the variability of scores in the two groups, the variability of offense seriousness scores between the two groups was also similar ( $p = 0.816$ ), and therefore the null hypothesis is maintained (see fig. 6.7).

**Fig. 6.7:** Moses test of extreme reaction of offense seriousness among SAVRY and non-SAVRY groups



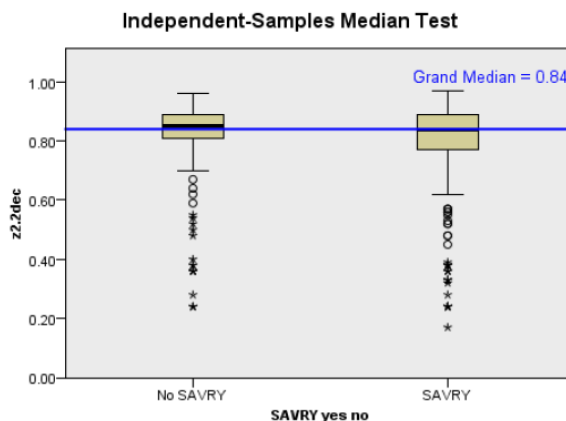
Finally, the independent samples from the Mann-Whitney test, serving a similar function to an independent *t*-test, however used with non-parametric samples, demonstrated that offense seriousness scores were similar across both SAVRY and non-SAVRY groups ( $p = 0.063$ ), and therefore the null hypothesis is maintained (see Fig. 6.8).

**Fig. 6.8:** Mann-Whitney test of offense seriousness among SAVRY and non-SAVRY groups



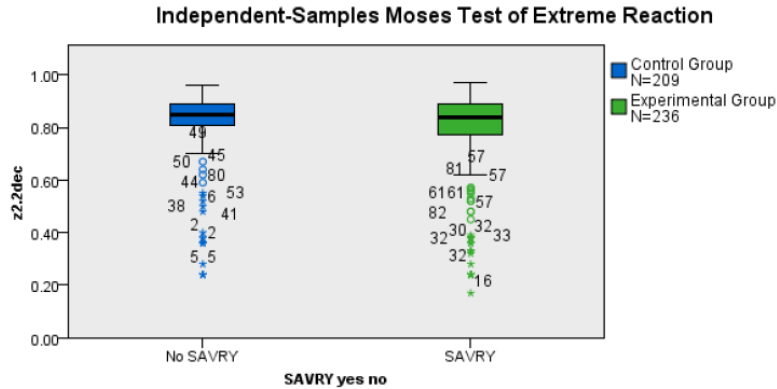
In relation to risk of reconviction scores, the independent samples median test demonstrated that the medians of the risk of reconviction score were the same across both groups ( $p = 0.607$ ), and therefore the null hypothesis was maintained (see Fig. 6.9)

**Fig.6.9:** Independent samples median test of risk of reconviction score among SAVRY and non-SAVRY groups



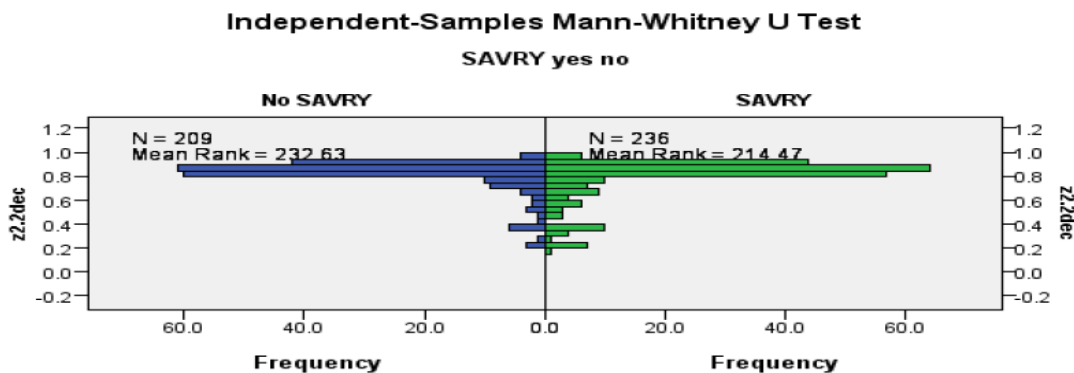
Using the Moses test of extreme reaction, the variability of offense seriousness scores between the two groups was also similar ( $p = .0.233$ ), and therefore the null hypothesis is maintained (see Fig. 6.10).

**Fig. 6.10:** Moses test of extreme reaction of risk of reconviction scores among SAVRY and non-SAVRY groups



Finally, the independent samples Mann-Whitney test, demonstrated that risk of reconviction scores were similar across both SAVRY and non-SAVRY groups ( $p = 0.233$ ), and therefore the null hypothesis is maintained (see Fig. 6.11).

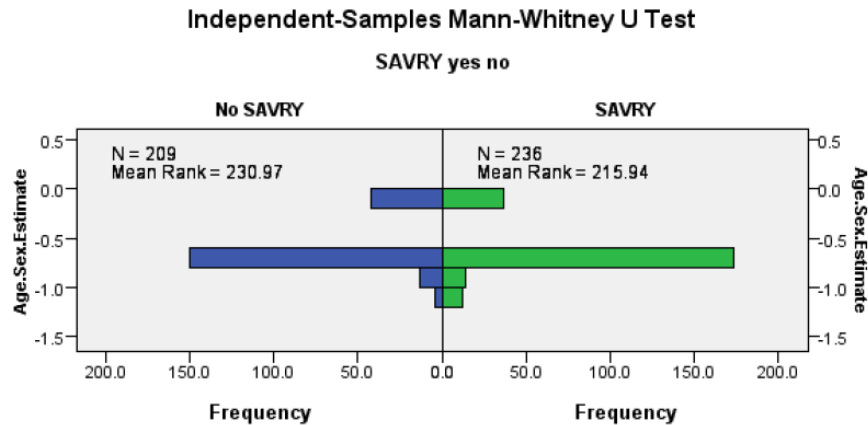
**Fig. 6.11:** Mann-Whitney test of risk of reconviction among SAVRY and non-SAVRY groups



In relation to age and sex, a statistic was calculated for each juvenile using the OGRS 3 algorithm (see table 3.2). Age refers to age of the juvenile at the start of the at risk period. The

at-risk period is the juvenile's first non-custodial sentence. The independent samples from the Mann-W test indicated that there was no difference between age and sex categories between the two groups ( $p = .117$ ), and therefore the null hypothesis is maintained (see Fig. 6.12)

**Fig. 6.12:** Mann-Whitney test of age and gender among SAVRY and non-SAVRY groups



Thus, analysis of the SAVRY and non-SAVRY groups indicated the two groups are similar in relation to index offense seriousness, risk of reconviction scores, gender and age at start of at the risk period.

*Does the implementation of a risk assessment instrument reinforce labyrinths of risk?*

The quantitative analysis suggests that the implementation of risk assessment instruments does not serve to reinforce labyrinths of risk. Taking our two matched samples of SAVRY assessed and non-SAVRY assessed juveniles ( $N = 445$ ), a survival analysis was undertaken using Cox proportional hazards (PH) modeling (Yamaguchi, 1991). Survival analysis is useful for exploring the timing of particular events. Most often used in the medical field to explore the length of time until death, as its name suggests, survival analysis has a number of potential contributions to the criminal justice field, including studies that examine recidivism (time until

reconviction). For the current study, time until release was the time under investigation. The “hazard” was regarded as maxing out on one’s sentence. The most parsimonious model controlled for the following variables (covariates): OGRS (Offender Group Reconviction Scale) risk score for all cases, age at release, offense seriousness, and race/ethnicity. The overall model was significant ( $p < .0001$ ) (see table 6.2).

**Table 6.2:** Most parsimonious model using cox proportional hazards modeling

-2 Log Likelihood	Overall score		
	Chi-square	df	Sig.
2190.235	66.504	5	.000

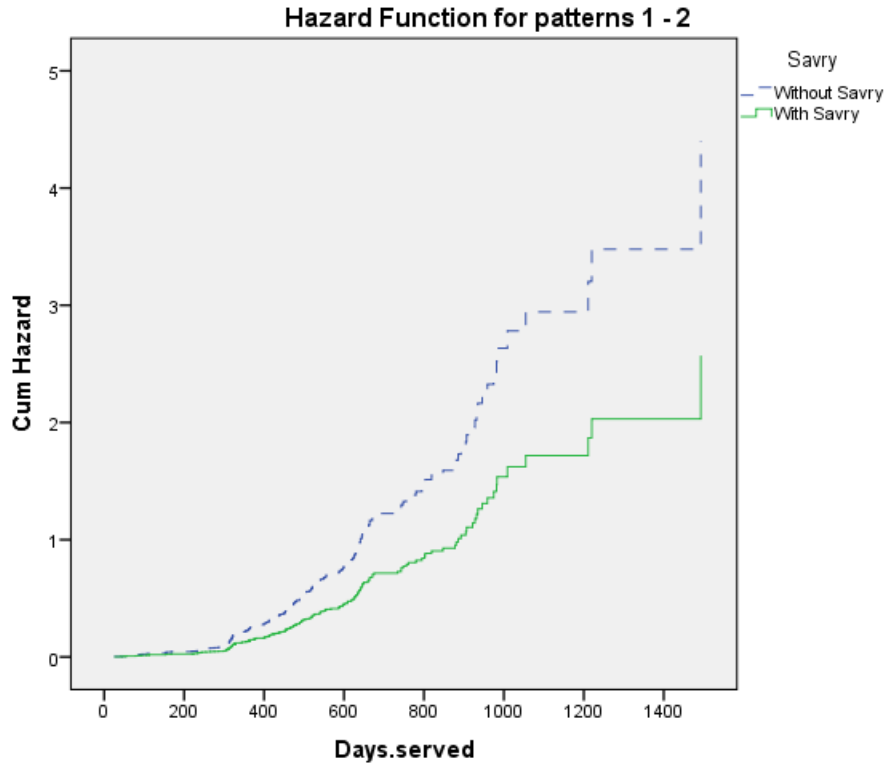
The variables and their relative influence in the model are shown in Table 6.3. Juvenile who did not receive SAVRY were 1.71 times (95% CI, 1.300, 2.258;  $p < .0001$ ) more likely than those who did to max out. Age at release was a significant predictor, as was the risk of reconviction (OGRS), and offense seriousness score. Juveniles who were younger were also more likely to “max out” than juveniles who were older (Hazard Ratio: 0.722; 95% CI, 0.638, 0.816;  $p < .0001$ ). Juveniles with a higher risk of reconviction were more likely to max out on their sentence than juveniles those with a lower risk of reconviction score (Hazard Ratio: 1.415; 95% CI, 1.082, 1.850;  $p = .011$ ). Juveniles with a lower seriousness score were more likely to “max out” on their sentence (Hazard Ratio: 0.771, 95% CI, 0.642, 0.925;  $p = .005$ ). Race/ethnicity of the juvenile was not a significant predictor of maxing out on their sentence.

Table 6.3: Variables in the model

	B	SE	Wald	Df	p	Hazard Rate	95.0% CI	
							Lower	Upper
SAVRY (ref = no)	.539	.141	14.635	1	.000	1.714	1.300	2.258
OGRS	.347	.137	6.419	1	.011	1.415	1.082	1.850
Age at release	-.326	.063	27.065	1	.000	.722	.638	.816
Offense seriousness	-.260	.093	7.790	1	.005	.771	.642	.925
Race (ref = Black)	-.067	.256	.069	1	.793	.935	.566	1.544

Visual examination of the survival patterns (see Fig. 6.13) shows that after an initial period lasting just under one year where little difference in the release times of each group can be distinguished, the SAVRY-assessed cases were more likely to have a lower cumulative hazard than the cases not receiving SAVRY assessment. SAVRY-assessed juveniles were more likely to be released early on parole than juveniles who have not been assessed, after an initial period lasting just under one year has elapsed.

**Fig. 6.13:** Survival pattern of SAVRY assessed juveniles and non-SAVRY assessed juveniles in relation to maxing out



The similarity between SAVRY-assessed and non-assessed juveniles can be explained by consideration of a number of factors. Firstly, a juvenile is not eligible for early release on parole until he has reached the one-third point of his sentence. There is therefore a period wired into the system that would be unaffected by the implementation of the SAVRY. Secondly, the parole board members may need time to “get to know” a particular juvenile, understand his history, and, of course, determine his progress, before making the decision to parole.

The negative relationship between age and the cumulative hazard “maxing out” can be easily explained. A simple regression analysis on the sample (N = 445) revealed that older juveniles are more likely to serve longer sentences than younger juveniles,  $r^2 = .14$ , (adjusted  $r^2 =$

.14),  $F(1, 445) = 71.58$ ,  $p < .01$ ). For each additional year of age juveniles in the sample served approximately 84 additional days (see table 6.4). Juveniles receiving shorter periods of incarceration are more likely to max out rather than be released on parole, as there is less time for the parole board to process the case and come to a decision. This “problem” of shorter sentences is also compounded by jail time credits (time served while awaiting a court disposition), which are further reduce the time available to make a parole decision.

It may be counter-intuitive that juveniles who received lower seriousness scores were more likely to max out, as one may presume that juveniles who had committed more serious offenses (multiple occasions, firing a weapon, death of victim, etc.) would be less likely to receive early parole than those who had committed less serious offenses. The negative relationship between offense seriousness and maxing out on parole perhaps reflects the non-normal distribution of the seriousness scores in the sample. Almost 83% of juveniles in the sample scored either 0 or 1 on offense seriousness, which is likely to skew the prediction. Although the parole board do focus on extreme examples of offense seriousness and heinousness in their parole considerations, those cases are relatively infrequent (hence they are flagged), and therefore not reflected in the general trends.

**Table 6.4:** Unstandardized and standardized regression equations for the prediction of days served in relation to age of juveniles

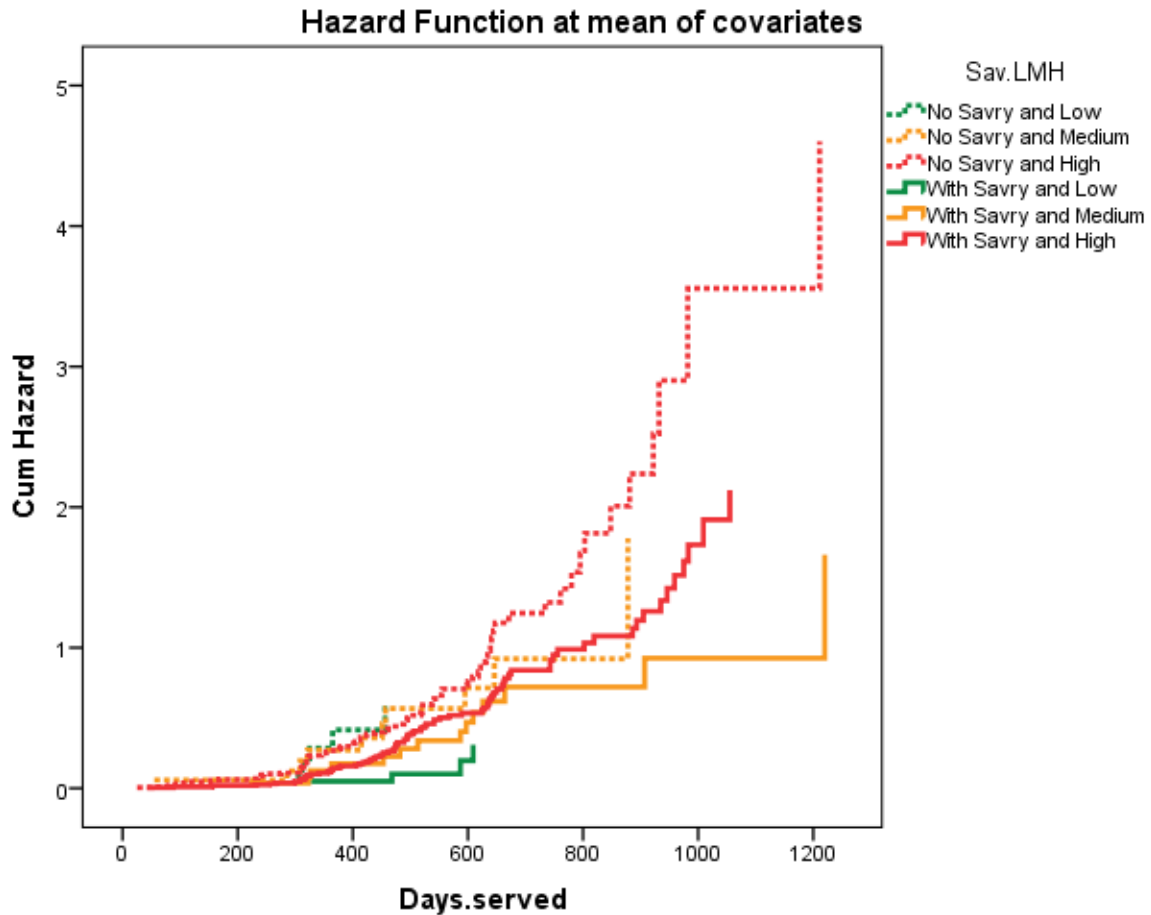
	Unstandardized coefficients		Standardized coefficients	
	<i>B</i>	SE	Beta	<i>t</i>
(Constant)	-1036.575	184.032		-5.633**
Age at release	84.470	9.984	.373	8.461**

\*\* $p < .01$

Further analyses of whether SAVRY influenced juveniles' parole decision based on their risk of reconviction scores (low medium and high) were conducted. Shown in Fig. 6.14, the analyses showed that SAVRY affected the likelihood of a juvenile maxing out for those who posed high risk, but not those who posed medium and low risks. Specifically, high risk juveniles who did not receive SAVRY had a higher cumulative hazard ratio of 1.711 (95% CI, 1.264, 2.315;  $p < .0001$ ), indicating that they were more likely to max out than juveniles who receive a SAVRY assessment.

What does this mean for our labyrinths of risk metaphor? Risk assessments do not build labyrinths of risk around juveniles. Risk assessment instruments are perhaps more akin to the thread of Adriane, helping to guide parole board members' decision-making through the labyrinth of risk. Without a risk assessment, juveniles in New Jersey are more likely to flounder in the labyrinth, while a risk assessment instrument can facilitate earlier release. How might this occur? Given that the parole board members reported that they found the risk assessment instrument useful for charting a structured course through a wealth of risk information, the SAVRY instrument can be regarded as helping the juvenile navigate the labyrinth of risk.

**Fig. 6.14:** Survival pattern of SAVRY assessed juveniles and non-SAVRY assessed juveniles grouped according to risk of reconviction score in relation to maxing out



### A labyrinth of labyrinths

Risk does not disappear once the juvenile exits the labyrinth. New labyrinths, more complex and dangerous than before, emerge. These risk labyrinths appear more akin to Eco's (1983) postmodern, self-replicating, and perpetuating labyrinths. Such a labyrinth, as Borges (1964) imagines becomes a "labyrinth of labyrinths, of one sinuous spreading labyrinth that would encompass the past and the future, and in some way involve the stars" (p. 23). Comenius' (1668) observation seems correct:

For the whole world is a great labyrinth with innumerable lesser ones enclosed, so that there is no one who does not wander about some labyrinth, and some wander about many. (p. 16)

Although the SAVRY instrument helps youths navigate through the classical labyrinth of the juvenile justice system, can we help a juvenile's journey through the labyrinth of the world external to the facility? Certainly, research has shown that effective correctional programs are those that "use multiple components to address offenders' problems in multiple domains" (Howell, 2009, p. 192). Given the interrelated complexity of juvenile violence risk, it is understandable that multi-level interventions to reduce violent behavior are important. As Tate, Reppucci and Mulvey (1995) observe:

Service provision should be conceptualized as an ongoing care model that emphasizes intervention in multiple spheres of an adolescent's life. The most promise lies in a comprehensive, long-term commitment, not in the development of any singular, more powerful approach. (p. 780)

In New Jersey's JJC, the majority of interventions were targeted at the micro-level domain. Certainly, such an occurrence is understandable. The system of incarceration typically adopted for juvenile violent offenders is one which promotes separation and isolation of the individual from families, peers, and neighborhoods. Facilities are often built many miles from the neighborhoods in which juveniles normally reside, rendering multi-level interventions which seek to address multiple actors and contexts difficult to implement. Thus, successful evidence-based programs such as multisystemic therapy, which involve intensive family and community based treatments targeting multiple determinants of adolescent behavioral problems (see Henggeler, Schoenwald, Borduin, Rowland, & Cunningham, 1998), are largely unfeasible for incarcerated violent juveniles most in need of multisystemic treatments. In consequence,

although the juvenile may learn new cognitive skills through individual cognitive behavioral programming, because coercive family interactional patterns remain unaddressed, juveniles risk returning to old, maladaptive behaviors once released (Henggeler, 2004; Henggeler, Smith, & Sahloenwald, 1994). Social workers employed at the New Jersey Training School advised me that they were trying to work with juveniles' families, but they experienced difficulties getting those parents most in need of intervention to come to the facility for family intervention.

Although the delivery of full multisystemic therapy programs is often unfeasible in correctional facilities, some efforts have been made in corrections to gear interventions towards both the juvenile and the family. One example is the development of an 8-week, six-step Multiple-Family Group Intervention program (MFGI) for incarcerated adolescents and their parents, which seeks to improve communication, address affect deficits, and strengthen bonds (Keiley, 2002a, 2002b). A small pilot study of MFGI in two Indiana juvenile correctional institutions demonstrated reductions in recidivism and increased attachment to parents (Keiley, 2007). On the whole, however, such programs are few and far between. Intervening across interrelated ecological domains requires considerable investment of time, money, and personnel, and these scarce resources are frequently directed towards the control and confinement of juveniles.

Given that wide-spread multi-level programming is extremely difficult to achieve in most juvenile facilities, collaboration and partnership with other agencies to achieve an impact upon juvenile violence rates appears to be an appropriate alternative. Such multi-disciplinary working can ensure that factors relating to juvenile violence are addressed across multiple levels, that accountability for reducing violence is shared across organizations, and that more rational prioritizing of scarce statutory resources is enabled (Kemshall & Maguire, 2001). Barriers to the

successful operation of collaborative facility-community partnerships, however, are numerous. The mutuality required for effective partnership working in the justice field is often marred by dissonance and conflict (Kemshall & Maguire, 2001). Organizations may "battle for institutional hegemony" (Ericson & Haggerty, 1997, p. 101), have conflicting aims and goals, withhold important information to maintain powerful position, and seek to criticize and blame rather than find constructive solutions. Such tensions may be exacerbated by the isolated location of juvenile facilities. Incarcerated juveniles in a facility return to numerous communities across a state, some of which are located hundreds of miles from the institution. Developing nurturing linkages between correctional case managers and multiple distant communities is certainly a monumental task.

There was little evidence of connectivity between the JJC and the services the juveniles would be receiving once released back to their communities. Although external psychologists and the occasional parole officer were reported to visit facilities, the juvenile justice staff found it difficult to identify specific resources in specific communities. Staff reported that it was difficult to build relationships with local agencies because the juveniles were returning to locations throughout New Jersey. Community resources for many staff were largely a big unknown. As one youth worker describes:

It's like we put a kid on a bicycle and push him out the door, and then just hope that he stays upright.

One superintendent of a community facility felt that the introduction of teleconferencing had reduced the quality of interconnectivity:

Kevin, to be honest with you, I can't say, it has gotten much better. You know what I mean, being able to pull all the resources together, having the probation and parole officers here a lot of the time because the parole and probation officers and the past case

loads, you do like a phone thing, you know? You know, never - we need everybody right here at the table, sittin' down here for this kid.

Although contact with the parole officer was now mandated when planning release, there was a sense that considerably more connectivity could be achieved. The same superintendent continues:

Yeah, they (the parole officers) have to come 'cause everything has to be finalized, and everybody has to be on the same page. Other than that, you know, I think you're doin' the kid a great disservice and, and settin' the kid up for failure. You know, it's, you know, you're settin' 'em up for failure. I mean, to, not have those services arranged for this kid, it's terrible. And, this is what we do. And, those difficult, challenging cases should be known about prior to. It's not like as if it's just gonna hit you. You know, you had this kid five, six months, or for how long? And, if you're doin' your due diligence with this kid, you're gonna know what, what his issues are. So, those things should be addressed prior to, and when that time comes to be able to release this kid, all those services have been arranged for, arranged for him.

More detailed individualized release plans that specify which services will address which risk area following the juvenile's release appears sensible. Borum and Verhaagen (2006) suggest that:

The best treatment plans look and feel like the child; the youth's name immediately comes to mind when you read the needs and goals. Five treatment plans should read like they were developed for five unique individuals (p. 174).

"Recommendations" detailed in the SAVRY assessments were often generic, and did not contain goals that were SMART (specific, measurable, achievable, realistic, and time-bounded). As an example, an un-individualized section from a SAVRY assessment is reproduced below:

**Recommendations:**

Substance abuse treatment  
Anger management counseling  
Continuation of educational and vocational training

A slightly fuller recommendation is provided in the following SAVRY assessment, however the assessor still does not identify which specific services will be responsible for the intervention:

**Recommendations:**

It would be beneficial for T to speak with guidance or career counselors to help him identify areas of interest and career options.

Involvement in pro social activities (volunteer mentoring, employment, and sports) in his community to encourage a healthy connection to his community and positive peer interaction.

Continue to abstain from the use of illicit substance, random drug screens are suggested. Should T continue to abuse substances enrollment in an outpatient or intensive outpatient treatment program would be beneficial.

Involvement with a structured program i.e.: day reporting center once released with the ability to earn more privileges, less structure as progress is made.

Encourage participation in an outpatient counseling program to help T communicate better about his thoughts and feelings.

Similarly, in the following SAVRY “plan,” the assessor does a good job of linking risks to needs, but fails to identify who will be responsible for service delivery:

**SAVRY treatment plan:**

1. Anti violence, anti gang programming
2. Intensive substance abuse counseling due to his history of polysubstance use which has included alcohol, blackouts, blunts, ecstasy, as well as some IV drug use.
3. Educational programming to enable him to complete requirements and to receive his high school diploma.
4. Has vocational interest in getting a CDL license. Would like to drive trucks and travel.
5. Vocational assessment, counseling and training to develop marketable job skills. Then when he "needs stuff" he'll have a legal prosocial way of getting money to supply his needs via gainful employment.
6. Involvement with a positive male mentor
7. Foster involvement with constructive leisure time pursuits like reading
8. W describes himself as a loner. Refer to group or individual counseling that fosters prosocial interpersonal skills.
9. Attempt to strengthen family ties to grandmother, brother, and possibly mother via family counseling

Although individual parole plans were drawn up for each juvenile, these plans were assembled after the release date had been finalized. All parole board members agreed that it would be extremely helpful to have a release plan during the parole board hearing. In such a plan the report writer could highlight the pertinent risk factors and then identify a plan that would seek to minimize the risks. The parole board members could then consider the strength and feasibility of the plan, as part of the parole decision-making process.

Including a release plan in the parole report appears sensible; however, this would require some key changes in institutional practice. At present the SAVRY assessment is prepared by JJC psychologists for the parole board. The SAVRY assessments are not shared with the social workers preparing the parole reports. The JJC currently uses two risk screening instruments, the Problem Orientated Screening Instrument for Teenagers (POSIT), and the Substance Abuse Subtle Screening Inventory - Adolescent (SASSI-A). The POSIT is a paper-and-pencil 139-item questionnaire completed by the juvenile. An example of a POSIT summary taken from a juvenile’s case file can be seen in table 6.5 below.

**Table 6.5:** Example of POSIT evaluation taken from a juvenile’s case file

Results of POSIT			
Problem	Score	Out of	Risk
Substance abuse	6	17	M
Physical health status	3	10	M
Mental health status	3	22	L
Family relationships	2	11	M
Peer relationships	4	10	M
Educational status	10	26	M
Vocational status	8	18	H
Social skills	4	12	M
Leisure and recreation	3	12	L
Aggressive behavior/delinquency	7	16	M

The POSIT is the “first stage in a sequential assessment system” (McLaney, Del Boca, & Babor, 1994, p. 363), high posit scores are indicative of the need for further diagnostic assessment.

The SASSI-A involves both self-reporting and an interview with a licensed chemical dependency counselor. The self-report includes 26 items relating to drug and alcohol abuse which the juvenile scores on a 4 point Likert-type scale (0 = never, 3 = repeatedly), and 55 true/false items (Stein et al., 2005). The “SASSI-score” was always noted with interest by the parole board members when examining juvenile case files. Although the POSIT and SASSI-A are important screening tools for highlighting areas needing further attention, it may be useful for social workers preparing parole reports to have sight of the SAVRY violence risk assessment. Such information may help social workers structure their parole reports around the specific needs of the parole board members. Furthermore, sharing the SAVRY assessment with social workers who have direct contact with each juvenile may ensure that the juvenile understands that nature of the risk assessment, and encourage greater involvement in their plans to address each risk. Certainly, the sharing of the SAVRY risk assessment may help to reduce the apparent disconnect between the juvenile justice commission staff and the parole hearing team staff.

A final issue that is worthy of consideration is that the SAVRY is only completed on one occasion during the juvenile’s commitment. Tiffin and Richardson (2006) suggest that given the dynamic nature of juvenile violence risk, risk assessments should be reviewed on a six-monthly basis. Similarly Borum and Verhaagen (2006) note:

Because juveniles develop and change so rapidly and so profoundly, it is particularly important to assure that treatment needs and risk factors are reassessed and that intervention plans are modified accordingly. (p. 161)

Given their regular contact and oversight role, the JJC social workers are perhaps the most appropriate staff to revisit the SAVRY assessments. Their involvement in the risk assessment process may ensure that risk assessments remain appropriate and timely despite shifting contexts.

## CHAPTER 7

### CONCLUSION

The city was constructed in a circle, arranged with walls and ramparts, but instead of moats there was a certain dark abyss that seemed to be without sides or bottom. There was light only above the city; beyond the walls it was pitch dark.

(Comenius, 1623, p. 67)

This final chapter summarizes the study findings, discusses the limitations of the research methods adopted, and presents practical implications concerning the paroling of juveniles in the state of New Jersey. At the chapter's conclusion, directions for future research are presented.

#### **Overview of the findings**

The first two chapters of this dissertation introduced the study purpose, and provided an overview of the role of risk assessment in criminal and juvenile justice. The extensive literature review in Chapter Two provided a historical perspective of risk, drawing particular attention to the emergence of quantitative, probabilistic risk analysis during the Enlightenment era. The role of risk in a postmodern *risk society* was explored, and emergence of risk as a concept in criminal justice was discussed. Attention was paid to the actuarial – clinical risk assessment debate in psychology before examining the factors that research has suggested are predictive of juvenile violence risk. Bronfenbrenner's (1979) ecological framework was used as a means of structuring our thinking about the multi-level aspects of risk. Finally, the literature relating to the adoption of risk assessment instruments was discussed.

Chapter Three described the mixed methods approach adopted in the study, paying careful attention to paradigmatic considerations. In Chapter Four, the parole board members'

perceptions of risk assessment instruments were explored. Risk assessment instruments were found to play an important sorting and synthesizing role, helpful when marshaling thinking which involves a myriad of risk factors. Although parole board members felt that risk was ultimately unpredictable, the professional status of the risk assessor was extremely important. Such a finding appears to support the observations of risk society theorists who suggest that an attitude of ambivalence permeates people's thinking about risk in a postmodern world. In response to uncertainty, the science provided by "experts" is simultaneously demanded and vilified. Similarly, there was concern among some participants that "scientific" risk assessment instruments may encourage too cautious an approach in parole decision-making.

In Chapter Five, the criminogenic risks and needs of incarcerated juveniles in New Jersey were discussed. The parole board hearings focused on several key factors, including institutional infractions, the index offense and offense history including weapons use, and substance abuse and gang involvement. The meanings ascribed to violent incidents for juveniles and parole board members were explored. In Chapter Six, the usefulness of the metaphor "labyrinths of risk" was analyzed. It was suggested that the parole board members seem to be searching for a transformative risk subjective, and evidence that the metaphorical Minotaur has been vanquished. The quantitative analysis results were then introduced. The findings indicated that risk assessment instruments do not create labyrinths of risk. Instead, risk assessment tools may serve as Ariadne's thread helping to guide juveniles through the labyrinth. Juveniles who are not risk assessed spend a longer time ensnared within the labyrinth. The important issue of connectivity between the facility and the community was discussed, and it was suggested that a more encompassing net labyrinth may await the juvenile upon his release back in to society.

## **Limitations and strengths of the research**

A mixed methods approach is perhaps a good way of considering the impact of a risk assessment instrument on parole decision-making, enabling the researcher to capture both the meanings participants ascribe to risk, while also enabling some investigation of whether such definitions translate into substantive realities. The findings, however, are only limited to the specific sample of various institutional actors in the New Jersey Juvenile Justice System between 2009 and 2011. The findings are not generalizable to institutional actors in New Jersey's Juvenile Justice System before or after the study period, and are not generalizable to other juvenile correctional populations.

The Juvenile Justice System in New Jersey, despite its rules and regulations, is not a fixed entity. Change is an ongoing fluid and dynamic process. New programs begin operating and old ones close. Established workers retire or move on to different jobs, potentially taking their knowledge of connections and resources with them. New relationships are formed and new avenues to reintegration are negotiated. The postmodern net labyrinth is certainly a shifting and replicating mass of inter-connections, and no study of a fixed point in time can capture the organic nature of such connectivity.

Having acknowledged some limitations, the study does have considerable strengths. To my knowledge this is the first study that has specifically examined the impact of risk assessment instruments on juvenile parole decision-making. Although the design was quasi-experimental, as non-SAVRY assessed juveniles were allocated to the comparison group after the risk assessment implementation had begun, the two groups were matched on a set of fairly logical indicators to ensure a level of comparability. Numerous actors across different institutional settings were interviewed and observed to provide rich insights into meanings.

Taking a mixed methods approach can also be considered a strength of the study. Furthermore, it was demonstrated that the artistic paradigm can be useful when facing the paradigmatic conflict when attempting to synthesize qualitative and quantitative findings.

### **Practical Implications**

Risk assessment instruments do not ensnare juveniles in labyrinths of risk, but rather may assist juveniles in exiting the labyrinth quicker. They do this by helping parole board members synthesize large volumes of information, while ensuring that their release decision is shaped by the results of empirical research. A number of recommendations can be made, however, to further improve the parole process for juveniles.

The parole board decision-making process could be further improved by increasing the quality of parole reports. The parole report writers appeared unclear as to what the parole board was actually examining. It is hard to write a quality report when the aim of the report is largely unknown. The following recommendations may help ensure that the parole reports reflect the parole board members' needs:

- 1. A collaborative training event attended by the parole board staff and the parole report writers should be held, focusing on juvenile violence risk factors. This would enable participants to discuss their needs and concerns**
- 2. Sharing the SAVRY risk assessment with parole report writers may encourage a greater risk-focus in the parole reports.**

A risk assessment instrument alone is not enough to help juveniles negotiate the labyrinths of labyrinths once released. Continuity of care is of critical importance when juveniles are

attempting to reintegrate back into the community following a period of incarceration. Timely risk management plans, drawn up before a release date is granted may further help parole board decision-making. Risk management plans should include what the risk is and to whom the risk may occur. The plan should state which specific agency will be involved, with a contact name and number. Thus:

**3. Parole reports should include a thorough risk management plan, detailing what the particular SAVRY-identified risks are, and a timeline for how the identified risks will be addressed during the incarceration period and when the juvenile is released.**

Finally, given that risk is fluid and dynamic, and that adolescence is a time of dramatic and considerable change, the SAVRY risk-assessments should be revisited and amended regularly. The social workers, being those most in contact with the juveniles, are in the best position to complete this revision. The SAVRY assessment does not need to be completed by a trained psychologist. Borum, Bartel and Forth (2006), specifically state that “psychologists, psychiatrists, trained juvenile probation officers, *and social workers with requisite expertise* are qualified to use the SAVRY” (p. 12, emphasis added). Although an important finding of this dissertation was the credence parole board members gave to the SAVRY assessment because trained psychologists were completing the instrument, given that the social workers would only be updating the SAVRY rather than creating it, this change may be tolerable for the parole board members. Involvement in updating SAVRY assessments may also help to increase the professional standing of Juvenile Justice Commission Social Workers.

Therefore, the final recommendation is:

**4. Social workers should provide an update of the SAVRY risk assessment summary every six months.**

**Directions for future research**

The study design involved the classification of an actuarial risk of reoffending score (OGRS-3) for a sample of 445 juvenile offenders. 236 of these juveniles also have a SAVRY risk score. It would be pertinent to examine the recidivism rates of this sub-sample in two-to-three years' time. Such a study would significantly add to the actuarial – structured professional judgment debate literature. Can a risk assessment derived entirely from an algorithm, and based solely on file information, better predict recidivism than an assessment reached by the assessor taking a guided path through a series of risk factors?

In addition, the view that disadvantaged communities were places of toxicity for re-entering juveniles was commonplace. Although greater connectivity between juvenile facilities and communities is important, can community strengths and supports also be mobilized to assist juveniles? A community justice approach to juvenile justice work (Karp & Clear, 2000) may encourage more meso- level responses, which in turn may engender necessary exo- and macro- level changes. There is a need for researchers to move away from myopic studies of risk and protective factors, and engage in community-based empowerment and support to facilitate systemic change. Latin (1988), exploring the regulation of toxic substances, suggests that risk assessment is largely a scientific activity, and risk management is “a political activity that balances competing interests and values to determine whether identified toxic risks should be considered acceptable or tolerable” (p. 89). In order to

effectively manage the risk of juvenile violence, researchers and juvenile justice actors need to work collaboratively, and engage with the wider social and political environment.

## **Appendix A**

### **Institutional review board approval**



JOHN JAY COLLEGE  
THE CITY UNIVERSITY OF NEW YORK  
OF CRIMINAL JUSTICE

Institutional Review Board (IRB)  
899 Tenth Avenue  
New York, NY 10019  
Phone 212-237-8961  
Fax 646-557-4801

TO: Kevin Barnes-Deeney  
Criminal Justice

FROM: L. Thomas Kucharski, Ph.D.  
John Jay IRB00000137

SUBJECT: IRB Approval (Convened Review)

STUDY: JJ-09-097 The New Jersey SAVRY Study

DATE: August 31, 2010

The John Jay IRB00000137 has approved the above study involving humans as research subjects. This study was approved after convened review.

**IRB Number:** JJ-09-097 This number is a John Jay IRB00000137 number that should be used on all consent forms and correspondence.

**Approval Date:** August 30, 2010  
**Expiration Date:** August 29, 2011

**THIS APPROVAL IS FOR A PERIOD OF ONE-YEAR OR LESS. YOU SHOULD RECEIVE A COURTESY RENEWAL NOTICE BEFORE THE EXPIRATION OF THIS PROJECT'S APPROVAL. HOWEVER, IT IS YOUR RESPONSIBILITY TO INSURE THAT AN APPLICATION FOR CONTINUING REVIEW APPROVAL HAS BEEN SUBMITTED BEFORE THE EXPIRATION DATE NOTED ABOVE. IF YOU DO NOT RECEIVE APPROVAL BEFORE THE EXPIRATION DATE, ALL STUDY ACTIVITIES MUST STOP UNTIL YOU RECEIVE A NEW APPROVAL LETTER. THERE WILL BE NO EXCEPTIONS. IN ADDITION, YOU ARE REQUIRED TO SUBMIT A FINAL REPORT OF FINDINGS AT THE COMPLETION OF THE PROJECT.**

**Consent Form:** All research subjects must use the approved and stamped consent form. You are responsible for maintaining signed consent forms for each research subject for a period of at least three years after study completion.

**Mandatory Reporting to the IRB:** The principal investigator must report, within five business days, any serious problem, adverse effect, or outcome that occurs with

frequency or degree of severity greater than that anticipated. In addition, the principal investigator **must report** any event or series of events that prompt the temporary or permanent suspension of a research project involving human subjects or any deviations from the approved protocol.

**Amendments/Modifications:** All amendments/modifications of protocols involving human subjects must have prior IRB approval, except those involving the prevention of immediate harm to a subject. Amendments/modifications for the prevention of immediate harm to a subject must be reported within 24 hours to the IRB.

**Stipulations:** NONE

If you have any questions, please do not hesitate to contact Carina Quintan in the IRB Office at 212.237.8961.


Good luck on your project.

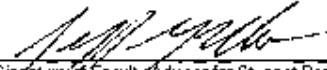
cc: Jeffrey Mellow Ph.D.  
Criminal Justice Research and Evaluation Center

Sign the Verification Statement below. Return the original signed copy of this memo to the IRB Office and retain a copy for your records. The IRB Office must receive a copy of the signed verification statement before research may begin.

**VERIFICATION:**

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE RECEIVED THIS APPROVAL AND AM AWARE OF, AND AGREE TO ABIDE BY, ALL OF ITS STIPULATIONS IN ORDER TO MAINTAIN ACTIVE APPROVAL STATUS, INCLUDING TIMELY SUBMISSION OF CONTINUING REVIEW APPLICATIONS AND PROPOSED PROTOCOL MODIFICATIONS, AS WELL AS PROMPT REPORTING OF ADVERSE EVENTS, SERIOUS UNANTICIPATED PROBLEMS, AND PROTOCOL DEVIATIONS. I AM AWARE THAT IT IS MY RESPONSIBILITY TO BE KNOWLEDGEABLE OF ALL FEDERAL, STATE AND UNIVERSITY REGULATIONS REGARDING HUMAN SUBJECTS RESEARCH INCLUDING CUNY'S FEDERAL-WIDE ASSURANCE (FWA) WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF HUMAN RESEARCH PROTECTIONS.

 \_\_\_\_\_ 09-13-10  
Signature of Principal Investigator Date

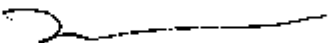
 \_\_\_\_\_ 9-10-10  
Signature of Faculty Advisor for Student Research Date



**JOHN JAY COLLEGE**  
THE CITY UNIVERSITY OF NEW YORK  
**OF CRIMINAL JUSTICE**

Institutional Review Board (IRB)  
899 Tenth Avenue  
New York, NY 10019  
Phone 212-237-8961  
Fax 646-357-4601

**TO:** Kevin Barnes-Cecney  
Criminal Justice

**FROM:** L. Thomas Kucharski, Ph.D.   
John Jay IRB00000137

**SUBJECT:** IRB Approval (Convened Review)

**STUDY:** JJ-09-112 The New Jersey SAVRY study: Juvenile Interviews

**DATE:** August 31, 2010

The John Jay IRB00000137 has approved the above study involving humans as research subjects. This study was approved after convened review.

**IRB Number:** JJ-09-112 This number is a John Jay IRB00000137 number that should be used on all consent forms and correspondence.

**Approval Date:** August 30, 2010  
**Expiration Date:** August 29, 2011

THIS APPROVAL IS FOR A PERIOD OF ONE-YEAR OR LESS. YOU SHOULD RECEIVE A COURTESY RENEWAL NOTICE BEFORE THE EXPIRATION OF THIS PROJECT'S APPROVAL. HOWEVER, IT IS YOUR RESPONSIBILITY TO INSURE THAT AN APPLICATION FOR CONTINUING REVIEW APPROVAL HAS BEEN SUBMITTED BEFORE THE EXPIRATION DATE NOTED ABOVE. IF YOU DO NOT RECEIVE APPROVAL BEFORE THE EXPIRATION DATE, ALL STUDY ACTIVITIES MUST STOP UNTIL YOU RECEIVE A NEW APPROVAL LETTER. THERE WILL BE NO EXCEPTIONS. IN ADDITION, YOU ARE REQUIRED TO SUBMIT A FINAL REPORT OF FINDINGS AT THE COMPLETION OF THE PROJECT.

**Consent Form:** All research subjects must use the approved and stamped consent form. You are responsible for maintaining signed consent forms for each research subject for a period of at least three years after study completion.

**Mandatory Reporting to the IRB:** The principal investigator must report, within five business days, any serious problem, adverse effect, or outcome that occurs with

@Ernie-Cooney JJ-01-197

frequency or degree of severity greater than that anticipated. In addition, the principal investigator must report any event or series of events that prompt the temporary or permanent suspension of a research project involving human subjects or any deviations from the approved protocol.

**Amendments/Modifications:** All amendments/modifications of protocols involving human subjects must have prior IRB approval, except those involving the prevention of immediate harm to a subject. Amendments/modifications for the prevention of immediate harm to a subject must be reported within 24 hours to the IRB.

**Stipulations:** NONE

If you have any questions, please do not hesitate to contact Carina Quintian in the IRB Office at 212.237.8961.


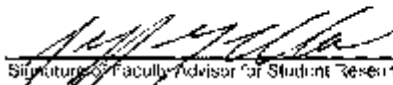
Good luck on your project.

cc: Jeffrey Mellow Ph.D.  
Criminal Justice Research and Evaluation Center

Sign the Verification Statement below. Return the original signed copy of this memo to the IRB Office and retain a copy for your records. The IRB Office must receive a copy of the signed verification statement before research may begin.

**VERIFICATION:**

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE RECEIVED THIS APPROVAL AND AM AWARE OF, AND AGREE TO ABIDE BY, ALL OF ITS STIPULATIONS IN ORDER TO MAINTAIN ACTIVE APPROVAL STATUS, INCLUDING TIMELY SUBMISSION OF CONTINUING REVIEW APPLICATIONS AND PROPOSED PROTOCOL MODIFICATIONS, AS WELL AS PROMPT REPORTING OF ADVERSE EVENTS, SERIOUS UNANTICIPATED PROBLEMS, AND PROTOCOL DEVIATIONS. I AM AWARE THAT IT IS MY RESPONSIBILITY TO BE KNOWLEDGEABLE OF ALL FEDERAL, STATE AND UNIVERSITY REGULATIONS REGARDING HUMAN SUBJECTS RESEARCH INCLUDING CUNY'S FEDERALWIDE ASSURANCE (FWA) WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF HUMAN RESEARCH PROTECTIONS.

 _____ Signature of Principal Investigator	9-13-10. _____ Date
 _____ Signature of Faculty Advisor for Student Research	9/10/10 _____ Date

IRB Form 10/01/08 (Rev. 10/03/08)

Page 2 of 2

## Appendix B

### Interview protocol: Parole/Juvenile Justice Commission staff interviews

#### Introduction

I'm really glad that you've agreed to talk to me. I'm not sure how much you know about this study, so before we begin, let me tell you a little bit about it.

This is research which has been requested by the New Jersey State Parole Board, and it's funded by the Nicholson Foundation. We're looking at the effect the introduction of the SAVRY tool has on both your work, and juvenile parole rates. Now, there's two parts to the study. The first is just looking at numbers. We'll be seeing whether more juveniles are released on parole after SAVRY than before, and whether there is an increase in recidivism over the following year. The second part is where you come in. We are interested in your thoughts about risk, and your opinions regarding the juvenile parole system. We are drawing opinions from all members of the parole hearing team, some juvenile justice commission staff, service providers, and a small number of juvenile offenders.

I'd like to emphasize to you that what you say is confidential and anonymous. Although we may use some of the things you say in articles in scholarly journals, no-one will be able to identify any comments or opinions you specifically make.

Ok, do you have any questions?

#### Perspective on job

Firstly, I understand you are a (*job title*). Can you tell me a little bit about your role?

*Probe: Length of time in position, previous work, answerable to, enjoy*

Can you describe a typical working day for you?

*Probe structure: face-to-face contact with juveniles, paperwork, liaison, meetings*

*Probe relations with others: supportive, communication, tensions*

#### Risk assessment and parole release

There's been a lot of talk about the introduction of the SAVRY tool. What are your thoughts on it?

*Probe: difference in work, channeling thoughts, doing it already, all speaking same language, impact on workload, impact on release decisions*

Can you describe a case where you recommended/supported a recommendation for parole?

Can you describe a case where you recommended/did not support a recommendation for parole?

*Prompts: drug and alcohol misuse, family relationships, lifestyle and associates, offense/victim, community, behavior in prison, strengths/needs*

There's been a lot of discussion about the 8% juvenile parole release rate. What are your thoughts on it?

*Probe: too high, too low, who's problem*

Juvenile recidivism continues to receive a lot of attention. In your view, what should be done to reduce juveniles recidivism

*Prompts - programs, counseling, parents, education, employment, church, community groups*

Perspective on system

Imagine I'm a juvenile, recently sentenced to secure care. I'm 16 years old. I've been getting drunk most weekends, smoking a couple of blunts a day, not going to school. What kind of help might I expect inside?

*Prompts: drug programs, education programs, good or bad, removal from programs*

What services or help are available to me when I'm released from secure care?

*Probes: what services are lacking, what's good, what could be improved*

How would you rate the communication between your agency and the Juvenile Justice Commission/the parole board?

Can you give me an example of when you've worked well with the Juvenile Justice Commission/the parole board?

Can you give me an example of when things didn't go so well with the Juvenile Justice Commission/the parole board?

## Appendix C

### Interview protocol: Juvenile interviews

#### Introduction

I'm really glad that you've agreed to talk to me. I'm not sure how much you know about this study, so before we begin, let me tell you a little bit about it.

This is research which has been requested by the New Jersey State Parole Board, and it's funded by the Nicholson Foundation. We're looking at what causes crime, and what might help in stopping crime. We are interested in your thoughts about risk, and your opinions regarding parole. We are talking to parole, juvenile justice commission staff, and people like you.

I'd like to emphasize to you that what you say is confidential and anonymous. Although we may use some of the things you say in articles in scholarly journals, no-one will be able to identify any comments or opinions you specifically make.

Ok, do you have any questions?

#### Risk assessment

What do you think causes crime?

*Prompts: Substance use, peers, attitudes, use of leisure time, family conflict, parental criminality*

What do you think will help you to not commit crime in the future?

*Probes: Programs, support*

Risk assessment is very important in parole. What have you been told about risk assessment?

What is risk assessment?

*Prompts: When are risk assessments completed? Actually involved in risk assessment?*

#### Parole

Do you think you'll get parole? Why, why not?

Can you tell me what parole does? What do you think of parole?

Do you know anyone who got parole? Why do you think s/he got parole?

#### Service provision and needs

What's it like in here?

Is there anything that could be done that would be helpful for you while here or when you are in the community?

I'm interested in hearing about any programs and services you've attended. What were they like?

What was good about them? What was bad about them?

Where do you think you'll live when you leave here?

What do you hope to do? Have you received any help in preparing for release?

#### Criminal justice system

Some people believe that people under the age of 18 shouldn't be incarcerated. What do you think?

Who, if anyone, should be incarcerated? What should happen to people under 18 who break the law?

## Appendix D

### Memorandum of Understanding

#### Memorandum of Understanding

(Revisions to Revisions Suggested by JJC, 8/25/09)

Between: the New Jersey State Parole Board ("NJSPB"), the New Jersey Juvenile Justice Commission ("NJJC") and John Jay College of Criminal Justice ("JCCJ").

The New Jersey SAVRY study (see attached proposal) will explore the impact of the Structured Assessment of Violence Risk in Youth (SAVRY) risk assessment tool on the juvenile parole process in New Jersey. The study will examine whether SAVRY changes parole release and recidivism rates, impacts upon parole decision-making processes, and influences the way juveniles risks and needs are assessed and managed. The parties agree that shared involvement in the study is for the mutual benefit of the agencies involved, and is in the interests of the juveniles being served.

The NJJC agrees to provide the JCCJ researchers identified in the attached proposal access to staff, juvenile records, and juveniles engaged with the parole process for interviews, subject to approval by and conditions set by the NJJC's Research Review Board, and subject to the limitations set by the JCCJ Institutional Review Board.

The NJSPB agrees to provide the JCCJ researchers identified in the attached proposal access to staff and juvenile records, as long as such requests are not an unreasonable imposition on resources.

The JCCJ researchers agree to conduct the study in a consultative fashion, keeping both agencies informed of the study progress and findings. The researchers agree to conduct the research in a sensitive and respectful manner, and in accordance with standard JCCJ protocols regarding human subjects, and JCCJ Institutional Review Board and NJJC Research Review Board protocols.

For any youth (individual under the age of 18), participation in research activities will only take place with prior signed assent/consent by the youth, and signed consent from a parent/guardian of the youth. Identification of individuals under the custody/supervision of the NJJC (whether under 18 or not) will not be allowed in the final article, doctoral dissertation, or in any other public dissemination.

Names of adult study participants not under the custody/supervision of the NJJC will only be reported in the final article, doctoral dissertation, or in any other public dissemination, with signed prior consent of the adult.

When electronic communication is used in the study, only the body text and date and time will be stored, and all header information, including the original message will be deleted. Voice-recorded data will be transcribed and the original recording will be deleted.

JCCJ also agrees to provide the NJJC with a copy of the research proposal submitted to the JCCJ Institutional Review Board, along with approvals secured from the JCCJ Institutional Review Board.

All parties agree that the researchers have the right to publish study findings in the form of research articles or a doctoral dissertation. The researchers shall provide the NJSPB and the NJJC a reasonable time period to review articles and other transmissions of results prior to their

publication/public dissemination, and the NJSPB and the NJJC have the right to raise comments or concerns regarding the final product(s). The researchers agree to respond to any comments and concerns raised, and will seek to ensure that the article or other public transmission of results meets reasonable expectations of all parties. In the event that a satisfactory agreement cannot be reached regarding publication, the researchers will notify the NJSPB and the NJJC of the intended publication address, so that the editor can be contacted, and the disagreement appropriately lodged.

Signed:

		
State of New Jersey Parole Board	New Jersey Juvenile Justice Commission	John Jay College of Criminal Justice

## **Appendix E**

### **Agency Personnel Survey July 2010**

#### **Introduction:**

Thank you for participating in this study. We would like you to complete this questionnaire so that we can learn some general information about you and your work. Your answers will only be used for research purposes. Your responses are confidential and your participation is voluntary. Please do not write your name on this survey.

## NJJJC Personnel Survey

What is your job title?:

\_\_\_\_\_

1. How long have you worked at your current agency?

\_\_\_\_\_ Years    \_\_\_\_\_ Months

2. Do you work full-time or part-time?

Full-time

Part-time (hours/wk: \_\_\_\_\_)

3. What is your highest level of education?

Not a high school graduate

High school graduate

Some college

College graduate

Master degree

Doctorate

4. What is the focus of your degree, if any (e.g. Criminal Justice)?

\_\_\_\_\_

5. Would you consider yourself trained as a?

Case worker

Counselor

Therapist

Social worker

Psychologist

Parole Officer

Probation Officer

Other: \_\_\_\_\_

6. What is your age? \_\_\_\_\_

7. What is your gender? \_\_\_\_\_

8. What is your ethnicity? \_\_\_\_\_

9. What is your annual gross income?

- Less than \$20,000
- \$20,000 - \$35,000
- \$35,000 - \$50,000
- \$50,000 - \$75,000
- \$75,000 - \$100,000
- More than \$100,000

10. Please estimate the percentage of your time at work that you are usually engaged in the following activities:

- Direct juvenile contact (including related paperwork): \_\_\_\_\_%
- Supervision: \_\_\_\_\_%
- Training: \_\_\_\_\_%
- Administrative activities (meetings, reports, etc.): \_\_\_\_\_%
- Other (\_\_\_\_\_): \_\_\_\_\_%

11. What are the three most important risk factors which need to be addressed if a juvenile is to be helped to desist from further offending?

1. \_\_\_\_\_

2. \_\_\_\_\_

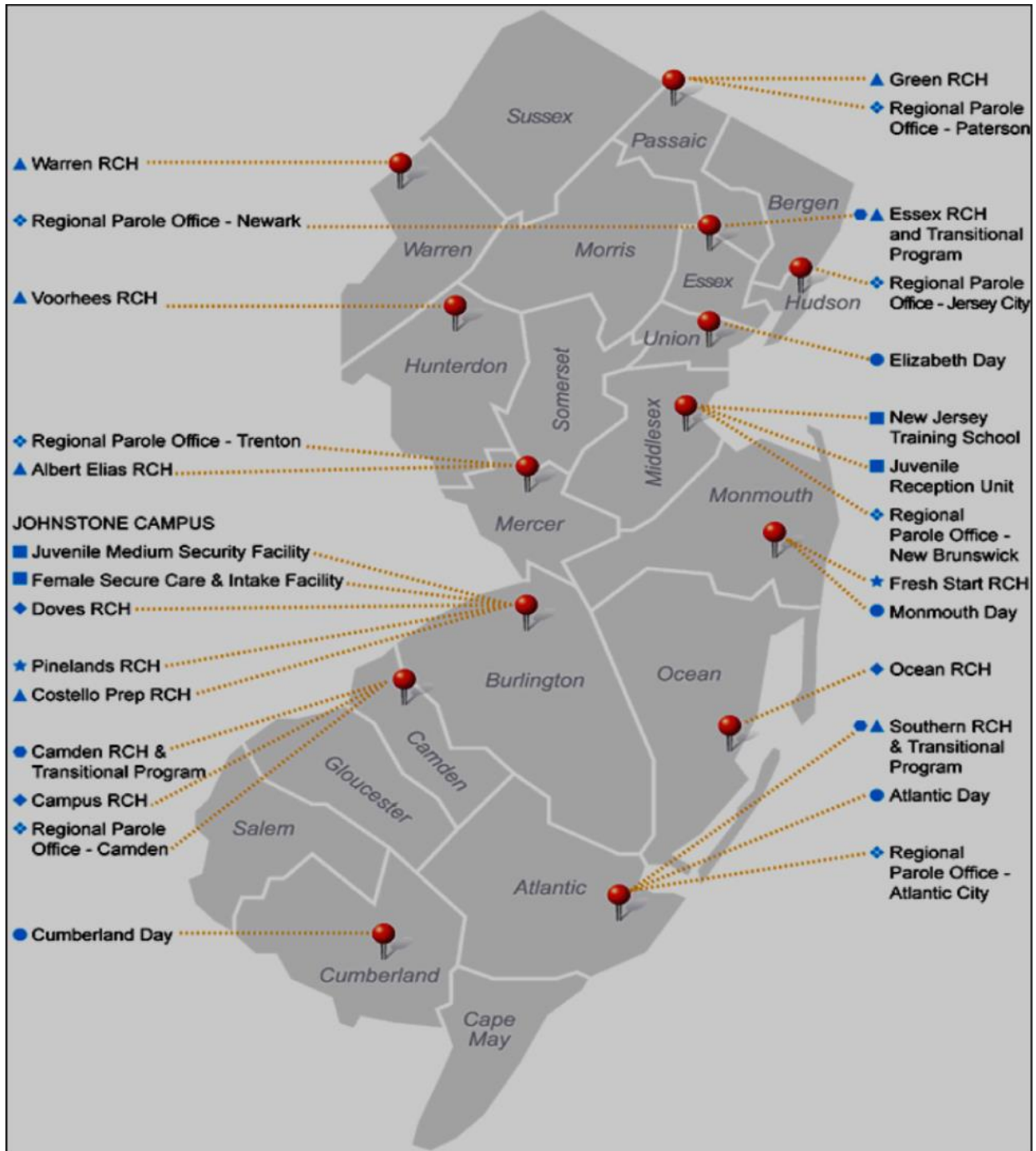
3. \_\_\_\_\_

12b. When did you last receive mental health training? (Eg: 2009, 2008, never).

\_\_\_\_\_

## Appendix F

**Map of locations of NJJC facilities, community homes, and day programs**



(taken from <http://www.state.nj.us/lps/jjc/site.htm>)

## Appendix G

### Complete list of study participants (formal interviews and discussions)

<b>Formal Interviews</b>	<b>Informal discussions only</b>
<b>Juvenile Parole Hearing Team</b>	<b>Juvenile Parole Hearing Team</b>
<i>Associate Parole Board Member</i> <i>Associate Parole Board Member</i> <i>Associate Parole Board Member</i> <i>Chief of Juvenile Unit</i> <i>Executive Assistant</i> <i>Senior Management Assistant</i> <i>Senior Parole Counselor</i> <i>Hearing Officer</i> <i>Hearing Officer</i>	<i>Regional Supervisor</i>
<b>Juvenile Justice Commission Staff</b>	<b>Juvenile Justice Commission Staff</b>
<i>Superintendent - Community Home</i> <i>Superintendent - Community Home</i> <i>Assistant Superintendent - Secure Care</i> <i>Assistant Superintendent - Community Home</i> <i>Social Worker - Secure Care</i> <i>Social Worker - Secure Care</i> <i>Social Worker - Secure Care</i> <i>Evidence-Based Practice Manager</i> <i>Social Worker - Community Home</i> <i>Social Worker - Community Home</i> <i>Youth Worker - Community Home</i> <i>Educational Coordinator</i>	<i>Assistant Superintendent - Community Home</i> <i>Assistant Superintendent - Community Home</i> <i>Teacher - Secure Care</i> <i>Teacher - Secure Care</i> <i>Teacher - Secure Care</i> <i>Teacher - Secure Care</i> <i>Vocational Instructor - Secure Care</i> <i>Vocational Instructor - Secure Care</i> <i>Vocational Instructor - Secure Care</i> <i>Social Worker - Secure Care</i> <i>Social Worker - Community Home</i> <i>Youth Worker - Community Home</i> <i>Cook - Community Home</i>
<b>Juveniles</b>	<b>Juveniles</b>
<i>Juvenile - Secure Care</i> <i>Juvenile - Secure Care</i> <i>Juvenile - Secure Care</i> <i>Juvenile - Secure Care</i> <i>Juvenile - Community Home</i> <i>Juvenile - Community Home</i> <i>Juvenile Community Home</i> <i>Juvenile - Community Home</i> <i>Juvenile - Community Home</i> <i>Juvenile - Community Home</i>	<i>14 Juveniles in Secure Care</i> <i>16 Juveniles in Community Homes</i>

## Appendix H

### New Jersey Juvenile Justice Commission's infractions list

SECTION J1: CAUSING DEATH Number Violation Description		
J101	Causing Death	Intentionally or negligently causing the death of another juvenile, staff member, or other person.
SECTION J2: ASSAULTIVE, AGGRESSIVE, AND RELATED BEHAVIORS		
J201	Assault	Intentionally inflicting bodily injury on another person.
J202	Assault with a Weapon	Inflicting bodily injury on another person with an item clearly identifiable as a weapon, or otherwise readily capable of inflicting serious bodily injury.
J203	Fighting	Engaging in a physical altercation with another person or persons.
J204	Throwing Bodily Fluid	Throwing bodily fluid at any person or otherwise purposely subjecting any person to contact with bodily fluid.
J205	Unauthorized Physical Contact	Unauthorized physical contact with any person, such as but not limited to, physical contact not initiated by a staff member, volunteer, visitor, or other resident.
J206	Threatening Another	Threatening another person with bodily injury or with any offense against his or her person.
J207	Cruelty to Animals	Physically abusing or otherwise subjecting any animal to harmful or injurious behavior.
SECTION J3: SEXUAL ASSAULT, PROHIBITED SEXUAL ACTS, AND RELATED BEHAVIORS		
J301	Sexual Assault	Sexual intercourse or sexual contact through the use of force or threatened use of force.
J302	Consensual Sexual Acts	Engaging in any consensual sexual acts with any other person.
J303	Sexual Proposals or Threats	Making intimidating sexual proposals or sexual threats to another.
J304	Indecent Exposure	Intentionally exposing oneself to another, or otherwise exposing oneself knowing that he or she is likely to be observed by another.
J305	Refusing to Register	Refusing to register as a sex offender as prescribed by law.
SECTION J4: ESCAPE		
J401	Escape	Leaving the grounds of a Commission facility without authorization.

**SECTION J5: RIOTING AND GROUP DEMONSTRATIONS**

J501	Rioting	Participating in a disturbance involving an assembly of three or more persons acting together, which by tumultuous and violent conduct may result in injury to another.
J502	Encouraging Others to Riot	Engaging in behavior, verbal or otherwise, that directly leads to rioting by others, or that encourages a riot already in progress.
J503	Group Demonstration	Participating in the unauthorized assembly of three or more persons engaging in a collective action, such as but not limited to, a sit-in, rally, or work stoppage.

**SECTION J6: CONTRABAND AND RELATED ACTS**

J601	Weapons	Possession or introduction of any weapon, or of any item readily capable of serving as a weapon, including, but not limited to, a sharpened instrument, knife, or unauthorized tool.
J602	Prohibited Equipment	Use or possession of electronic equipment not authorized for use or retention by a juvenile, including, but not limited to, a cellular telephone, two-way radio, or other communication device, or a computer or related equipment.
J603	Prohibited Substances and Paraphernalia	Possessing, using, introducing, or making any prohibited substance, including controlled dangerous substances, alcohol, medications not prescribed for the juvenile by authorized medical or dental staff, tobacco products, similar intoxicants, or related paraphernalia, such as that used to deliver or make any prohibited substance.
J604	Misuse of Medication	Using medication provided to the juvenile by authorized staff in a manner inconsistent with specific instructions for use.
J605	Distribution of Prohibited Substances	Distribution or sale of any prohibited substance, including controlled dangerous substances, alcohol, prescription medications, tobacco products, similar intoxicants, or related paraphernalia, such as that used to deliver or make any prohibited substance.
J606	Interference with Substance Testing	Failure to comply with an order to submit a specimen for prohibited substance testing or tampering with said specimen.
J607	Unauthorized Currency	Possession of money or currency not specifically authorized for retention by juvenile.
J608	Possessing Unauthorized Items	Possession of anything not authorized for retention or receipt by a juvenile or not issued to the juvenile through approved facility procedures.

**SECTION J7: CONDUCT WHICH DISRUPTS THE SECURITY OR ORDER OF A FACILITY**

J701	Extortion or Blackmail	Demanding or receiving favors, money, or anything of value from another in return for protection against others, to avoid bodily harm, or
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		under threat of informing.
J702	Bribery	Giving or offering any official or staff member a bribe.
J703	Hostage Taking	Detaining another individual(s) against his or her will or under threat of violence with the purpose of forcing demands to be met.
J704	Setting A Fire	Intentionally setting a fire.
J705	Fire Equipment	Tampering with any fire equipment, such as but not limited to, fire alarms, fire extinguishers, or sprinklers.
J706	Property Damage	Damaging or altering government property or property belonging to another person.
J707	Stealing	Unauthorized taking of property belonging to the government or to another individual with the intent to deprive the rightful owner of said property.
J708	Adulterating Food or Drink	Contaminating any food or drink with any substance foreign to the food or drink.
J709	Refusing to Obey An Order	Refusing to follow any order issued by a staff member.
J710	Violating Conditions of a Community Program	Violating the written and agreed conditions required for participation in a community residential program.
J711	Refusing Medical Testing	Refusing to submit to any mandatory medical testing, including DNA testing.
J712	Absence or Lateness	Unexcused absence or lateness from work, school, or from any assignment.
J713	Feigning Illness	Pretending to be sick or injured.
J714	Abusive or Obscene Language	Using abusive or obscene language to any staff member or official visitor to the Commission, or otherwise creating a hostile environment through the use of such language.
J715	Lying	Lying or providing a false statement to a staff member.
J716	Counterfeiting or Forgery	Counterfeiting, forging, or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological, or medical report, money, or any other official document.
J717	Obtaining Personal Information	Obtaining or seeking to obtain unauthorized personal information regarding a victim, victim's family, staff member, or staff member's family.
J718	Unauthorized Area	Being in an unauthorized area.

J719	Misuse of Machinery	Using any equipment or machinery that is not specifically authorized, or contrary to the posted instructions or safety standards (refers to equipment not identified under J602).
J720	Interfering with Count	Interfering with or failing to stand count.
J721	Gambling	Gambling or possession of gambling paraphernalia.
J722	Tattooing	Tattooing or self-mutilation.
J723	Misuse of Mail or Phone	Unauthorized use of the mail or telephone.
J724	Using Mail for Unlawful Purposes	Perpetrating frauds, deceptions, or con games through the mail, or otherwise using the mail to further an illegal activity or enterprise.
J725	Refusing a Search	Refusal to submit to an authorized search.
J726	Violation of Written Rule or Regulation	Failure to comply with any written or otherwise explicitly stated rule or regulation of any Commission facility.
J727	Unsanitary Behavior	Engaging in behavior that is potentially hazardous to the health or hygiene of any person or persons.
J728	Contact with Public	Engaging in unauthorized communication with the public.
J729	Security Equipment	Tampering with or blocking any locking device, or possessing unauthorized security equipment, such as a key, key card, or other device that provides security access or clearance.
J730	Unauthorized Clothing	Possessing any clothing not specifically authorized for retention by the juvenile.
J731	Disrupting Security and Order of Facility	Engaging in conduct that disrupts or threatens the security, safety, or orderly operation of any Commission facility, and that is not otherwise defined herein as a distinct rule violation.
<b>SECTION J8: GANG RELATED ACTIVITY</b>		
J801	Gang Activity	Participating in any activity or behavior that promotes the interests of a gang, or that is otherwise clearly gang-related.
J802	Gang Paraphernalia	Possession or exhibition of anything related to or signifying a gang, such as but not limited to gang-related literature, symbols, or signs.
<b>SECTION J9: ACTIONS IN FURTHERANCE OF A VIOLATION</b>		
J901	Attempting, Aiding, Planning, Preparing	Attempting to commit, assisting another to commit, planning or conspiring to commit, or engaging in an act in preparation to commit, any violation. Any such action in furtherance of a violation shall be considered the same as committing the violation itself.

(Source: NJAC 13:101-4.1)

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