

Not just a slap on the wrist: a thematic analysis of  
suspects' decision-making in accepting and subsequently  
challenging a simple caution for adult offenders

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A thesis submitted for the degree of Doctorate in Clinical  
Psychology

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February 2018

## **ACKNOWLEDGEMENTS**

I offer my thanks to all individuals who agreed to participate in the study and to share their stories and experiences with me. I would also like to express my thanks to the solicitors who were so enthusiastic about the research and who made it possible, and to my supervisors for their support and encouragement.

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## **1. ABSTRACT**

The simple caution is a formal warning given by the police to people aged 18 and over. It is an out-of-court disposal that is intended to be a simple and effective response to low-level, mainly first-time, offending. In recent years the use of the simple caution has been the focus of media criticism and Government review. Most often because of allegations that it is too often used as a 'soft option' for more serious and repeat offenders. In antithesis, this study explored the psychological factors that led to the acceptance of a simple caution in a group of adults who later sought legal redress on grounds that the caution had been unfairly administered, and for whom the consequences of accepting a caution were often significant. The researcher adopted a constructionist position and employed a qualitative approach to explore this previously un-researched area. Thirteen adults, who had successfully challenged or were in the process of challenging a simple caution, were recruited to the study and were interviewed. Using an inductive thematic analysis, four themes were identified, each with sub-themes: Presumed innocent related to constructions of criminality and participants' perceptions of themselves as non-criminal; Responses to arrest focused on the emotional response to police detention; Suspect vulnerability considered how naivety and the actions of the police led to the acceptance of a caution; and, The not so simple caution examined the consequences of accepting a caution and the reasons for challenge. The findings illustrate that innocence and naivety, and the need to escape, were primary motivating factors for accepting a caution, and that participants were often unaware of the consequences of accepting this disposal until after they had left the police station. The thesis concludes with some reflections on the process and consideration of how the results might inform future practice.



## **2. INTRODUCTION**

The simple caution is a formal warning given by the police to people aged 18 and over. It is an out-of-court disposal that is intended to be a swift, simple and effective response to low-level, mainly first-time, offending where the offender has admitted the offence. Although the rate of simple cautions given each year has gradually diminished over the last decade, a large number of adults still accept a simple caution from the police every year, often without fully understanding the possible implications of accepting this form of disposal. Some individuals are later successful in challenging the caution, when they come to appreciate the particular consequences that it will have for them. However, representations in social media suggest more people live with significant effects of having a simple caution, and that those who work in regulated industries and professions are particularly affected.

### **2.1. Chapter introduction**

This chapter begins with a description of the simple caution for adult offenders and its place within the criminal justice system of England and Wales. This is followed by an outline of the gaps in knowledge that highlight the need for research, and a review of the existing literature on decision-making in a forensic context. Lastly, there is an account of how the professional context of the researcher led to the research aims and the objectives of the study, and the chapter ends with these aims and objectives.

### **2.2. Terminology**

In the available literature the simple caution is often referred to just as a 'caution' and sometimes as a 'police caution'. For the purposes of this thesis, all references to the term 'caution' relate specifically to the simple caution, unless otherwise specified.

## **2.3. Background to the simple adult caution**

### **2.3.1. Out-of-court disposals**

In England and Wales, the simple caution for adult offenders (previously known as a formal caution, and sometimes as a police caution or simple police caution), is one of six out-of-court disposals (OOCs) that are currently available to the police (Ministry of Justice, 2013). Like the simple caution, some OOCs are only applicable to adult offenders. The latter are cannabis and khat warnings and penalty notices for disorder (PND). Those applicable to both adults and youths (10-17 years) are fixed penalty notices (FPN), conditional cautions and community resolutions (Ministry of Justice, 2013e).

OOCs are sanctions, or responses to crime, that the police can administer locally, without having to take the matter to court. They are intended to provide quick and proportionate alternatives to formal charging for low-level and often first-time offending, which may be more appropriately resolved without a prosecution, and they are perceived to have an important role to play in the criminal justice system (Office for Criminal Justice Reform, 2011). Cannabis and khat warnings, applicable to those who are caught in possession of a small amount of the respective substances, along with PNDs and FPNs for low-level anti-social behaviour, can be given at a police station, but they can also be given on the spot. As such, they can reduce administration time, and free up the police to spend more time on frontline duties and tackling serious crime, rather than going through lengthy police and court processes with low-level offenders. In the case of community resolutions, they can also provide reparation and prompt resolution for victims, who have agreed that they don't want to take formal action.

### **2.3.2. The simple caution**

The simple caution has been available as an out-of-court disposal since it was introduced in the Police and Criminal Evidence Act 1984. It is a formal warning given by the police to an adult offender, where there is found to be sufficient

evidence for a prosecution, but it is not deemed to be in the public interest to formally charge the offender. An offender must admit guilt to the offence and agree to accept the caution before it can be administered. These criteria are listed in the Home Office Circular 106/2008 and subsequently in The Ministry of Justice Guidance, Simple Cautions for Adult Offenders (Ministry of Justice, 2013a). The simple caution is a non-statutory disposal, and it does not result in the offender having a criminal conviction, but the information is retained on the individual's police record and will be disclosed on a Disclosure and Barring Service (DBS) check.

The non-statutory simple caution must be distinguished from the conditional caution which was introduced in the Criminal Justice Act 2003. This is a development of the simple caution, but it is a statutory or more formal disposal, where conditions of treatment or restorative justice may be imposed and monitored, and non-compliance may be prosecuted.

The simple caution also differs from the caution which is used by the police to inform suspects of their right to silence at the time of arrest and subsequently prior to police interview. This is not an out-of-court disposal, but it is also referred to as the police caution.

Criminal offences are divided into three categories, summary offences which are dealt with by a magistrate, triable either way offences which can either be dealt with by a magistrate or heard in front of a jury in a Crown Court and indictable only cases that must be heard in a Crown Court. For summary and triable either-way offences, which represent lower levels of offending, the simple caution may be given by or on the instructions of a senior police officer, whereas, the Crown Prosecution Service (CPS) must authorise the decision to administer a simple adult caution for an indictable or major offence, which includes violent and sexual offences and murder. The Ministry of Justice guidance (Ministry of Justice, 2013a) suggests that this should only occur in exceptional circumstances.

### **2.3.3. The political context**

Although these forms of disposal may be considered to provide an efficient and cost-effective response to less serious offending, the use of OOCs has been quite controversial for more than a decade. From April 2004 to March 2008, the criminal justice system had a public service agreement (PSA) to increase the number of offences brought to justice to 1.25 million. This national target was delivered by local criminal justice boards seeking to achieve specific annual targets on the number of offences that they were to bring to justice reflecting the level and profile of crime in the area (Office for Criminal Justice Reform, 2011). This coincided with an increase in the use of these forms of disposal, with the number of OOCs per year reaching the highest point of 625,229 in 2007/08 (Ministry of Justice, Criminal Justice Statistics 2013).

With the growing use of OOCs, there was concern that the impact of introducing police targets around offences brought to justice (OBJT) had created 'perverse outcomes' by encouraging the police to focus on low-level offenders in order to improve clear-up rates for offences and meet targets. Further, that this had resulted in net-widening, whereby it was suggested that individuals were being criminalised for trivial misdemeanours, that previously might not have resulted in any action (House of Commons Home Affairs Committee Report on Policing in the 21<sup>st</sup> Century, 2008). Arising from these concerns, performance targets around OBJT were scrapped in 2008 (Sosa, 2012). The use of OOCs has decreased each successive year since that time (Ministry of Justice, Criminal Justice Statistics 2017).

Criminal Justice Statistics (Ministry of Justice, 2013, 2017) show that the total number of cautions administered for all offences, increased to a peak of 362,900 in 2007, when the use of OOCs was highest overall. The figure has decreased each year since then, and in August 2017 the total number of cautions for the last 12 months was down to 98,500. Criminal Justice Statistics do not differentiate between the conditional caution and the simple caution, so

it is not possible to specify what proportion of these figures represents simple cautions alone.

Despite the drop in the number of OOCs that were administered after 2007/08, several subsequent reports have identified continuing concerns about the use of these disposals. In November 2009, the Government commissioned a review of the use of out-of-court-disposals by the Office for Criminal Justice Reform. An initial report was produced in February 2010 (Office for Criminal Justice Reform, 2011). The authors reiterated the concern that OOCs had resulted in a 'net- widening', with offences being dealt with by this form of disposal that would not previously have been. They also identified the variation in use of OOCs, detailed inconsistencies in their use across the different police forces in England and Wales, and a lack of adherence to the standards set out in national and local police force guidelines. The use of OOCs for repeat offenders was identified as further area of concern.

In 2011, Criminal Justice Joint Inspection (CJJI) published a review of the use of OOCs, from April 2008 to March 2009 (Criminal Justice Joint Inspection, 2011). They too outlined wide variations in practice regarding the delivery of OOCs. They also drew attention to concerns on behalf of the public and criminal justice professionals that these forms of disposal were being inappropriately used to manage more serious offences, therefore losing the confidence of the public and the media.

#### **2.3.4. Media criticism of the simple caution**

Although there have been general concerns about the use of OOCs, the simple caution has drawn particular criticism. It has been described by the media as a 'soft' or 'easy' option and as a mechanism by which the police may be encouraged to shirk prosecution for serious offences, such as violent and sexual crimes, and child neglect. In 2009, the then Shadow Home Secretary, Chris Grayling, coined the term 'caution culture' when, at the party conference, he pledged that the Tories would scrap simple cautions (Kite, 2009). This led

to media headlines such as ‘Tories take aim at ‘caution culture’ that encourages police to let off criminals scot free’ (“Tories take aim,” 2009).

The continued use of the simple caution has resulted in further media accusations. In 2011, under the headline ‘Met caution culture lets 16,000 violent criminals avoid courts’, the Evening Standard published figures for the number of offenders charged or cautioned for violent crime in London in 2010/2011 (“Met caution culture” 2011). This was followed in 2012 by ‘Hundreds get cautions for child neglect’ (Davis, 2012), and in 2013, writing for the Daily Mail, Chris Greenwood reported ‘Prolific offender given just police cautions for FIFTY crimes spanning 12 years as scale of soft justice across Britain is revealed’ (Greenwood, 2013).

The attention of the media has also been fuelled by the cautioning of celebrities, or people in the public eye, sometimes for violent or sexual offences. One of the most high-profile of these being that of Charles Saatchi. In an article in The Guardian, Alexander Topping and Ben Quinn wrote about his acceptance of a police caution for assaulting his wife, Nigella Lawson, after police were shown pictures that were alleged to show him ‘repeatedly grabbing her by the throat in a restaurant’ (Topping & Quinn, 2013). This, and other incidents involving celebrities that have also been in the public domain, has served to provide further opportunity for the media to portray the simple caution as non-punitive.

### **2.3.5. The legal context**

While, in the early part of this decade, the media were often presenting the simple caution as a soft option for more serious and repeat offenders, and Government initiatives were focused on responding to this, some individuals were seeking to have their cautions removed. In 2013 the publication of the Court of Appeal judgement on three conjoined cases, *T – v – Chief Constable of Greater Manchester and others* [2013] EWCA Civ25 served to draw attention to the, often unforeseen, consequences and potential harm of accepting a caution for a minor offence, particularly for people in regulated

professions and industries. The case of one of these three respondents, JB, particularly demonstrated the negative impact of having a simple caution:

JB accepted a caution for shoplifting in 2001, although she said that she had accidentally left the shop with one item, after paying for another. In 2009 she was unable to get a job as a care worker because the caution showed up on the enhanced criminal record check (ECRC) carried out by her prospective employer and she was deemed to be unsuitable to work with vulnerable people. JB claimed the reference to a caution on the ECRC was capable of interfering with her right to respect for private life under article 8 of the European Convention on Human Rights (ECHR). JB's appeal was allowed but the judgement was suspended, pending a further appeal to the Supreme Court, which subsequently upheld the decision on 18 June 2014 (*R (on the application of T and another) (Respondents) v Secretary of State for the Home Department and another (Appellants)* [2014] UKSC 35).

Fig. 1: *T – v – Chief Constable of Greater Manchester and others – the case of JB*

This judgement not only raised human rights issues in respect of the statutory requirement to disclose a caution on an enhanced criminal record check. It also called into question the legitimacy of the disclosure provisions in respect of the Police Act 1997 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (English, 2013). Furthermore, it outlined a concern that the grounds for giving cautions and the effect of this form of disposal were often not properly understood. The issues that were highlighted in the case of *T – v – Chief Constable of Greater Manchester and others* prompted a response from the Government in the form of new guidance on the procedure for administering the simple caution (Ministry of Justice, 2013a) and the commissioning of a further review (Ministry of Justice, 2013b). In both initiatives, the need to ensure that recipients are made fully aware of the consequences of accepting a caution was clearly on the agenda.

The Ministry of Justice introduced new guidance on the caution procedure, entitled Simple Cautions for Adult Offenders, on 8 April 2013 (Ministry of Justice, 2013a). This document superseded the previous Home Office Circular 016/2008. The original guidance clearly sets out the aims and purpose of the simple caution for adult offenders and outlines the responsibilities of the police, and the processes that must be followed in administering this form of disposal. In the revised guidance, specific attention is drawn to the requirement that, before a simple caution is administered, police officers should consider the nature and severity of the offence and ensure that it is suitable and in the public interest to offer this form of disposal. Secondly that they should be confident that there are sufficient evidential grounds to provide a realistic prospect of conviction if the offender were to be prosecuted. At the same time, the need to ensure that the offender has made a clear and reliable admission to committing an offence, understands the implications of accepting a simple caution and consents to accept it, is highlighted.

Simultaneously, a review of simple cautions was announced by the Government. The terms of reference for the review are documented in the report entitled Review of Simple Cautions (Ministry of Justice, 2013b). They included the examination of:

- existing guidance and practice related to the use of simple cautions;
- the question of whether there are some offence types for which the use of the simple caution is generally inappropriate – and if so, what procedures should be adopted;
- the multiple use of cautions;
- the need for increased scrutiny of, and accountability for, the use of a caution in any given case, or the general approach adopted in a police force area in the use of cautions as a disposal;
- the impact on individuals of accepting a caution – taking into account the recent case of T – v – Chief Constable of Greater Manchester and others.



This review was not a public consultation, but it did engage with stakeholders from the legal community and those from voluntary and third sector organisations with an interest in the criminal justice system, such as Victim Support, NACRO and the Howard League. The Review of Simple Cautions (Ministry of Justice, 2013b) outlined the review group's concerns about the use of cautions for serious violent and sexual crimes, repeat offenders and about the lack of scrutiny and accountability regarding decision-making in this regard.

The Review of Simple Cautions (Ministry of Justice, 2013b) identified a concern that, 'Whilst recipients of cautions are given a clear written warning of their consequences (an example of a caution document is in Appendix 1), there is still confusion regarding the impact of having a caution on a criminal record'. It was suggested that this may, in part, arise from a lack of adherence to the guidelines for cautioning, and they commented that: 'There was some concern, often anecdotal, that the police are not always following the national framework that is in place for giving cautions to offenders and that there is noticeable variation across force areas'. It was recommended that: 'Great care should be taken when administering a caution for either a very minor or a serious offence, the very young, or those in excepted professions (e.g., teachers)'.

This was clear recognition of the particular need for those in roles where safeguarding is a priority to be made aware of the consequences that accepting a caution might have for their employment. Simple cautions are spent immediately for the purposes of the Rehabilitation of Offenders Act 1974, and this provides an explanation for why this form of OOCd has been particularly criticised as being a soft option. However, although a caution is not a conviction, it does form part of an individual's criminal record and, as in the case of JB (see Fig. 1), the recipient may be obliged to disclose it in some circumstances. Unlike spent convictions it remains on the person's record, and it will show up on Disclosure and Barring Service (DBS) checks for employment, (previously CRB). In response to this, the Ministry of Justice produced updated guidance on DBS filtering (Ministry of Justice, 2013d),

which included a new six-year filter for many cautions, thereby placing a possible time limit on the need for disclosure for some offences.

Such information can also sometimes be requested when an individual seeks to visit or take up residence in another country, such as the USA.

Furthermore, accepting a caution in respect of a low level sexual offence may also result in the offender being made subject to notification requirements, e.g., being placed on the sex offender register for two years. It is, therefore, extremely important that this information is understood by those who accept a caution and that they can make an informed decision about whether to accept, based on the impact that the disposal might have on them as an individual.

Within the terms of reference for the Review of Simple Cautions (Ministry of Justice, 2013), the case of JB provided one illustration of how lack of knowledge of the consequences and the potential harm that can arise from accepting this form of disposal may only emerge with the passage of time.

Another case example from that time has been frequently cited in legal journals (see Hynes & Elkins, 2013 and Leigh, 2013 for examples) can be found in the High Court judgement of the case of CC v Commissioner of Police of the Metropolis [2013] EWHC 375 (Admin):

CC was given a simple caution for an offence of 'assault by beating' on her partner, after an argument which occurred in the context her having history of depression related to his ongoing violence towards her. On this occasion her partner called the police and, although he had also assaulted her, she was the only one who was arrested. She had never been in a police station before and was extremely distressed by what had happened. She accepted the caution on the advice of the duty solicitor but without absorbing what she was told about the consequences of the caution. It was only later that she became aware of the significance of the caution for her career as an academic who attended conferences around the world.

CC and her partner were unsuccessful in their request to have the caution withdrawn by the police, and she was obliged to challenge it through the process of a judicial review of the decision in the High Court. The challenge was successful, and the caution was quashed on grounds that it had been wrongly administered in her particular circumstances.

Fig. 2: CC v Commissioner of Police of the Metropolis

The issues that were raised in the cases of both JB and CC are demonstrative of what might at best be seen to be poor practice on the part of the police, if not negligence, in so far as it was accepted by the Court of Appeal that neither woman was aware of the consequences of accepting a caution at the time that they accepted it. This is also resonant of the cases that initially drew the researcher towards undertaking this research and they are further addressed later in the discussion of the aims and objectives of this study.

Arising from the findings of the Review of Simple Cautions (Ministry of Justice, 2013b), further guidance for police officers and Crown Prosecutors in England and Wales was issued in the latter part of 2013. This was entitled Simple Cautions for Adult Offenders (Ministry of Justice, 2013c). This guidance

replaced the Guidance on Simple Cautions (Ministry of Justice, 2013a) that had been published in April of that year. The focus of this updated guidance, however, remained on preventing use of the simple caution for serious and repeat offenders and on the need for greater scrutiny and accountability regarding decision-making in this respect. These particular guidelines have now been enshrined in the Criminal Justice and Courts Act 2015 and attention is drawn to this in the most recent revision of the guidance, Simple Cautions for Adult Offenders (Ministry of Justice, 2015).

In contrast, no further emphasis was placed on the importance of making offenders aware of the consequences of accepting a caution in the document, Simple Cautions for Adult Offenders (Ministry of Justice, 2013c), despite the concerns that had been raised about this issue in the Review of Simple Cautions (Ministry of Justice, 2013b). Nor was there in the most recent revision of the guidance, Simple Cautions for Adult Offenders (Ministry of Justice, 2015).

It is suggested that, although unintentional, the weighting of the new guidance in the Simple Cautions for Adult Offenders (Ministry of Justice, 2013c, 2015), towards ensuring that the simple caution is not administered to serious offenders, might have served to reinforce the notion of this form of OOCd as a soft option to the police. Furthermore, the inevitable result of placing the emphasis on prosecution, rather than the use of the simple caution for all serious offenders, would seem to be an increase in the amount of time needed to process such offenders and the likelihood of a commensurate reduction in the time that might be available for dealing with low-level offenders. It might be argued, therefore, that this has been potentially detrimental to the delivery of best practice in respect of the administration of the simple caution.

Regardless of the tightening of the guidance on the use of cautions for serious offenders, the perception of the simple caution as a 'soft option' has endured. In November 2014, the Government announced the results of a Consultation on Out-of-Court Disposals (Ministry of Justice, 2014). Proposals were outlined for a new system, where statutory community resolution and suspended

prosecutions would replace the use of cautions, which would be piloted in three police forces areas across the country for 12 months. If it was successful, it would be adopted across England and Wales. The objective of this was to simplify the system and to ensure that offenders faced more direct consequences for their actions, such as paying a fine or making good on the damage that they had done. Under the headline “Chris Grayling to scrap ‘soft police cautions’”, David Barrett quoted from the Justice Secretary’s announcement: “It isn’t right that criminals who commit lower-level crimes can be dealt with by little more than a warning. It’s time we put an end to this country’s cautions culture” (Barrett, 2014). The evaluation of the pilot of the new system is yet to be published.

### **2.3.6. The professional context**

As a clinical and forensic psychologist, the researcher initially became aware of the harm that can arise from accepting a simple caution through her professional role as an expert witness. Having a longstanding interest in the area of false confessions and suspect vulnerability, she was consulted by solicitors in two cases where individuals, who may be considered vulnerable in terms of the Codes of Practice of the Police and Criminal Evidence Act 1984, had accepted and were in the process of challenging a simple caution. In talking to the solicitors who represented these clients, the researcher became aware of other cases that they had been involved in, with clients who were not deemed to be vulnerable in this respect. It was apparent from this anecdotal information that normally competent individuals too can sometimes make poor decisions in respect of accepting a caution in the circumstances of being arrested and taken into police custody for the first time, and the researcher was keen to investigate this phenomenon.

## **2.4. Suspect vulnerability**

There have long been safeguards in place for suspects who are deemed to be vulnerable within the terms of the Police and Criminal Evidence 1984 Codes of Practice. Early studies by Irving (1980), Irving and McKenzie (1989) and

Gudjonsson (1990) drew attention to the importance of proper identification by the police of psychological vulnerabilities such as intellectual disability and mental illness. The need for special provisions for these groups is highlighted in the revised Code C (Home Office, 1991), and in all subsequent revisions of this Code. This sets out the requirements for detention, treatment and questioning of people in police custody by police officers. However, specific characteristics that might contribute to vulnerability are not specified, (Clare and Gudjonsson, 1995). Moreover, the implementation of Code C relies on the recognition of vulnerabilities and Gudjonsson, (1993) and Bean and Nemitz (1994) have shown that the police are often only able to detect the most vulnerable and disabled detainees.

Research has identified a number of risk factors that can lead to vulnerability in the context of police custody. Hilgendorf and Irving (1981) suggest that physical confinement increases anxiety fear and compliance and thus impairs a suspect's ability to make judgements. This finding was replicated by Gudjonsson et al. (1993), who found that 70 per cent of the suspects who were interviewed had previous convictions and, therefore, prior experience of arrest and detention by police. Regardless of this, a total of 20 per cent reported a state anxiety level that was above the normal range, indicating that for many suspects being detained at a police station is a highly stressful experience. Similarly, Moston, Stephenson and Williamson (1992) asserted that first-time offenders are potentially vulnerable in terms of their ability to cope with being arrested and detained in police custody. They demonstrated that offenders with no prior criminal record are more likely to give incriminating information while being interrogated.

Kassin et al. (2010) discuss physical custody and isolation as one of the key situational risk factors in police-induced confessions. They assert that prolonged detention and lack of contact with significant others can heighten a suspect's distress and make them more vulnerable.

In a recent review of the psychology of false confessions, Gudjonsson (2018) suggests that there is now extensive evidence that many people detained at

police stations for questioning are psychologically vulnerable under certain circumstances. He identifies 17 areas of situational and personal vulnerabilities that increase the risk. Amongst these, Gudjonsson (2012, 2018) proposes that innocence and an individual's belief that truth and justice will prevail can be powerful risk factors, particularly when the suspect's primary focus is on the immediate effect of ending an interrogation or being released from custody, and where they don't exercise their legal rights.

In an experimental study, Kassin and Norwick (2004) showed that, believing in the power of their innocence, suspects who were truly innocent were significantly more likely to waive their legal rights. Different explanations that have been put forward for this include the notion that innocent people don't believe that they have anything to fear (Kassin, 2005). Support for this may be found in the procedural justice model, proposed by Tyler (2006), which suggests that social identity and a belief in shared norms and values encourages compliance with the police (Jackson & Bradford, 2009, Bradford, Milani & Jackson 2016). Further, Gudjonsson (1989) has argued that compliance is a distinct psychological characteristic that refers to the tendency of the individual to go along with propositions, requests or instructions for some immediate instrumental gain, and has two major components to it. The first is an eagerness to please and the need for the person to protect their self-esteem when in the company of others. The second relates to an avoidance of conflict or confrontation with people, particularly those in authority.

Rogers et al. (as cited in Patry, Connors & Adams-Quackenbush, 2017) suggest that suspects may also harbour a misconception that invoking their legal rights may lead the police and others to infer guilt. Gudjonsson (2012) proposes that, to ensure fairness and justice, it is important that suspects are able to understand and exercise their legal rights, understand the questions that are put to them and the implications of their answers, communicate their version of events, and make informed decisions, including paying sufficient consideration to the long-term consequences of what they tell the police.

## **2.5. Models of decision-making**

There is a broad and diverse literature on decision-making which, while there is no overarching model or set of general principles to draw upon, has been influential in informing our understanding of the way that people process information and make choices in a variety of health and social sciences contexts.

The first theories of decision-making derived from the fields of economics and mathematics, were related to the concepts of rationality (Simon, 1955), and expected utility (Von Neumann & Morgenstern, 1947). In psychology, based on the concept of expected utility, Luce (1967) proposed that decision-making was a process of balancing the probability of occurrence and the value of the consequences, in order to make choices. By applying this model to a legal context, Hilgendorf and Irving (1981) presented a decision-making model of confession that has been highly influential in informing subsequent research and in the development of a conceptual framework for understanding suspect vulnerability.

Hilgendorf and Irving (1981) argue that decisions are determined by perceptions of the available courses of action, perceptions concerning the probabilities of the likely occurrence of various consequences attached to these courses of action, and the utility values or gains attached to these courses of action. In other words, suspects make subjective judgements about the likely outcomes of the options that they believe to be open to them. Their decisions are not, therefore, based on an objective appraisal of the risks and benefits of their behaviour but on what is most salient to them at the time.

Furthermore, Hilgendorf and Irving (1981) outline the importance of factors related to social approval and disapproval in decision-making. They postulate that, given the authority of the police, they can exert pressure on suspects to give excessive emphasis in their decision-making to the approval or disapproval of the officer. They can manipulate these utilities by the way that they respond to suspects' verbal and non-verbal behaviour during an interview.



A further factor that is highlighted in Hilgendorf and Irving's (1981) model is that of minimisation. They propose that the police may alter suspects' perceptions of the cost of making an admission by implying that the allegations are not serious.

Considering Hilgendorf and Irving's (1981) model, Gudjonsson (1989) proposed that innocent suspects, whose priority is to end an interrogation or who believe that they will be allowed to go home if they co-operate, may falsely confess under the misguided belief that their innocence would be later proved in court.

Deslauriers-Varin, Lussier and St-Yves (2009) suggest that a decision to confess to a crime is made independently of background sociodemographic characteristics in adult offenders.

## **2.6. Systematic review of the literature**

### **2.6.1. Purpose of the review**

While much is known about factors which can make suspects vulnerable in the criminal justice system, there has been no research to date on the decision-making processes that are associated with the acceptance or subsequent challenge of a simple caution for adult offenders. As this is a new and unresearched area, it was considered that an examination of the existing empirical literature on confessions and false confessions might contribute to the understanding of the factors that influence the decision-making of suspects when navigating police custody and caution acceptance. A literature search was therefore undertaken to identify studies that have investigated the decision-making of suspects who confess while in police custody, and a systematic review of the most recent studies was carried out.

## 2.6.2. Method

### 2.6.2.1. Search strategy

An initial literature search was performed, using the electronic databases, PsycINFO, including PsycARTICLES, CINAHL and MEDLINE. The review followed the Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) guidelines (Moher, Liberati, Tetzlaff & Altman, 2009).

Search terms that reflected the concepts of interest were developed, based on the researcher's prior experience of research in this area and by reading relevant published papers and identifying relevant synonyms or keywords pertaining to population, intervention, comparison and outcome (PICO).

Table 1: Search term used in literature search

Population	suspect* OR offender* OR detainee*
Intervention	decision-making OR decis* OR psychological processes
Outcome	confess*

In addition to the conducted database searches, all reference lists in relevant studies were manually searched.

The search was limited to English language papers that related to adult (>18 years) participants and were published in peer-reviewed journals between 2005, when the use of OOCs began to peak, and 2018.

### 2.6.2.2. Selection of articles

All titles and abstracts of the articles returned by the search were reviewed using the following inclusion and exclusion criteria:

Inclusion criteria:

- Empirical research relating to the decision-making of suspects in the context of police custody.
- The study clearly articulated their research design, methods, and outcomes in order that the methodology could be appraised.

Exclusion criteria:

- Studies which were not peer reviewed.
- Studies relating to other legal decision-making within the criminal justice system.
- Studies relating to specific legal processes outside of England and Wales (e.g., MIRANDA rights in the USA).
- Studies relating to decision-making in respect of the commission of an offence.

The search retrieved 38 articles after limiters were applied and duplicates were excluded. All these papers were screened for eligibility, firstly by title, then abstract. Through this process 28 papers were immediately excluded. The full text articles for the remaining 10 papers were obtained and scrutinised, and a further four papers were excluded. Six papers were identified for full review. In addition, reference lists for the relevant papers were manually searched and this identified a further four papers for review. In total 10 papers were identified as eligible for inclusion (see Fig. 3) and synthesis.

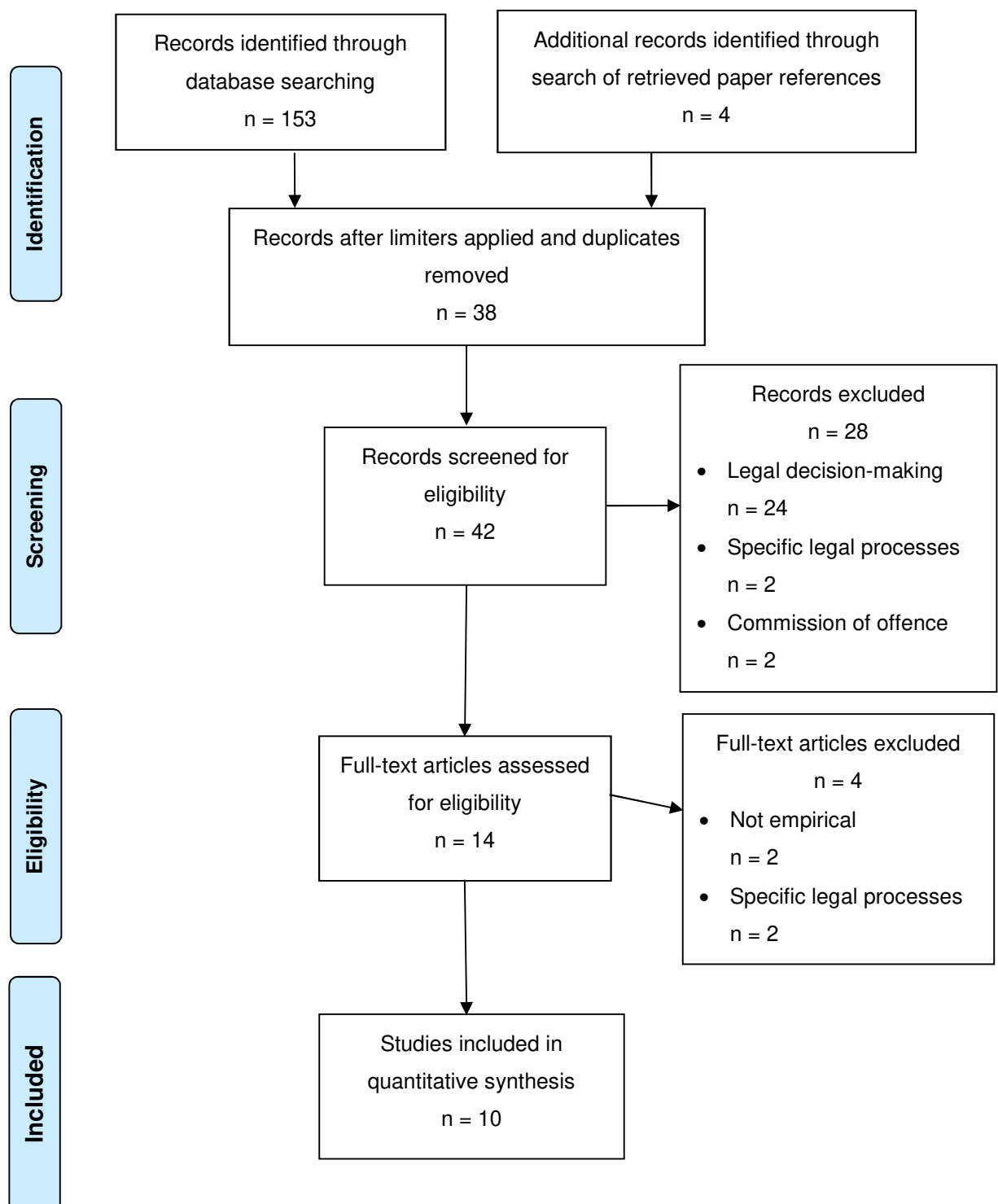


Fig. 3: Flow diagram for article selection

### **2.6.3. Data extraction**

The following data were extracted from the 10 studies that were included:

- Study characteristics, including author, date, country and study design.
- Sample characteristics, including sample size, mean age, gender and ethnicity.
- Key outcomes.

### **2.6.4. Quality assessment**

The quantitative scoring system from the Standard Quality Assessment Criteria for Evaluating Primary Research Papers from a Variety of Fields (QualSyst; Kmet, Lee & Cook, 2004) was used to assess the quality of the studies included in the review, and to address the risk of bias. Kmet et al. developed this tool to address the need for a suitable instrument for use with a variety of study designs and they relied on the existing instruments in the design.

The scoring system for quantitative studies provides 14 criteria against which a study can be evaluated, using scores of 2 ('yes'), 1 ('partial'), 0 ('no') or N/A (see checklist in Appendix 2). An overall quality rating is calculated by dividing the sum of the scores obtained by the total possible score (where a criterion is identified as not applicable, it is excluded from the calculation of the total summary score).

The overall quality ratings were comparable across all 10 studies and they all fell above 0.75, the conservative minimum threshold for inclusion suggested by Kmet et al. (2004). (See Table 2).

Table 2: QualSyst ratings of quantitative study quality (Kmet et al., 2004)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Score
Russano et al. (2005)	2	2	1	1	1	2	2	2	1	2	2	1	2	2	0.82
Narchet et al. (2011)	2	2	1	2	1	2	2	2	1	2	2	2	2	2	0.89
Normile et al. (2018)	2	2	1	2	1	n/a	2	2	1	2	2	1	2	2	0.85
Snook et al. (2015)	1	1	1	2	n/a	n/a	n/a	2	2	2	2	1	2	1	0.77
Scherr et al. (2016)	2	2	1	2	1	n/a	1	2	1	2	2	1	2	1	0.77
Scherr et al. (2018)	2	2	1	2	1	n/a	2	2	1	2	2	1	1	2	0.81
Madon et al. (2012)	2	2	1	1	1	n/a	1	2	2	2	2	2	2	2	0.85
Madon et al. (2013)	2	2	1	1	1	n/a	n/a	2	1	2	2	1	2	2	0.79
Yang et al. (2015)	2	2	1	2	1	n/a	2	2	1	2	2	1	2	1	0.81
Deslauriers-Varin et al. (2011)	2	1	1	2	n/a	n/a	n/a	2	1	2	2	2	2	2	0.86

### **2.6.5. Narrative summary**

The primary data of the studies were then compared thematically, using a narrative summary approach. Kastner et al. (2012) suggest that 'Cochrane-like' review methods cannot always provide direction for practice or policy-making and that there is a role for knowledge synthesis methods, such as narrative summary (Dixon-Woods, Agarwal, Jones, Young & Sutton, 2005). This method of synthesis is often used alongside searching and appraisal techniques in systematic reviews and is concerned with chronicling and ordering primary evidence to produce an account of the evidence with commentary and interpretation.

### **2.6.6. Results**

The 10 studies included in the synthesis were published between 2005 and 2018 and were all from the USA (8) or Canada (2). Eight of the studies employed an experimental between-subjects design and two were cross-sectional. Four key themes were identified. Three of the studies investigated decision-making in the context of police tactics; three addressed the role of innocence and naivety in decision-making; three were concerned with temporal discounting and one with contextual factors (see Table 3).

Table 3: Summary of studies included in the review (ordered thematically)

Author, (year) and country	Ethnicity	Sample, age and gender	Design	Key findings
<u>Interrogative tactics</u>				
Russano et al. (2005), USA	Not reported	330 students.  Age, M = 19.4  70% female	Experimental - between subjects.	Minimisation and offers of leniency increase the rate of true and false confessions.
Narchet et al. (2011), USA	Hispanic, 69% White, 16% African American/ Black Caribbean, 7% Asian American, 4% Other, 4%.	210 students.  Age, M = 20  64% female	Experimental - between subjects.	Minimisation and maximisation tactics are associated with increased perception of pressure to confess compared with non- coercive approaches.
Normile et al. (2018), USA	White, 70 Asian, 34 African American, 28 Native American, 22 Other, 7	161 students.  Age, M = 19.04.  69% female	Experimental - between subjects.	Minimisation techniques increase the likelihood of confession from innocent suspects. Sustained resistance to confession increases stress, which may be implicated in confession.



### Innocence and naivety

Scherr et al. (2016), USA	White, 233 African American, 30 Other, 27	290 students.  Age, M = 19.72)  65% female	Experimental – between subjects.	Disrupting cognitive fluency increases likelihood of invoking legal rights.
Scherr et al. (2018), USA	White, 75%	185 students.  Age, M = 19.32  75% female	Experimental - between subjects.	Innocence is more associated with passivity and the forgoing of legal rights.
Snook et al. (2015), Canada	White, 91 Aboriginal, 6 Other, 3	100 incarcerated men.  Age, M = 32.88.	Semi-structured interview.	Humanitarian interviewing, strength of evidence, lack of criminal justice experience and not seeking legal advice increase the likelihood of confession.

### Temporal discounting

Madon et al. (2012), USA	White, 70 Asian, 2 African American, 2 Multiethnic, 7	(1) 81 students.  Age, not reported.  49% female	Experimental - between subjects (repetitive question paradigm).	Proximal consequences influence confession decisions more strongly than distal consequences.
	White, 131 Asian, 4 African American, 2 Native American, 1 Multiethnic, 5	(2) 143 students.  Age, not reported.  65% female		

Madon et al. (2013), USA	European American, 100 Asian American, 3 African American, 1 Latino, 6 Asian Indian, 2 Multiethnic, 6	(1) 118 undergraduate students.  Age, not reported.  45% female	Experimental - between subjects.	Lengthy interviews increase the likelihood of temporal discounting. Interview conditions may increase vulnerability.
	European American, 150 Asian American, 7 African American, 6 Latino, 3 Multiethnic, 7 Not reported, 4	(2) 177 students.  Age, not reported.  49% female		
Yang et al. (2015), USA	White, 190 Asian, 3 African American, 9 Latino, 1 Multiethnic, 5 Declined, 1	209 students.  Age, not reported.  57% female	Experimental - between subjects (repetitive question paradigm).	Perceived uncertainty and temporal distance of future punishment are key to confession in exchange for short-term gains.

#### Contextual factors

Deslauriers- Varin et al. (2011), Canada	Not reported	211 convicted male offenders.  Age, M = 34.6.	Self-report questionnaire, case file review.	Strength of evidence increases initial intention to confess, but contextual factors can impact on the final decision.
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### **2.6.6.1. Interrogative tactics**

Three of the studies investigated the impact of interrogative tactics on the likelihood of confession. Russano, Meissner, Narchet and Kassin (2005) developed a cheating paradigm to examine the influence of minimisation and offers of leniency on the rate of true and false confessions and showed that these psychologically-based techniques increased the rate of both true and false confessions. Significant main effects were found between guilt versus innocence, such that guilty persons were 3.53 times more likely to confess,  $X^2 = 88.84$ ,  $p < .001$ ,  $d = 1.31$ , participants were 1.66 times more likely to confess when minimisation was used  $X^2 = 22.10$ ,  $p < .001$ ,  $d = 0.57$  and participants offered a deal were 1.43 times more likely to confess,  $X^2 = 7.87$ ,  $p < .01$ ,  $d = 0.33$ .

In a later study, Narchet, Meissner and Russano (2011) replicated the Russano paradigm to explore investigative bias on the elicitation of true and false confessions. They showed that, compared to non-coercive interview techniques, the use of minimisation and maximisation increased the likelihood of obtaining a false confession ( $z = 2.63$ ,  $p = .009$ ).

Also using the Russano paradigm, Normile and Scherr (2018) examined the effects of minimisation and false evidence on physiological reaction during interrogation. They showed that false evidence ploys resulted in greater physiological reactivity than minimisation. Further, although innocents confronted with false evidence resisted confessing more than those confronted with minimisation they sustained a significantly higher level of physiological reactivity,  $b = 1.18$ , 95% CI  $[-1.87, 0.01]$ . They propose that, in turn, this physical cost may undermine subsequent decision-making.

### **2.6.6.2. Innocence and naivety**

The theme of innocence is also addressed in a study by Scherr, Alberts, Franks and Hawkins (2016). Concerned with the susceptibility of innocent suspects to waive their legal rights they carried out an experimental study with

undergraduate students. They showed that when by disrupting cognitive processing by informing naive suspects that they have a choice of whether or not to waive their legal rights, they were more likely to set aside their just world beliefs, and invoke their legal rights [ $\beta = -0.84$ ,  $SE = 0.26$ ,  $p = 0.001$ ,  $exp. (\beta) = 0.43$  (95% CI: 0.26-0.720)].

Scherr, Normile, Bierstetel, Franks and Hawkins (2018) demonstrated that naivety is associated with a higher risk of waiving legal rights in both innocent and guilty suspects. While, with better understanding, guilty people exercise their legal rights ( $p = 0.50$ ), a higher rate of innocent suspects continue to forgo them ( $p = 0.90$ ).

In a study of convicted men, Snook, Brooks and Bull (2015) found that less experience of the criminal justice system was predictive of self-reported decisions to confess and to co-operate with the police. Co-operation tended to be lower when interviewees had a previous conviction (95% CI for B [-3.86, -0.98]) and decreased as the number of convictions increased (95% CI for B [-1.45, -0.49]).

### **2.6.6.3. Temporal discounting**

Three experimental studies examined the principle of temporal discounting. Based on expected utility theory, they demonstrate that suspects, give greater weight to the immediacy of the need to end the aversive nature of their experience in custody than the more remote consequences that might arise as a result of confessing.

Madon, Gyll, Scherr, Greathouse and Wells (2012) designed a repetitive question paradigm to investigate suspects propensity to focus on short-term contingencies in the police station, rather than the longer-term, and potentially severe consequences, that might be delivered by the criminal justice system in their confession decision-making. They demonstrated that proximal consequences influence confession decisions more strongly than distal consequences  $t = 3.16$ ,  $p = 0.002$ ,  $d = .53$ , 95% CI.

In another study Madon, Yang, Smarlaz, Scherr and Guyll (2013) showed that lengthy interviews increase the likelihood of temporal discounting, such that interview conditions may increase vulnerability. While, in a replication of the Madon et al. (2012) paradigm, Yang, Madon and Guyll (2015) further demonstrated that uncertainty about the temporal distance of future punishment, as well as increased distance, were key to confession in exchange for short-term gains  $F_s(1, 198) \geq 4.51, p_s \leq 0.04, \eta^2_s \geq 0.02$ .

#### **2.6.6.4. Contextual factors**

Deslauriers-Varin, Beauregard and Wong (2011) conducted a study of convicted men and found that 21% of men changed their minds about confessing after police interrogation. They investigated the significance of contextual factors in predicting confession decisions. Strength of evidence was the most important factor associated with an offender's decision to confess. However, the results also showed that offending history, access to legal advice and facing drug-related charges with weak evidence were all factors that might reduce the likelihood of confession, even where there was an initial intention to do so.

#### **2.6.7. Strengths and limitations of the review**

The findings of the present review show that there are a number of factors which influence false confessions. These are consistent across studies and have important implications for future police practices. However, this review has a number of limitations. Firstly, only a small number of studies were identified for review and inter-rater reliability checks were not performed, in order to reach a consensus regarding the quality appraisal of relevant studies, which may have led to bias.

Secondly, there is an issue of generalisability. Only two of the studies were concerned with real life offenders and, in both cases, only male participants were interviewed. The eight laboratory studies were all concerned with

predominantly Caucasian non-vulnerable student populations and were not representative of the general population from which suspects who are detained by the police may come from. Also, although studies that related to specific legal processes outside the UK were excluded, all of the studies included were conducted in the USA and Canada, and the applicability to suspects in the UK has not been tested. Furthermore, there were issues with ecological validity. For ethical reasons, the researchers in the eight laboratory studies were unable to replicate the duration of custody, the level of coercion or necessarily the degree of authority that might be attributed to the police in the real world.

In addition to this, a number of the researchers were involved in more than one of the studies, and the experimental paradigms were replicated, which raises the possibility of bias, although experimenter effects were tested. Furthermore, some of the studies shared locations, and there may have been an overlap of participants that was not controlled for.

Despite such limitations, the strength of these studies lie in the evidence that they provide to support earlier theoretical models and empirical research findings on the vulnerability of suspects from both UK and non-UK settings.

#### **2.6.8. Directions for future research**

While the literature review provides useful insights into vulnerability factors that can exist at the time of police detention and interrogation, the impact of such vulnerabilities on the decision to accept an OOC has not been investigated. This represents a gap in the existing research that will be addressed by the current study.

#### **2.7. Internet search**

In addition to the search of databases, a general search was carried out on the web for any articles that related to the simple caution. This revealed that there were numerous posts on social media from individuals who had accepted a caution. In particular, internet discussion forums, such as GovYou, have

created opportunities for such individuals to share their experiences, seek advice and to offer opinions on the relevant legislation. These provided the researcher with further insight into a range of complaints about the administration of the caution and the breadth of the impact that accepting a caution might have.

Some of the representations were from individuals who did not question that they had committed an offence but believed that the disposal was disproportionate, while others believed that they had been manipulated into accepting a caution when they had not committed an offence or that they had been poorly advised by solicitors. The main focus of discussion, however, was on the unforeseen consequences of having a caution on record, and the harm that can arise from this, particularly for those who have a role in regulated industries, professions or leisure activities. Two examples of posts on GovYou can be seen in Fig 4:

... I jumped onto one of the temporary metal fences causing it to fall over and, apparently, damaging it ... I woke up in the Police cell I had been taken to, where an officer brought me out and explained my situation. They offered me a phone call and a solicitor, but then presented the caution as an alternative. I was told this meant "I wouldn't have to go to court", and that it would stay on Police record only. I was not informed that it would appear on my CRB for life, and I am now extremely worried about this ruining my Gap Year Plans for Australia, and a career I have often considered in teaching; or indeed a career at all! I feel I have been tricked into accepting a lifelong blemish on my record that will subject me to rejection from employment for life ... Sam (2012)

... I've just been told that I cannot even volunteer at a special needs nursery all because I received a caution due to personal argument with my husband in 2008 ... JD (2012)

Fig. 4: Remove Cautions from CRB [online forum posts]

## **2.8. Rationale for research study**

As described, the simple caution has often been described as a 'soft option' but it can have far-reaching consequences. From the researcher's own professional experience and information that was available on social media, it is clear that it is important that people are fully aware of these consequences and can make an informed decision about whether to accept one. Many individuals who are offered a simple caution may have been arrested for the first time and will, therefore, be naive to the experience of being detained by the police. It is possible that these novel circumstances may induce a range of psychological processes that can influence such decision-making. In the absence of any current academic literature on this topic, therefore, it was considered important to study the factors that lead to the acceptance of a simple caution and those that lead to the decision to challenge this form of disposal, and to consider them in the light of other literature on suspect decision-making in police custody.

## **2.9. Aims and objectives of the study**

The aim of this research is explore the factors which influence individual decision-making when accepting a simple adult caution in respect of an alleged offence, and subsequently to challenge the disposal. To achieve this aim, the objectives are to:

1. explore participants' constructed experiences of arrest and detention in police custody;
2. examine how the conditions that participants experienced influenced their decision to accept a caution at the time;
3. consider how participants rationalise the subsequent decision to invoke judicial proceedings to have the caution overturned.

It is anticipated that this study will make a substantive contribution to the conditions experienced by those who accept a simple caution by illuminating



participants' perspectives and practices and procedures within the criminal justice system, along with the implications for future research. It will also expand the empirical literature on suspect vulnerability and conceptual literature about decision-making in this context.

### **3. METHODOLOGY**

#### **3.1. Chapter summary**

This chapter begins with a further promulgation of the aims and objectives of the research. It considers the underlying philosophical assumptions that form the foundation of the study and details the rationale for using a qualitative methodology, particularly, thematic analysis. It also provides a description of the study design and the methods used to ensure rigor.

#### **3.2. Aims and objectives**

Only a small proportion of people who accept a simple caution for adult offenders go on to successfully challenge it. However, representations in social media suggest that many more perceive themselves to be blighted by the consequences of accepting a caution, that were unknown or unforeseen at the time of acceptance. It is, therefore, important to develop a greater understanding of the processes that are involved in the delivery and acceptance of this form of disposal and to consider the implications for the law.

The aim of this study was to explore, retrospectively, the factors that motivated suspects to accept a simple caution, and subsequently to invoke judicial proceedings to have it overturned. Using participant interview data and thematic analysis, the researcher sought to explore how the experience of arrest and detention in police custody influenced decision-making at the material time, and to develop an understanding of why the outcomes of having a caution led to the decision to challenge this disposal. Overall, the objective was to contribute to developing a greater awareness of the pitfalls of accepting a simple caution. In addition, to consider how knowledge of the psychological processes that are involved might illuminate practices and procedures within the criminal justice system and the implications for future research.

Although there are broad literatures on suspect vulnerability and on decision-making, there is no current research or theory in respect of the psychological

processes that are associated with the acceptance and subsequent decision to challenge a simple caution. For this reason, a qualitative design was selected as the most effective means of inductively exploring participants' perceptions and experience of arrest and detention in police custody, and the impact of this on their decision-making.

### **3.3. Design**

#### **3.3.1. Qualitative methodology**

Qualitative research represents a diverse range of research activity that is underpinned by a range of different theoretical perspectives and methodologies. Willig and Stainton Rogers (2008) suggest that qualitative methodological approaches are continually being developed in order to facilitate psychological understanding. In contrast to quantitative research, where knowledge is seen to be a direct and measurable reflection of a real and objective world, qualitative methodologies are exploratory in nature. They are concerned with how people make sense of the world and how they manage certain situations. Qualitative methodologies are commonly used in psychology and other social and health sciences research where a flexible framework for collecting and analysing data is required. They are idiographic and are focused on the development of an in-depth and rich understanding of lived experiences that can help to capture a social phenomenon.

Cresswell (2007) proposes that to study a problem, qualitative researchers involve themselves in the collection of data in a natural setting that is sensitive to the people and places under study, and data analysis that is inductive and establishes patterns or themes. Through their narratives, the researcher explores participants' experiences from a bottom-up positioning to look for both explicit and implicit patterns of meaning. Given the lack of existing theory on the acceptance of a simple caution and the need for such an exploratory and inductive approach, a qualitative methodology represents the most appropriate means of generating knowledge about this issue.

### **3.3.2. Epistemological positioning**

The methodological decisions that must be taken in research rely on epistemology, which is 'the study of the nature of knowledge and the methods of obtaining it' (Burr, 2003). This study adopted a social constructionist epistemological perspective. Social constructionism draws attention to the fact that human experience, including perception, is mediated historically, culturally and linguistically, and is socially produced. That is, what we perceive and experience is never a direct reflection of environmental conditions but must be understood as a specific reading of these conditions (Willig, 2008), and such conditions may be perceived differently by different parties within an interaction. Based on these assumptions, the researcher sought to explore how participants constructed their experiences of arrest and detention in police custody, and their decision-making when accepting and later challenging a simple adult caution. The meaning that participants attached to their experiences was then interpreted and compared, as articulated in the results chapter that follows.

The relationship between the researcher and the research participants presents a further epistemological issue. Consideration must be given to whether the pre-existing experience, beliefs and knowledge of the researcher are independent or intrinsic to the research process, and this requires a reflexive approach to research. This issue is also addressed later in this chapter.

### **3.3.3. Consideration of qualitative techniques**

Consideration was given to several different qualitative methodologies before identifying thematic analysis as the most appropriate technique for analysing the participant data in this study. These were: critical discourse analysis; interpretative phenomenological analysis (IPA); and, grounded theory.

### **3.3.3.1. Critical discourse analysis**

Critical discourse analysis, most prominently associated with Norman Fairclough (Robson, 2011), is concerned with the interrogation of the way that language is used across an interaction to form an understanding of the intention behind it. The focus is not so much on what was said but the way in which it was said. Text is deconstructed to look for patterns of meaning and the historical, political and cultural assumptions and motivation that underlie the communication. While this methodology might have been suited to an analysis of the interviews that the police carried out with the participants, the focus of this study was on the participants' experiences of police custody, rather than the social context. As such, discourse analysis was discounted.

### **3.3.3.2. Interpretative phenomenological analysis (IPA)**

IPA is often used to address questions in health and forensic psychology research. It takes a critical realist stance, contending that objective reality exists but cannot be understood except through interpretation (Pietkiewicz & Smith, 2014). It provides a methodological framework for data analysis that has a theoretical basis in phenomenology and hermeneutics, and symbolic interactionism. Rather than use objective data, the approach focuses on personal perception and the subjective meaning that individuals give to their life experiences. Although the identification of themes is common to both IPA and thematic analysis, IPA gives primacy to the meaning of experiences to individual participants and conducts in-depth analysis of patterns of meaning for one participant before progressing to the interpretation of patterns of meaning for the entire data set (Howitt, 2010). It does not examine social processes. As this research sought to examine the psychological constructs of participants, and to consider whether these might provide a link to other psychological theories associated with decision-making and suspect vulnerability, this particular methodology was discounted in respect of the current study.

### **3.3.3.3. Grounded theory**

Tweed & Charmaz (2012) suggest that there are different approaches to grounded theory that span positivist to constructivist epistemological positions. However, they have a common aim that is to develop a theory of social or psychological phenomena through an inductive approach to data that is collected over the course of the research. Grounded theory was considered as a methodological approach for this study. However, as it was exploratory in nature, it was difficult, at the start of the data collection period, to predict whether theoretical saturation might be achieved within a reasonable timeframe. Furthermore, because the study sought to articulate the meanings that participants constructed of their experience, and how these shaped the decisions that they took, rather than to try to generate a theory of why people accept a caution, this was not an optimal approach.

Following consideration of a number of different qualitative methodologies thematic analysis was identified as the most appropriate methodology for analysing the participant data in this study, as detailed below.

### **3.3.4. Choice of thematic analysis**

Braun and Clarke (2006) suggest that thematic analysis provides an accessible and theoretically flexible approach to analysing qualitative data. It can be applied across a range of theoretical and epistemological approaches, including essentialist and constructionist paradigms within psychology. It allows for the analysis of a large amount of data from multiple participants to be analysed. Braun and Clarke (2006) also propose that it has the potential to provide a rich and detailed account of the data through the identification of themes or patterns within it, which can be synthesised into a meaningful account. Other proponents of thematic analysis, such as Boyatzis (1998), go further in asserting that it can also interpret various aspects of the research topic.

Braun and Clarke (2006) outline two primary ways in which patterns or themes within data can be identified using thematic analysis. This can be theory-driven but they can also be derived directly from exploratory data. As no current research or theory exists in respect of the research topic, a 'bottom-up' approach, namely inductive coding was applied to the data, in order to derive themes. More detailed consideration of the conduct of this methodology is outlined later in this chapter.

### **3.4. Participant sampling and recruitment**

In line with thematic analysis methodology, a criterion-based or purposive sampling strategy was utilised. In this approach, participants are chosen because they have particular features or characteristics which will enable detailed exploration and understanding of the central themes and questions which the researcher wishes to study (Bryman, 2012). Braun and Clarke (2013), suggest that sample sizes in studies that use thematic analysis vary, depending on the aims and design of the research.

For this study, 13 participants, who had accepted a simple caution and subsequently challenged it, were sampled. These participants were considered to be 'hidden' or 'hard-to-reach', because of the sensitivities associated with receiving a caution, and could only be readily accessed through the solicitors who represented them. This impacted on the sample size. Consideration of the ethical issues associated with undertaking research with such a group are discussed on page 146. Further, the sample size was somewhat constrained by the time limits of completing the research and the number of participants who agreed to participate within this period. However, as analysis was ongoing throughout the data collection period, it became apparent that there were similar patterns across the data set, and that the detailed information that later participants provided about their in-depth experiences was not introducing significant additional information.

### **3.4.1. Inclusion criteria**

Inclusion criteria were kept as broad as possible in order to recruit the maximum number of participants. Participants were eligible to take part in the study if they met the following criteria: 1) were aged 18 or above and eligible to receive a simple caution (in line with the Ministry of Justice guidance the age threshold for this form of adult disposal is 18 years, so juvenile offenders could not be included), 2) to have successfully challenged or be in the process of challenging a simple caution, 3) to be able to give informed consent, 4) to speak fluent English, in order to promote consistency in the understanding of the language and concepts used between participants and interviewer. It was considered that both the presence of an interpreter and the need for translation could impact upon the of the interview material.

It was decided that participants who were identified as vulnerable adults after their police interview, but who did not have an appropriate adult present at the time, could also be included in the study. This was provided they were identified as falling within the Police and Criminal Evidence Act 1984 (PACE) Codes of Practice, and could give informed consent to participate, either independently or with the help of an appropriate adult, namely a relative or guardian. The rationale for this was that, without having an appropriate adult at the time of detention, their account of their experience would provide valid data in terms of understanding a range of factors that can influence the decision to accept a simple caution. One of the participants fell within this category.

### **3.4.2. Study approval**

In line with the nature of the study, ethical approval was sought from the University of Essex School of Health and Human Sciences Ethics Committee (Appendix 3).

The study was informed by the four general principles that are set out in BPS Code of Human Research Ethics (2010): respect for the autonomy and dignity



of persons; scientific value; social responsibility, and maximising benefit and minimising harm (as discussed throughout this chapter).

### **3.4.3. Accessing participants**

A large number of people accept a simple caution each year, but only a small number go on to challenge this disposal. As such, these individuals represent a limited population. Furthermore, although the outcome of a judicial review may be in the public domain, details of cases against the police are not generally available. Participants, therefore, fell within the category of being 'hard-to-reach'. Purposive sampling, through the solicitors that represented them, provided the best means of identifying individuals who met the inclusion criteria for the research, and who might be willing to participate in the study. However, the researcher was aware that this sampling strategy had the potential to introduce an additional layer of screening, or gatekeeping, whereby the solicitors could decide whether to approach each of their clients about participating. The possible impact that such screening might have had on the representativeness of an already small pool of participants is considered later in this chapter.

Initially, the researcher contacted three solicitors from local firms that were known to her. Some were criminal lawyers and, although one solicitor stated that they had previously successfully represented someone who had challenged a simple caution, others stated that this was not within their area of expertise. No participants were identified by these solicitors.

Solicitors from two legal firms that were known to the researcher who specialised in the protection of civil liberties and, particularly, civil claims against the police and caution removal, were also contacted. In addition, they were members of the Police Action Lawyers Group (PALG), a national voluntary organisation that is comprised of solicitors, barristers and legal executives who represent complainants against the police throughout England and Wales. The PALG has a lobbying role in relation to the police complaints system, and members are active in trying to improve accountability in police

practice. They were, therefore, considered to be the most likely representatives of the target group, although the researcher was aware that there might be gatekeeping issues associated with such a political context (see discussion chapter). Four solicitors, two from each of the legal firms, stated that they saw value in the research and were keen to be involved.

The four solicitors who expressed an interest in participating in the study at the outset had the opportunity to raise questions and concerns about the research, and to provide feedback on all aspects of the design, including the interview schedule, prior to the recruitment phase. Two of these solicitors provided feedback and this was incorporated into the final design of the interview schedule, and resulted in the development of a recruitment procedure (Appendix 4) for solicitors to ensure consistency, and that ethical principles were adhered to in the initial stage of recruitment.

At the outset, solicitors that were known to the researcher were asked to recruit participants from their own casework. Early in the recruitment period, one of the solicitors also agreed that information about the study should be circulated to other members of the PALG to facilitate wider recruitment (see the e-mail in Appendix 5). At a later stage, to further promote the study and expand recruitment, solicitors who were members of the PALG were then approached directly by the researcher, using contact details from the group's website. Through searching the web, using the terms 'caution', 'challenge', 'removal' and 'actions against the police' the researcher also identified some additional solicitors who included civil actions against the police amongst their specialisms, but were not members of the PALG. They were also contacted and asked if they would be interested in supporting the research.

During the data collection period, the researcher sent out several updates to individual solicitors who had expressed an interest in the study when they were first approached. These sought to inform the solicitors that the study was still in progress and that recruitment was ongoing, should they still wish to be involved and feel able to contact any suitable candidates from among their

caseloads. However, care was taken to adopt an encouraging but undemanding style (see Appendix 6) in line with BPS ethical principles.

A total of 27 legal firms were contacted, from which a number of solicitors expressed interest in the research. Ultimately, however, all the participants were recruited through five solicitors, representing four different legal firms. Six of the participants were identified by the solicitors that were originally contacted by the researcher, who were members of the PALG. One further participant was identified by another PALG member, following the circulation of information about the research amongst this group. The six remaining participants were identified by a solicitor who was contacted by the researcher as a result of searching the web. Although not a member of the PALG, he listed caution removal as a particular area of interest on his firm's website.

Solicitors who were approached, but were unable to identify any participants, often expressed interest in the research and commented on the value of it. A number did try to recruit past or present clients but were unsuccessful. Where informal feedback was provided by these solicitors, some possible participants were reported to be interested in the research but were unwilling to revisit their own personal experience of accepting and challenging a caution. Others were reported to be concerned about the risk of exposure. One potential participant initially agreed to participate in the research but then withdrew when he became disgruntled with his solicitor over an unrelated procedural issue in respect of his desire to seek compensation. Further possible participants were reported to have expressed interest in participating on approach by their solicitors but, for ethical reasons, were not followed up when they did not return the consent form. One solicitor in the PALG group did offer a possible participant but this individual was challenging a fixed penalty notice, rather than a caution, and, therefore, did not meet the inclusion criteria for the study.

At the outset, solicitors who originally agreed to be involved in the research were enthusiastic about the study, and they were confident that their clients would be happy to participate in the study. However, recruitment was slower than anticipated. For ethical reasons, where the removal of the caution was

historical, it was agreed that, once potential participants had been informed of the study and asked if they would like to participate, there would be no further follow-up if they did not respond to the initial invitation, thus preserving their autonomy. Similarly, where the challenge was ongoing, solicitors did not approach potential participants until the case had been concluded. As the process of challenging can often take many months, this inevitably resulted in some lengthy delays before some individuals could be invited to take part in the study.

#### **3.4.4. Further ethical approval**

As recruitment was slow and only seven participants were recruited in the first year of data collection, alternative means of recruitment were considered. Following discussion with supervisors, the researcher sought further ethical approval in order to recruit participants, by posting information about the research on online blogs or discussion sites, such as GovYou, which attract ongoing debate about the simple caution by people who have received them. It was proposed that a clear outline of the research and the inclusion criteria would be provided, and potential participants would be invited to contact the researcher if they met these criteria and were interested in participating in the study. Ethical approval was granted for this amendment (Appendix 7) but, as solicitors continued to identify possible participants, the researcher did not pursue this secondary method of recruitment.

#### **3.4.5. Initial consent**

Interested solicitors were provided with a copy of the research proposal, and a recruitment procedure (see Appendix 4) for further information. They were also given copies of the participant information sheet (see Appendix 8), and a participant initial consent form (see Appendix 9). These advanced a mechanism for solicitors to seek participants' initial consent to take part in the study, and gaining permission to supply the researcher with relevant background material, outlined on the consent form before contacting them to initiate an interview. They were asked to approach clients who met the

inclusion criteria, who they thought would be interested in being involved, to provide them with the participant information sheet, and to invite them to participate in the research.

The issue of gatekeeping was considered in terms of possible ethical issues that might arise, as a result of the relationship of trust that should exist between a solicitor and client, and the possibility that potential participants might feel pressure to participate through gratitude to their lawyer, after a successful challenge, or feel the need to comply in order to please the person who was representing them. In order to address this, in accordance with the BPS Code of Human Research Ethics (2014), participants were made aware that they would not be disadvantaged in any way if they chose not to participate. In addition, informed consent was sought at two separate stages of the recruitment process (see also section 3.4.6. of this chapter).

Potential participants who were identified by the solicitors were sent the information sheet (see Appendix 8) which provided clear information about the research, including the aims and objectives of the study, a description of the procedure, confidentiality and dissemination, so that they could make an informed decision about whether to participate. They were sent the participant initial consent form (see Appendix 9) and asked to provide consent for their solicitor to furnish the researcher with a copy of the custody record relating to the offence for which they were cautioned, and documentary evidence of the final decision in the case, if they were willing to be involved. They were also asked to give consent for their contact details to be passed to the researcher and for the researcher to contact them to arrange an interview. The consent form provided the mechanism for making participants aware that they would not be disadvantaged in any way if they chose not to participate, or to withdraw their consent to participate at any stage of the research.

Upon receiving the written consent from participants (see Appendix 9) who chose to take part in the study, the solicitor forwarded this on to the researcher along with the case documents already outlined.

As access to participants was entirely under the control of their solicitors, the possibility that the sample might have been skewed by their subjective decisions with regard to the clients that they approached was taken into consideration. Based on the anecdotal information that was provided about those who declined to take part, other clients may also have been excluded based on assumptions about fear of embarrassment or exposure. Particularly those with a public profile, or those whose cautions related to certain offence categories, such as sexual offences. High levels of distress, a poor relationship with the solicitor, or the passage of time might also be considered as possible reasons for exclusion. The representativeness of the sample and the potential limitations are considered in the discussion chapter.

#### **3.4.6. Contact and further consent**

Prior to contacting the participants, the researcher familiarised herself with the case documents that had been provided by the solicitor.

The researcher contacted all eligible participants who had consented to taking part in the study, to arrange an interview. At this first contact, the researcher introduced herself and explained the purpose of the contact. Participants were able to indicate a preference for being contacted by phone or email. Where this was done by phone, care was taken to ensure that it was a convenient time for the potential participants to speak to the researcher and that their privacy was respected. All potential participants were thanked for their interest in the research, and they were provided with an opportunity to ask questions about the purpose of the study and the procedure.

Based on the researcher's experience as a clinician, a warm and open manner was adopted to make potential participants feel as comfortable as possible. They were invited to raise any other issues or concerns arising from the information sheet, and asked if they would still be willing to meet with the researcher. If they assented, a time and place for the interview, which was convenient to them, was agreed.

All eligible participants were given the opportunity to express a preference for the setting of the interview. Participants who lived locally were offered the opportunity to be interviewed either in an interview room at the researcher's place of work or, where possible, in their solicitor's offices. Those from outside the London area were offered telephone interviews if they were unable to travel to a face-to-face interview.

### **3.5. Data collection**

Of 13 interviews, 10 participants opted for them to be conducted, face-to-face, at the researcher's place of work, and three were carried out on the telephone, using a telephone recording adaptor. None of the participants asked to be interviewed in their solicitor's offices.

#### **3.5.1. Further consent before interview**

Prior to the commencement of the interview, participants were asked to read the participant information sheet again and given the opportunity to further discuss the purpose of the research. All participants were invited to ask any further questions before they were asked to give their signed consent to be interviewed for the purposes of the research, using the participant consent form (Appendix 10). The three participants who were interviewed on the telephone were sent copies of the participant information sheet and the participant consent form, together with a stamped addressed envelope, and asked to return the consent form to the researcher prior to interview.

For the 10 participants who were interviewed face-to-face, the participant consent form was presented to the participant and signed on the day of the interview.

In all cases, care was taken to ensure participants' understanding around confidentiality and dissemination before the interview began. It was made clear that participants would not be disadvantaged in any way if they chose not

to participate, or to withdraw their consent to participate, and that they were free to withdraw from the interview at any time.

### **3.5.2. Confidentiality**

At each stage of the recruitment procedure, participants were informed that all their responses would be treated with the strictest confidence. All data would be anonymised and stored securely during the research period, and recorded interviews would be destroyed at the end of the study.

### **3.5.3. Interview schedule**

Braun and Clarke (2013) suggest that face-to-face interviews are ideally suited to exploring experiences and, in keeping with the epistemological positioning of the study, they also provide a means of exploring the way that individuals construct their experiences. Further, a good qualitative interview can facilitate the disclosure of information that is potentially sensitive and distressing for participants to talk about.

Semi-structured interviews offer structure, while also being flexible enough to allow for unanticipated ideas to emerge (Robson, 2002). For this study, a semi-structured interview schedule was designed based on knowledge of the field that the researcher had derived through contact with solicitors, and the available literature on the simple caution. The schedule consisted of 14 questions (Appendix 11) that were intended to be as flexible and as non-directive as possible. The aim was to explore how the experience of arrest and detention in police custody influenced decision-making, and to develop an understanding of why the outcomes of having a caution led to the decision to challenge this disposal. It was intended to provide participants with an opportunity to tell their stories from their own perspective, and to focus on what was important to them, while enabling the researcher to identify emerging and unanticipated themes that might be returned to in more depth during the interview or across interviews. However, the possibility of the researcher introducing bias or influence through this didactic process was recognised, and



a reflexive diary was maintained so that this issue could be addressed if necessary (Robson 2002).

All interviews began with the researcher explaining that they had read the participant's custody record, and that they were aware of the outcome or current progress of their case. To build rapport, participants were initially invited to give a free account of their experience of being arrested and/or going to the police station. This was followed by questions that were designed to elicit further understanding the participants' thoughts and feelings in relation to four main areas. These related to their experience of custody, emotional factors, knowledge and information, and the decision-making processes that they underwent. A series of prompts were used, when necessary, to encourage participants to reflect and elaborate on their responses, and to help explore the meaning of their experiences and their actions in relation to their acceptance of the caution and the decision to challenge.

At the outset of the data collection period it was envisaged that the interview schedule (see Appendix 11) might need to be adapted to reflect topics that emerged as the interviews progressed. However, despite giving participants the opportunity to give a free account of their experiences at the start of each interview, their narratives did not introduce topics that went beyond the broad questions that were originally included in the semi-structured interview schedule. As such, the interview structure and questions remained the same for all 13 participants, with the exception of the final question. In this case, participants were initially asked if there had been any benefits from the successful outcome of their challenge/appeal, but it became clear that this was too obscure, and needed to be paraphrased. Participants were subsequently asked to talk about what a successful challenge meant to them.

Throughout the interview, the researcher tried to adopt an open-minded, objective and encouraging style that would allow participants to talk freely about their experience, without feeling judged. This approach was designed to develop rapport and enable participants to feel comfortable in delivering their narratives.

All interviews were recorded using a digital voice recorder for later transcription, including those that were conducted on the telephone.

#### **3.5.4. Participant de-briefing**

At the end of the interview, participants were given the opportunity to ask any questions that they might have. They were offered time to talk about the experience of being interviewed, to discuss any issues that arose for them during the process, and to debrief. They were made aware that they could contact the researcher or the researcher's supervisors if they needed further information or support in respect of any discomfort or distress arising from or after the interview, or if they wanted to make a complaint about the research. They were also provided with a list of useful telephone numbers, websites and services they could contact, should they wish to seek further support. These included the Samaritans, Citizens Advice Bureau and information on how to access mental health helplines (Appendix 12).

All participants were provided with an Amazon voucher for £10.00 to recompense them for their time, and asked to sign a receipt for this for accounting purposes. (Appendix 13).

### **3.6. Data analysis**

Braun and Clarke (2006) propose a six-phase approach to thematic analysis. They define a process through which the researcher begins by searching for areas of potential interest and patterns of meaning. These can be coded and then used to generate both semantic and latent themes that are reviewed and refined to form a final thematic map. This is achieved by moving back and forth through the entire data set and searching and comparing to find repeated patterns. These guidelines were followed for the purposes of this study, and to ensure transparency. The stages are detailed below:

### **3.6.1. Familiarisation with the data**

Braun and Clarke (2006) recommend that researchers who use thematic analysis should immerse themselves in the data from the start of the data collection period, in order to familiarize themselves with the depth and breadth of the content. To start the process of familiarisation, the researcher listened to the recording, after each interview had taken place, and made notes of her initial responses.

All 13 recorded interviews were transcribed verbatim onto a computer after the interview had been completed. In accordance with ethical practice, each participant was allocated a number to preserve their identity, and any identifying characteristics were removed from the transcripts. The process of transcription facilitated further familiarisation with the participants' narratives and enabled the researcher to become further immersed in the material. While transcribing the interviews, the researcher recorded her thoughts about areas of interest in the data, and any early patterns that might be emerging between the stories the participants told. An example of this is provided in Appendix 14.

### **3.6.2. Generating initial codes**

Initially, each transcript was divided into two columns to enable the researcher to highlight extracts of text that were of interest on one side, and introduce some initial codes on the other (an example is provided in Appendix 15). Post-it notes were also used to hand-write emerging codes and these were grouped and regrouped as the researcher re-read and reviewed the transcripts. (see Appendix 16). Mind-maps (for an example, see Appendix 17) were also used to facilitate the development of an initial thematic structure.

Later in the process the researcher utilised the MAXQDA software package to facilitate further coding and analysis of the data. Braun and Clarke (2006) emphasise the importance of collating the coded extracts of data, and MAXQDA provides a non-prescriptive and flexible framework for organising and storing qualitative data. It enables the researcher to view segments of text

across the data set, and link them by codes or themes in order to develop the hierarchical structure that forms the coding frame (see Appendix 18).

Codes were created from the data by identifying segments of text that seemed interesting and relevant. Braun and Clarke (2006) propose two approaches to coding. Where the research is more theory-driven, 'selective' coding of data that is of particular interest may be applicable. In keeping with the epistemological positioning and the exploratory nature of this study, an inductive or data-driven approach was considered most appropriate, and a 'complete' coding approach was adopted at the start of the analysis, to ensure inclusivity. As the analysis progressed, codes were reviewed and refined to reflect the iterative process. Ultimately, this enabled the researcher to become more selective in order to focus all of the data that might be pertinent to understanding the participants' decision-making processes, and to discard text that did not inform the research questions.

Braun and Clarke (2006) propose that both semantic and latent (researcher-driven) codes can be derived through thematic analysis, to reflect not only what was said but also the meaning behind it. As the analysis was largely data-driven and related to the participants' own stories, much of the coding was linked directly to the text. However, latent or interpretive codes were also utilised to reflect implicit meaning within the data.

### **3.6.3. Searching for themes**

As this was an exploratory study, the researcher aimed to provide a rich thematic description of the overall data. When all the transcripts had been coded, the researcher reviewed the data again, and began to identify topics that occurred most frequently in the participants' narratives, both within and across the data-set, and to generate an initial thematic structure. It was acknowledged that, while the prevalence of a particular topic might give weight to a potential theme, aspects of the data that occur less frequently may also provide important insight into the phenomena that are being studied, and these were also given consideration.

To form an initial structure of proposed themes and sub-themes, codes were re-examined and those that seemed to group together were collated. The researcher experimented with different visual representations of possible sub-themes that were identified. These included writing codes and/or sub-themes on to separate pieces of paper or post-it notes, that could be grouped and re-ordered (see Appendix 16), and mind and thematic maps (see Appendix 17, Appendix 19 and Appendix 20). Following further review of the data, to check that these candidate themes and sub-themes were representative of the patterns within the data set, they were tabulated into a provisional hierarchy to facilitate further review.

#### **3.6.4. Reviewing themes**

Braun and Clarke (2006) propose two levels of review. Firstly, to ensure that the data extracts for each theme formed a coherent pattern, these were re-read in respect of each candidate theme and either reorganised or confirmed. Taking the review to the second level, the entire data set was reviewed. This ensured that the thematic structure was representative of the participants' narratives and that it was able to address the research questions.

#### **3.6.5. Defining and naming themes**

Braun and Clarke (2006) suggest that, at this stage of thematic analysis, the researcher should be able to describe the content and scope of the themes that have been identified, in order to conduct and write a detailed analysis of the data. However, in the case of this study, there wasn't a clear divide between the last two phases of this approach and the final, worked out themes were defined and named through the process of writing up the analysis.

#### **3.6.6. Producing the report**

This final phase relates to the presentation of an analysis that goes deeper than just presenting the stories of the participants. Extracts from the data are

utilised to exemplify and bring the analysis to life. The results are presented in chapter 4.

Through the process of writing the results, the researcher outlined a detailed description of each theme. Further review of the data set, and the selection of extracts of text to illustrate the analysis presented, led to further refinement and some re-ordering of the themes and sub-themes that had been proposed earlier. This process was reflective of the on-going analytic nature of thematic analysis as a qualitative methodology and helped to ensure that the final analysis provided a meaningful account of the data, and that the final themes most contributed to the understanding of the processes that are involved in the delivery and acceptance of the simple caution. The final thematic structure is presented in the results chapter (see Table 6 on page 71).

### **3.7. Review of case documents**

The case documents that were provided by solicitors were reviewed prior to the interview. The police custody records provided each participant's demographic details and the offence for which they were cautioned (see Table 5 in the results chapter). They also listed any reported health issues and/or vulnerabilities, as well as background information about the nature of the arrest, time and duration of police custody, observed behaviour and wellbeing in custody, legal representation, length of police interview, time of cautioning and time of release from the police station (see Table 4 on page 63). In addition, the documents relating to the outcome of the challenge provided information about whether the participants' caution had been expunged by the police or had received a judgement from the High Court of Justice and the justification for the decision (see Table 5 on page 67).

Table 4: Participant custody information

Participant pseudonym	Police area	Solicitor	Medical review	Duration of custody (hours)	Duration of interview
Penny	1	Yes	Yes	13 hrs	21 mins
Kate	1	No	No	3 hrs	47 mins
Dev	1	No	No	3 hrs	13 mins
Abeer	1	No	No	5 hrs	52 mins
Christopher	2	Yes	No	6 hrs	1 hr 25 mins
Angela	1	No	No	15 hrs	33 mins
Tom	1	No	No	3 hrs	11 mins
Anika	1	Yes	Yes	6 hrs	26 mins
Rohan	3	No	No	9 hrs	41 mins
Kelly	4	No	Yes	13 hrs	42 mins
Elizabeth	5	Yes	Yes	19 hrs	18 mins
Alex	6	Yes	No	Voluntary attendance	43 mins
Dave	7	Yes	Yes	19 hrs	24 mins

It was considered that participants might find it helpful for the researcher to be informed about the circumstances of their cases and that this would facilitate the exploration of the meaning that they attached to their experiences during interview. Later, the content of these documents provided context to participants' constructions of their experience of arrest and detention in custody. This is discussed in more detail in the discussion chapter.

### 3.8. Quality check

An increase in the use and reporting of qualitative research within areas such as health services has led to the need for scrutiny of the methods used (Mays & Pope, 2000). Cresswell (2007) has proposed that 'qualitative research keeps good company with the most rigorous quantitative research'. However, Biggerstaff (2012) outlines an active and ongoing debate about the relative

merits of these two approaches and on the importance of quality and validity when evaluating qualitative research in psychology and, more recently, Yardley (2017) forwarded the view that as qualitative methods proliferate, it becomes increasingly important to consider how the value of a piece of qualitative research should be assessed.

A number of qualitative researchers have developed general guidelines and principles (Elliot et al., 1999; Yardley, 2000, 2008; cited in Braun & Clarke, 2013) for conducting good qualitative research. However, Braun and Clarke's (2006) 15-point checklist of criteria for good thematic analysis (see Appendix 21) was regarded as the most appropriate means of monitoring the quality of the analysis in this study. These criteria were adhered to throughout the process of analysis, as described throughout this chapter.

In addition, to the use of the Braun and Clarke (2006) checklist, the researcher discussed and received feedback on the process of analysis during a number of supervision sessions that took place during this period. This helped the researcher to remain focused on the aims and objectives of the study and to ensure that the analysis remained true to them.

### **3.9. Reflexivity**

Throughout the methodological processes that have been described above, the researcher was aware of the need to consider the role that she played in the research, both professionally and personally. The researcher is an experienced clinician and forensic psychologist and it would be naive not to think that past clinical and expert witness experience and knowledge of the literature on suspect vulnerability would not have had some influence on the way in which the researcher approached this study. Nor could personal views and opinions be discounted.

As this was an exploratory study, with a hard-to-reach population, the researcher chose to access a group of participants that were most accessible to her, namely those who had taken legal action to have their cautions



overturned. This inevitably meant that participants were those who had the intellectual and financial resources necessary to follow this course of action. Furthermore, in the case of all but one of this group, the challenge had been successful. As such, the participants were not necessarily representative of the wider population of people who have been affected by accepting a caution.

Further reflections on the process of the research are included in the discussion chapter.

## **4. RESULTS**

### **4.1. Chapter introduction**

This chapter will provide some demographic details of the participants who were recruited, before moving on to present the themes derived from the data analysis, along with a discussion of the results.

### **4.2. Participants recruited**

Thirteen participants, all of whom met the inclusion criteria, were interviewed. There were six women and seven men. All of them were arrested between 2009 and 2015. They were in the custody of seven different police forces across England. At the time of interview, six participants had been successful in challenging their caution through the High Court of Justice and had it quashed or expunged. In a further five cases, the police had agreed to expunge the caution without the participant having to take full recourse to the High Court. One participant was still awaiting judicial review. This process has subsequently been concluded and the caution removed. As such, these participants' assertions that they had been administered a caution without due process of the law had been endorsed, giving rise to the need to understand the decision-making processes that led to the initial acceptance of the caution. One participant had been unsuccessful in challenging his caution and, on the advice of his lawyer, was considering further appeal, subject to securing funds to do so.

The ages of the participants ranged from 18 to 55 years at the time of their arrest. In terms of ethnicity, as recorded on the police custody records, nine were classified as White British, one White Other and three were British Asian.

Table 5: Summary of participants recruited

Participant pseudonym	Age on arrest	Gender	Participant occupation	Ethnicity	Offence category	Removal
Penny	55	Female	MH worker Psychotherapist	White British	Common Assault	Expunged by High Court
Kate	42	Female	Teacher	White British	Assault (Child Cruelty)*	Expunged by High Court
Dev	23	Male	Accounts clerk	White Other	Possession of Class B	Quashed by High Court
Abeer	18	Male	Student	British Asian	Possession of an Offensive Weapon	Expunged by High Court
Christopher	21	Male	Unemployed V.P.	White British	Possession of Indecent Images	Expunged by High Court
Angela	44	Female	Support worker	White British	Assault (Child Cruelty)*	Expunged by High Court
Tom	42	Male	Computer consultant	White British	Common Assault	Expunged by Police
Anika	39	Female	Teacher	British Asian	Assault	Expunged by Police
Rohan	39	Male	Local G'ment project manager	British Asian	Common Assault and Battery	Expunged by Police
Kelly	23	Female	Student	White British	Common Assault	Expunged by Police
Elizabeth	50	Female	Dentist	White British	Common Assault	Expunged by Police
Alex	46	Male	Dentist	White British	Common Assault and Battery	Expunged by Police
Dave	54	Male	Retired IT professional / Taekwondo instructor	White British	Assault	Challenge deferred

\* Contrary to Section 1(1) of the Children and Young Persons Act 1933 – which consolidated all child protection legislation.

Two of the participants were students at the time of their arrest and one was unemployed. The other 10 participants were in a range of employment. Seven participants were already employed in regulated professions and a further two had career aspirations in a range of regulated professions. All the participants in employment fell within the Office for National Statistics Standard Occupational Classification 2010 (SOC2010) Major Group 2 (professional occupations) and Major Group 3 (associate professional and technical occupations).

Employment status was a major impetus for challenging the caution in this group of participants. A caution is recorded on both the standard and enhanced Disclosure and Barring Service (DBS) checks that form part of the pre-employment processes that are carried out by employers for specific positions, professions, employment, offices, works and licenses included in the Rehabilitation of Offenders Act (Exceptions) Order 1975 and those prescribed in the Police Act 1997 (Criminal Records) regulations 2002. There are also reporting requirements for all regulated professions and having a caution may result in the consideration of removal of registration by a regulatory body. For eight participants, in or aspiring to work in a regulated profession, the acceptance of a caution accorded an immediate threat to their present employment or to their future employment prospects.

One participant was not in a regulated profession but his parents' occupation was compromised. Although he did not reside with them, their longstanding approval as foster carers was removed when, in association with his acceptance of a caution for possession of indecent images, he was placed on the sex offender register. This took away their livelihood and represented a significant loss of income and status for them but more importantly, they were deprived of the ability to contribute to society in the way that they wanted and valued.

For participants with children there were other safeguarding issues to consider. One participant, who volunteered as a parent helper at her children's school

was restricted from continuing with this activity and several participants were concerned about the ramifications of having a caution in respect of child custody arrangements.

For this demographic, travel abroad for study, business, leisure and to maintain family contact was also an important consideration and the decision to challenge was further informed by potential entry restrictions to some countries for people who have a criminal record.

One participant was a vulnerable adult. Despite representations from his family, this participant was not considered to be vulnerable by the police and he did not have an appropriate adult present during the time that he was in custody. However, during the subsequent process of challenging the caution, he was formally assessed and confirmed to have a neurodevelopmental disorder. He was identified as falling within Code C of the Police and Criminal Evidence Act 1984 (PACE) Codes of Practice, which provides guidance on the detention and questioning of vulnerable individuals. His experience of the police raised particular issues in regard to police practices and procedures and the process of administering a caution to vulnerable adults.

Measures were taken to ensure that this participant fully understood the information that was provided about the study and consent was taken with the help of a relative before interview.

#### **4.3. Presentation and discussion of themes**

Using thematic analysis, initial codes were derived from the rich narratives contained in the 13 participant interviews. Through an iterative process, these were grouped into four main themes, each containing several sub-themes, which make narrative sense of the participants' experiences. Table 6 outlines the themes along with the related sub-themes.

The themes are:

- Presumed innocent
- Response to arrest and custody
- Suspect vulnerability
- The not so simple caution

The first theme reflects participants' constructions of criminality and how they define themselves and their actions in relation to the law. The second, explores the range of emotional processes that participants underwent during their trajectory through police custody and the need to escape. The third theme focuses on the vulnerability of these criminally naive suspects and the impact of the actions of the police in determining participants' decisions to accept a caution for a criminal offence, mostly without acknowledgement of wrong-doing. The final theme is focused on participants' subsequent apprehension of the wide-ranging consequences of accepting a caution and the journey that they took in pursuit of having it removed.

Braun and Clarke (2013) suggest that the names of themes should be evocative and capture the essence of the theme's focus in order to provide a vivid sense of the participants' discourse. In this study, however, themes which were located within the language of the legal context most appropriately represented the narratives of participants who had undergone the legal processes associated with the acceptance and challenge of a caution.

Table 6: Main themes and sub-themes

Main themes	Sub-themes
Presumed innocent	Constructions of criminality Self as innocent Expectations of the police Naivety about the law
Response to arrest and custody	Experience of arrest Feeling exposed The aversiveness of custody Escape is paramount
Suspect vulnerability	Police tactics and procedures Poor legal representation The delivery of the caution Just a slap on the wrist Bypassing the Ts & Cs
The not so simple caution	No smoke without fire Identifying misconceptions Obstacles to challenging Attitude to the police

#### 4.4. Theme 1. Presumed innocent

Presumed innocent describes participants' conceptualisation of crime and the representation of those who commit it, as someone 'other' than themselves. Participants held firm beliefs about criminality and they defined themselves and their actions as non-criminal. They constructed criminality through archetypes and stereotypes that appeared to be drawn from printed and broadcast media and popular culture, including fictional TV drama, such as *The Bill*, and they actively distanced themselves from such depictions.

These models of criminality reinforced participants' conceptions of themselves as innocent victims and formed the foundation of their expectations of the police in respect of their own arrest. Such naivety in the context of the criminal justice system hindered them from invoking their legal rights and impacted on decision-making.

#### **4.4.1. Constructions of criminality**

The existence of a stereotypical criminal was implicit in the narratives of the participants. For some, this was represented in terms of artistry or notoriety. Angela alluded to the notion of criminal expertise when she suggested the existence of criminal masterminds who, unlike herself, know how to play the system:

*"... say nothing at all and always, always ask to see a solicitor first. ... this is what probably what real criminal masterminds tell their children ..."*  
(Angela)

Another participant depicted criminality by reference to a high-profile serial killer:

*"I've always been interested in criminology and, erm, I remember at college we studied criminology, we did Dennis Nilsen, I don't know if you remember him."* (Kate)

Kate went on to convey her sense of separateness from such a classification when she described her experience of being in police custody as being very much like an outsider looking in:

*"I'm fascinated with people's minds and I was looking at the people thinking, god, I wonder why you're in here, and, I tried to, it's almost like I felt like I was on a visit."* (Kate)



More often, criminals were portrayed in terms of an observable profile which might differentiate them from non-criminals. For Dev and Abeer, there was an association with callousness:

*“... you’re in a place that’s supposed to be harbouring more cold-hearted people.” (Dev)*

In other cases, participants suggested that the rudiments of criminality might be evident in the everyday behaviour and interactions of offenders. Kelly spoke about her abusive relationship and blamed herself for not discerning that her boyfriend was a violent man when she met him. She indicated a clear belief that she should have been able to see this from his demeanor and avoid forming a relationship with him. Other participants implied that non-criminals might be recognised by their physical appearance or perhaps their gender, social class or occupation. Alex referred to himself being dressed in a suit and tie and, therefore, ‘not the normal type of clientele’ for the police and Anika felt that, as a professional, middle class, Asian mother of three children, she ‘didn’t really fit the bill’ to be in the police station.

#### **4.4.2. Self as innocent**

In seeking to understand how the participants’ defined their innocence and distinguished themselves from the criminal ‘other’, it was apparent that there were a range of explanations to consider. In many cases, the assertion that no crime had been committed provided a clear validation for participants to present themselves as innocent victims of wrongful arrest. Other participants sought to determine their innocence in terms of the nature and degree of the incident and some in terms of provocation and extenuating circumstances.

Some participants characterised the incidents that led to their arrest as being no more than ‘a domestic’. Penny talked about her ongoing marital difficulties and how her arrest arose from her pushing her husband too far in an argument. For her, difficulties and confrontation, occurring within the context

of her marriage, were part of their normal, if dysfunctional, relationship behaviour and not a matter for the police:

*“... looking back, we were both out of control ... I was trying to speak to him, so I was being very persistent. He had for some time been quite silent and angry. He ... grabbed hold of the phone, he had threatened to call the police before, so it wasn't a, wasn't the first time ... on this morning, err, he did call them.”* (Penny)

Similarly, Anika implied that different rules might be applied to family disputes:

*“I didn't think what I had done was so bad. I just pushed someone, and that, that someone being my sister.”* (Anika)

Elizabeth related the difficulties that she had been experiencing as the parent of a teenage daughter with challenging behaviour:

*“... she came out of the front door ... and as I was get, trying to get out the vehicle, she was trying to pull me out, and I pushed her out of the way because I was still caught up in my seatbelt, and I didn't want to injure myself. I said get in the house and I pushed and shoved her, and she did the same back to me ... and then she said oh, I'm going to ring the police. And I, I said, I jokingly said to her do what you like but, but she did.”*  
(Elizabeth)

From Elizabeth's perspective, her response to her daughter's behaviour amounted to 'normal chastisement'. However, when the police arrived some time later, and she objected to them questioning both her daughters, the situation escalated and she was arrested:

*“... I told them not to say anything, and he said be quiet or I'll arrest you, and I said could you tell me why you're going to arrest me, and he said for interfering with a witness. And I said well, you know, I'm not being*

*funny, I said, but for there to be a witness, there has to be a crime, err, what crime have I committed?"* (Elizabeth)

In the case of these women, by deeming their actions to be reasonable and acceptable within the context of their everyday family relationships, they positioned themselves as being innocent of any offence.

Other participants' talk suggested the importance of the outcome of an action in determining whether a crime has been committed. Angela acknowledged that it was not responsible to drink too much alcohol when in the position of being responsible for children but she did not consider this to be a crime or a matter for the authorities in circumstances where no harm had been done:

*"I had been drinking, I, I was still, I'd given the children their dinner, I didn't feel they were in any danger."* (Angela)

Kate saw herself as having done no more than exercise the form of parental judgement that was commonplace in the day-to-day lives of her family. She talked about how protective she was of her children and the sense of disbelief that she felt when she was arrested for leaving her young child in, what she assessed to be a safe area of, a nearby playground while she went home to get something:

*"I thought, my god, I can't even make a decision that I thought was safe, that, you know, without being interfered with."* (Kate)

For both Angela and Kate, the experience of arrest and police detention ultimately led to an acceptance of the possibility that their actions were wrongful but they did not perceive themselves to be criminal and, rather than acknowledge the commission of a crime, they identified themselves as being responsible for an error of judgement, such that, in the absence of any harm being done, their behaviour might readily be overlooked:

*“... I did have the children in my care when I was drinking, erm, so I’ve done something terribly wrong. Erm, and hoping that they [the police] would, kind of understand, and be human, and use, use their sort of, better judgement and see that I wasn’t a criminal ...”. (Angela)*

The metaphor of a dividing line, between lawful and unlawful, was inferred in many of the participants’ stories, but Tom spoke overtly about this. He described how, during his police interview, he admitted that, in an act of ‘self-defence’, during an argument with his partner, he had ‘crossed the line’ in terms of his own definition of domestic violence:

*“... if you don’t hear the, erm, she went to hit me and I did this, it’s me going, yeah, I crossed the line, I went a step too far ... the crux of it is, is that if I hadn’t, then, she said, but you thought she was gonna hit you, but she didn’t.” (Tom)*

Although Tom acknowledged that, for him, it wasn’t acceptable for a man to physically restrain his partner in an argument, he believed that he had used no more than reasonable force to prevent her from hitting him, as he reported that she had done on previous occasions. Consequently, he had crossed a line in terms of his own moral code but not in terms of his understanding of the law and he was unaware that his account of the events that had taken place would be interpreted as an admission to a criminal offence by the police officer who interviewed him.

Rather than the perpetrator of an offence, Tom perceived himself to be the victim of a malicious allegation on behalf his partner for her own instrumental gain:

*“... it was clearly a tactic, she wanted to split up, and she wanted to use this ...”. (Tom)*

This was true of other participants who also believed that the circumstances that led to their arrest had been deliberately manipulated by their alleged victims:

*“So, it was only a matter of time before, erm, she created a drama where I was cast as the, erm, the villain, and that's sad.” (Dave)*

The notion of reasonable force was also present in the accounts of other participants who believed that they had been acting in self-defence or for the protection of others and were, therefore, innocent of any offence. Kelly was quite explicit about this:

*“Obviously, yeah, I know that hitting someone is an offence ... but I saw it as self-defence, cause it's not like I went over to [name of ex-partner] and just hit him in the face. I was trying to defend myself, cause that's why it's a scratch, it wasn't like a punch, I was just like trying to push him off me 'cause he was strangling me.” (Kelly)*

For other participants, it was a matter of intention which distinguished them from their criminal counterparts:

*“... we thought someone had broken into our house ... my dad's just gone outside, and in shock, I'm thinking oh my goodness what's gonna happen. Erm, so I've taken out a baseball bat stupidly, and, erm, I run outside and I'm thinking I need to protect my dad, regardless. Erm, obviously didn't use, didn't intend to use it at all, in any case, erm, it was used as a scare tactic.” (Abeer)*

In retrospect, Abeer could appreciate that a baseball bat might be regarded as an offensive weapon but he maintained that, in his case, it had not been used in the commission of an offence. It had only been used as a deterrent, with the intention of protecting others. In his eyes, his actions were entirely justifiable in the heat of the moment and did not constitute criminal behaviour. Beyond this, he inferred that the police should have been able to identify his lack of

criminality and appreciate his intention, particularly when the real suspect was still at the scene when they arrived:

*“... the person who was actually in our garden was caught, my father actually caught him and brought him to the police officers.”* (Abeer)

Abeer was incredulous that he was arrested while the suspect was released without further action by the police, and he believed that he has been perceived to be an easier target:

*“He was let go, erm, he couldn’t speak a word of English, he was let go regardless, erm and I was thrown into the back of a police car.”* (Abeer)

Two other participants asserted that, while their actions might not have been fully within the law, they were not serious enough to warrant legal intervention. One participant was arrested for smoking cannabis in a public place which, for him, warranted no more than a warning:

*“... you do think it’s quite a small situation that you’re in.”* (Dev)

Coming from a military background, Alex took a ‘boys will be boys’ perspective in his consideration of the boundaries of masculine behaviour. He described his involvement in a physical altercation with another man, who he thought was behaving in a threatening manner towards him at a social event. He regarded this as *“just a bit of handbags, and that was it”*. In other words, not serious enough to be a police matter and something that should just have been resolved by the two of them.

These constructions of criminality and innocence suggest a clear divide between participants’ concepts of ‘them’, the stereotypical criminal, and the law-abiding ‘us’. In keeping with this, they aligned themselves with the police and expected them to be on their side.

#### 4.4.3. Expectations of the police

Most participants demonstrated long-held deeply embedded structural beliefs about the morality of the criminal justice system and the police. It is conspicuous in their narratives that, at the time of their arrest, they had faith in the criminal justice system and an expectation that the police would deliver on the fundamental principle of ‘innocent until proven guilty’:

*“I trusted them completely.” (Abeer)*

They said they believed that they had done nothing wrong, and the police would identify their lack of criminality and, being invested in the delivery of justice, would quickly ‘sort out’ whatever misunderstanding had taken place:

*“I thought I had nothing to worry about because they were going to ask me what happened, I was going to tell them, and I was going to walk out.” (Dave)*

*“Some people have issues and things and police let them go, like they don’t arrest everybody do they.” (Kelly)*

A few of the participants, who said they had no previous contact with the criminal justice system, relied entirely on media portrayals to inform their beliefs about the law and the role of the police. However, the majority were able to draw upon some personal or professional experience of the police, prior to their arrest. Those, whose contact with the police had been within the context of their work, talked about the role of the police in maintaining public order and protecting vulnerable members of society and, although conscious of some of the limitations and challenges that they might face, saw them in a positive light:

*“I’ve got quite a few patients who are policemen, and, you know, they, they’re pretty nice guys and generally very reasonable, erm, if a bit*

*overworked like most people so in, in that respect ... I was, was confident I'd be treated fairly."* (Alex)

A small minority of the participants described prior contact with the police in respect of a suspected breach of the law. One participant had a police record for an offence which dated back many years to her youth. In the other cases, the matters had been resolved and no charges had been brought. Such personal experience allowed participants to form an expectation of fair treatment and the understanding that the police have the capacity to exercise judgement and the option to take 'no further action' where they see fit.

Some participants talked about having previous contact with the police in circumstances that were related to their index offences and the assumptions that resulted from these experiences. Dave and Elizabeth talked about the repeated juvenile offending of their teenage daughters, both of whom subsequently made allegations against them, leading to their arrests. Elizabeth perceived the interventions of her local police as helpful and supportive:

*"She painted all my neighbours' cars, err, there's loads and loads of incidents that she's got involved with locally where they've caused damage and trouble, and the police have come to see me. And they, they've, you know, done their best to keep these young people out of trouble."* (Elizabeth)

While Dave anticipated that, with the police being aware of his daughter's history of offending, he would be exculpated in respect of her allegation of assault:

*"I had this image in my mind that what was going on whilst I was in custody was they were cross-checking all the data that they had and finding out that there'd been a history behind her behaviour ...".* (Dave)



Two participants, who said they had previously been victims of crime, were less positive about their interactions with the police. Kelly outlined a previous incident in which her boyfriend had become violent and her flat mate had called the police:

*"They didn't arrest him. They put him in the car to take him home, and they said to me do you know one, one female a week dies in domestic violence, you should get out of this relationship ... they said do you want to make a statement and ... I was scared, I just didn't, didn't want to say anything and they were like so you're gonna waste police time then. I said I never called you, it was one of my other friends, one of the other girls who lived in the house that rang them. That was all on record."*

(Kelly)

Elizabeth described how she too had experienced oppressive tactics and dishonesty when the police falsely tried to persuade her that she was obliged to give evidence against her ex-husband in court, after he seriously assaulted her new partner:

*"I know that the police can lie. They told me I had to give evidence against my husband but the judge said a wife doesn't have to give evidence against her husband, unless it's a sexual offence against a minor, or I think it could be a sexual offence against anyone."* (Elizabeth)

However, although these participants perceived the officers to have been heavy-handed in their treatment of them, this did not appear to have changed their general beliefs about the morality of the police:

*"I was a bit nervous but I always believed that the police are not corrupt, and I always believed if you haven't done anything wrong, you haven't got anything to worry about. Erm, so I, I, you know, I wasn't terrified that I would be convicted of something I hadn't done."* (Elizabeth)

#### 4.4.4. Naivety about the law

The concept of innocence featured not only in participants' accounts of their lack of culpability, but also in terms of guilelessness in respect of the execution of the law. Faith in the integrity of the police and the criminal justice system impaired their ability to comprehend the potential jeopardy that they faced. Many participants related how naivety, prevented them from exercising their fundamental legal rights to consult a lawyer, to have a lawyer present during any questioning, and to remain silent.

Most participants believed that a solicitor was only necessary if an offence had been committed and declined the opportunity:

*"I should have just asked for legal advice. They said do you want a, a solicitor ... and I said well do I need one, and they were like well it's up to you. I was like, I didn't understand that I didn't know if I needed one, I, I thought well no, I haven't done anything wrong." (Kelly)*

In contrast to those who declined legal advice because they believed they were innocent, Kate accepted that her actions amounted to wrongdoing but, as she did not perceive them to be criminal, she saw no need to have a solicitor present when she was interviewed by the police. From her perspective, the police did nothing to help her to understand the situation that she was in or the need for representation:

*"He just said do you want a solicitor, and I said no thank you, I've done something wrong, I just need to talk about this, and he went ... he did look at me, going OK ... erm, and that, with hindsight, I remember, I kept thinking about his look, thinking he must have thought I was bonkers." (Kate)*

The concept of openness was addressed by participants in outlining their naivety about criminal justice processes. In the belief that their actions could

be justified and that the police would understand and make a fair judgment of them, they relinquished their right to remain silent in order to explain:

*“I wanted to tell them everything. In my mind, it’s always been if you, if you say no comment it’s almost like you’re guilty ... because you’ve got something to hide and I, it was like I haven’t got anything to hide, I’ll tell you what happened, which is nothing, apart from that I’d been drinking.”*  
(Angela)

These participants were also often entirely unaware that their explanations might represent or be interpreted as an admission of an offence:

*“I just, I just thought all I’m doing here is relaying to the police officer ... he’s asking me what’s happened, and I was giving my version of events. I never for one minute thought that they would almost then translate that and subsequently obviously do what they did and issue me with a, a caution.”* (Rohan)

#### **4.5. Theme 2. Response to arrest and custody**

This theme outlines the impact of being detained in police custody on participants’ self-efficacy. Participants’ experience of arrest was immediately discordant with their conceptualisation of themselves as non-criminal and their expectations of the law. They were completely taken aback by the circumstances that they found themselves in and they were afraid. They felt exposed and powerless in custody, such that they became focused on escape and this made them vulnerable to the ensuing police practices and procedures.

##### **4.5.1. Experience of arrest**

Ten of the 13 participants were arrested at the time of the alleged offence. Two were asked to report to a police station after the event and one, Christopher, was arrested in relation to an historic crime that was alleged to have taken place when he was an adolescent. Not all participants were

immediately concerned. Some remained confident that the matter in question was just a misunderstanding that could readily be resolved later in their trajectory through police custody.

Christopher was at home when he was arrested on suspicion of making indecent images of children. He was taken away in handcuffs, but he experienced the police positively at the time of arrest. It was only later, when he was unable to withstand pressure to make false admissions that he came to feel oppressed by the treatment that he received:

*“I was arrested for something that happened, erm, about seven years ago, erm, and when I was first arrested I, erm, actually had no idea what it was over because it had happened so long ago ... I found the experience quite friendly and amicable, erm, and I found the experience quite different from when, when they were at my house to when they were at the police station, it was quite, it changed, it changed quite a lot ... so when they said they needed to, obviously, arrest me and take me to the police station I thought well that’s fine we’ll sort it out in an hour or so, be over and done with.”* (Christopher)

For the majority, however, the experience of arrest represented an immediate challenge to their preconceptions of the police. In addition to Christopher, three of the men and two women, were placed in handcuffs at the time of their arrest. These participants were confounded by the attitude of the police. Rather than demonstrating an assumption of innocent until proven guilty and a willingness to investigate, as they would have anticipated, they experienced the police as being aggressive and heavy-handed:

*“He said I’m telling you now, he said, you’re being arrested and you have no rights.”* (Elizabeth)

*“I’m arrested, with force, literally, my hands were cut, my wrists were cut up with the force of the cuffs.”* (Abeer)

*“Erm, so I had to walk down the stairs quite slowly, and, err, and she pulled hard on the handcuffs so it was very difficult to walk down without falling.” (Penny)*

The contradiction of believing that they had done nothing wrong and the imposition of arrest was a source of shock and bewilderment for these participants and they struggled to assimilate the situation:

*“I was in a state of disbelief, shock ... I just couldn’t believe that this was happening, you know, in my own home, what should have been a day out with my partner and my child ... I remember the handcuffs going on being very, very tight to my hand, and, you know, I’d never experienced anything like that, and then literally bundle, bundled into the police van.” (Rohan)*

*“Yeah, being handcuffed. It was surreal. Even now I think about it, it’s still surreal to me. I can’t believe it actually happened.” (Elizabeth)*

For other participants, lack of clarity about the reason for their arrest was also a source of confusion and distress:

*“I said who have I assaulted, I said you can’t do this to me. And then I remember the whole way, erm, crying all the way when they took me to [location of police station].” (Anika)*

#### **4.5.2. Feeling exposed**

A number of participants related how arrest and being taken into custody engendered feelings of exposure. In one context, this related to the fear of being stigmatised. Participants were self-conscious about being in this compromising position and they were concerned about who might witness their arrest and the potential consequences of being seen. For some, like Rohan these concerns related to both their personal and professional reputation:

*"I remember the handcuffs going on being very, very tight to my hand, and, you know, I'd never experienced anything like that. I was very embarrassed at thinking have any of my neighbours seen me, and what their reaction would have been ... and I was, sort of, thankful of just getting bundled into the van at the time for fear of seeing anybody ...".*

*"... I work as a local government officer so I've had interaction with police and various senior people within the community, and I thought oh, this is just not an image that I wanted to, to, for them to see me in especially when we got into the police station." (Rohan)*

In some instances, the feeling of exposure was tangible and was associated with feelings of humiliation and shame. Penny was in the shower when the police arrived. She was unaware of their presence until she opened the bathroom door and was confronted by the sound of police radios:

*"... she was very aggressive this police officer ... I think I went into a state of shock, but I can remember thinking just say nothing. They can't harm me, I haven't done anything wrong, so they can't harm me ... I asked if I could put my trousers on because I wasn't dressed and, err, the police officer ... looked me up and down, and sort of, you know, as if she was trying to humiliate me, and she said you're all right as you are." (Penny)*

For Anika, as an Asian woman, there were gender and cultural connotations to being improperly dressed and to being searched so that when her request for privacy was denied, she became increasingly distressed:

*"I was wearing, erm, my sleeping clothes ... I felt so vulnerable as it was and then, you know, I felt deep shame, and then on top of that, being searched ... I remember saying to the police officer, you know, if you do search me before you put me inside, I don't want to be searched in front of some, you know, some men, you know, it's quite embarrassing for a woman. So they didn't really understand, and I said well the police*

*officers can see me, you know, can you just take me somewhere else. But, they wouldn't really listen to that, erm."* (Anika)

Other participants related how the removal of their clothing and property in the police station induced feelings of defencelessness and impending threat. In some instances, this related to the associations that they drew from watching popular police dramas on television but, in others, participants inferred a risk of harm and were further intimidated by information communicated directly to them by the custody officers:

*"I used to watch it religiously that programme [The Bill] ... I remember, you know, the sergeants when people were brought in by the police station, you know, emptying their pockets out, that was like happening to me and it was being brought to, to life for me and it was, you know, I was, I was, petrified."* (Rohan)

*"They were talking to me about people trying to hang themselves, or harm themselves in the cells, in the rooms, erm, so I had to take my shoe laces off, take all my clothes off, and I was given just white clothes, overalls."* (Abeer)

Being denuded was also presented in a more existential context. Kate described how being taken to custody made her feel completely bare and unprotected:

*"You're standing there ... everything felt like it was being stripped away from me, everything."* (Kate)

These feelings of exposure were also associated with a sense of powerlessness. Participants felt out of control and defenceless in the hands of the police:

*"I suppose as soon as I got into that police car it was like this is out of my hands now. I'm, kind of, at their mercy and whatever they wanna do with*

*me they'll do, I've just got to go with the process ... I'm completely helpless now, kind of at their mercy."* (Angela)

Several participants invoked the metaphor of being driven in order to convey the sense of impotence that they experienced as they were processed through custody:

*"I just felt as though I was the passenger in the process and that they were the drivers. That was the way it was. I didn't really have a say and didn't have, erm, any place to, to question."* (Dave)

*"I just felt that they were almost driving me down this route of taking the simple caution."* (Rohan)

Participants attributed this to the developing belief that they were being pre-judged and that their account of the events that had taken place would not be listened to. In some cases they felt that there was a presumption of guilt from the outset:

*"My fear was that whatever I, kind of, was going to say to them would've been taken in in that, sort of, almost pre-conceived way that ... I was fearful, I think."* (Rohan)

*"... they decided that it was nasty, rough father hitting daughter ... case closed, bang, end of."* (Dave)

Other participants perceived the determination of the police to be more perverse:

*"On TV, I have seen people, who have been, you know, set up for things they haven't done and I said oh god ... this is now looking serious, you know, court, court, well why would I be going to court. I said oh no, you know, I haven't done anything wrong. But, it seemed to me like you have*



*to, to prove your innocence rather than them prove that you're guilty."*  
(Elizabeth)

In these cases, the police were seen to be target-driven. Participants felt that they were being used to fulfil a quota and that the delivery of a caution was already pre-determined:

*"... they're trying to get their white middle-class statistics up."* (Kate)

*"... one was about to let us go, the other one went real nuts ... he kept saying sarge wanted to make an arrest tonight, so they were just out there to, I don't know, put in some numbers, or do something, or ruin some kid's life."* (Dev)

For them, the objective of the police was to expedite an admission and to administer a quick and easy disposal with little recourse to the evidence or the individual characteristics of the case:

*"There was literally two questions, he said well this is what I'm gonna ask you, these two things, you're gonna say yes and he asked me those two things, I said yes and it was over. Well that was the shortest interview anyone ever gave for anything."* (Dev)

#### **4.5.3. The aversiveness of custody**

Participants often attributed their acceptance of a caution to the experience of being held in the police station and to the duration of custody. Prior to their arrest, participants regarded the police station as the domain of the criminal other. However, the experience of being taken into custody, and the intrusive nature of the checks that they were subjected to, provoked them to identify with images from film and television that were discordant with their concept of themselves as non-criminal:

*“... that’s just horrible, you’re standing there, you’ve seen it in the films, and you’re standing there, and I’m just, this point I am crying...”. (Kate)*

Participants reported fear and confusion circumstances whereby their initial expectations of the police were undermined, and they experienced themselves as being criminalised:

*“My images were taken. My belongings, I’d, I’d felt, my belongings had obviously been emptied out my pockets, everything, all my belongings and my phone and everything had gone. And I just felt like a criminal, Sue, I actually felt like a criminal ...”. (Rohan)*

*“I remember them taking a swab and fingerprints, and things like that, erm, just like a criminal, erm. Yeah, it was just awful. Erm, I just kept thinking this is ... you know, I’m a mum of five children, I’m not a criminal, I’m not, erm, I’ve always tried ... this is so opposite to who I am.” (Angela)*

Although some participants felt that they were treated sympathetically and recounted efforts by the custody officers to hold them in the custody area, rather than put them in the cells, most were locked up. Participants described how aversive they found the experience of being in a police cell and, particularly, the impact that this had on their physical and emotional states. With the progression of time, their ‘unwarranted’ detention by the police induced new levels of distress:

*“I’ve never been in a police cell before, I don’t ever want to go back there, erm, it was just a horrible, humiliating and I think unnecessary experience.” (Dave)*

In some instances, participants spoke about the physical aspects of the custody environment and how distasteful they were. They described the size and the state of cleanliness in the cells that they were held in and the food and drink that was provided, or the lack of it:

*"I did sit in the cell, I just thought it is disgusting." (Kate)*

*"I had the most disgusting food you could ever have, you wouldn't even give it to a rat." (Dave)*

Feeling dirty or unclean was also sometimes associated with being in the cells. For most participants, however, being detained in the police station was represented in terms of the emotional processes that they underwent in the cells and the impact of this on their wellbeing.

Participants were detained for periods of just over three hours to a maximum of over 19 hours, with six of the participants being held overnight. Their experiences undermined their resilience and caused them to focus on the need to escape. Many identified features such as the coldness of the cells, the darkness and the noise of the other inmates as being particularly disturbing. More significantly, they related feelings of fear and panic, often associated with a sense of isolation and abandonment:

*"I was terrified, and then when I got to the other side, err, they, they put, they take your bag and take most things off you, your shoes, and then just basically put you in a cell for the night." (Elizabeth)*

For those who outlined pre-existing psychological vulnerabilities, the impact of incarceration was heightened:

*"... oh my god, I've got to stay in this tiny box room, like cause I was scared, I remember feeling really scared ... I think I started crying then, cause I was claustrophobic. I hate ... the idea of being in a cell like, was horrible. Absolutely horrible." (Kelly)*

Lack of communication was also a key stressor. Not knowing the time, how long they had been in custody, what might happen or when they would be

released was a salient feature in many of the participants' accounts of their time in the police cells:

*"And then the police officer that arrested me just opened the cell door and took the handcuffs off and shut it ... I had no idea what was going to happen to me."* (Penny)

In some cases this induced an unfamiliar sense of fear:

*"Once I was in there, there was literally no communication with anybody ... I had no real idea what to expect if I'm honest with you ... you know, err, a 40 year old grown man and I was, you know, frightened really."* (Rohan)

Participants also talked of losing awareness of time and becoming disoriented:

*"... it was like being in a, sort of like in a, in a whirlpool going round and round and round and round, where you get totally disorientated and it's not real. That's what it felt like."* (Dave)

*"I don't know how long I was in there, and I kept crying, and I wasn't crying, I was wailing, and it was quite loud, and it was uncontrollable."* (Anika)

Other participants were consumed by the potential consequences of their arrest within the context of their lives and the possible harm that might occur in respect of their inability to take evasive action while they were in custody. Angela was particularly disturbed by the concern that her ex-husband would learn about her arrest and use this as an opportunity to gain custody of their children:

*"That's all I could think of. I can't cope with this, it's finished. Anxiety like it was, erm, just, I couldn't contain it at all ... asking to see the doctor, erm, yeah, I couldn't believe he didn't, he wouldn't give me anything to,*

*kind of, try and ... yeah, it was horrible, I couldn't be with myself. It was, it was just overwhelming. I felt very ill, very, very frightened, very, erm, very scared."* (Angela)

Participants described how feelings of distress and abandonment were intensified by the behaviour of the custody officers, who were often seen to be unconcerned by their naivety or lack of familiarity with the custodial setting. In contrast to their expectations, several participants experienced the police to be indifferent and unhelpful and, at times, overtly hostile towards them:

*"I was quite cold and everything. I just felt really upset with everything, no-one was comforting at all, no-one was like oh it's OK, everything's gonna be OK sort of thing, I mean, I didn't expect it, but it would have been nice, I'm quite a young person ... and no-one showed any sort of consideration to what had actually happened, no-one decided to listen to what had actually happened."* (Abeer)

*"... it was quite disturbing, the silence, so I waited a while and I pressed the buzzer in the cell and nobody came. So I pressed it again and then a police officer, err, came to, opened the door, and, he was a huge man, huge, you know, broad and very, very tall, and he spoke in a very quiet, controlled way, and he said if you press that again we'll switch it off."* (Penny)

*"I stayed, stayed in the custody area, until the very end when they just threw me in a cell anyway and then forgot about me, and I was, I had to start knocking on it to ... like, guys, like I have no reason to be here anymore."* (Dev)

#### **4.5.4. Escape is paramount**

The need to escape ran through the discourse of many of the participants. They related how their levels of distress were so elevated that they were induced to comply with the police as the only means of bringing these negative

experiences to an end. In some instances, they talked about the need to get away from the police station at all costs, regardless of their understanding of the possible consequences of going along with the police:

*“No, I just had to get out, I just had to get out. I, I knew, in fact I wondered whether I’d ever work again ... but I had to get out.”* (Penny)

Other participants regarded their detention as an aberration and, maintaining the belief that justice was really on their side, that they would be able to resolve the matter once they were released:

*“Not knowing what was gonna happen ... once I get out, everything, I’ll, I’ll sort everything out properly as it should be, and, oh I can’t do anything in here, if I, the quicker I agree to everything, the quicker they’ll let me go, erm.”* (Angela)

Most participants, however, were driven only by the need to extricate themselves from custody and were unable to consider the possible risks that might be associated with achieving this objective:

*“I would have signed anything at that stage I’d have signed, I’d have started world war three, you know, I just wanted to go.”* (Dave)

While distress was most often associated with negative emotions such as shock, fear and humiliation and with an inability to tolerate uncertainty, for some participants, police detention also impacted on their health and physical wellbeing. Participants who had consumed alcohol prior to arrest talked about feeling sick and hungover. More significantly for some there was real concern that they would come to significant physical harm if detention was ongoing:

*“I’ve got to get out of here ... I’m on blood pressure medicine, it was sky high ... and, I’m thinking, I’m going to drop dead of a bloody heart attack if I’m not careful.”* (Dave)

Participants were not only concerned for themselves. Those with children spoke of experiencing increasing anxiety about the welfare of their children as their detention progressed. Some, like Kate, were not taken into custody until they knew that their children were safe but struggled with the separation:

*“What I’m thinking is, oh god you said I could spend the night away from my children, or I wouldn’t be with my children, I need to get out of here ... I don’t even know if I thought about the word ‘charge’. I didn’t know a caution was so serious, erm, so he’s talking to me and all I’ve got at the back of my mind is I just wanna get out of here.”* (Kate)

More commonly participants said they were deprived of information or the opportunity to determine the arrangements that were put in place, and were concerned that they might be inappropriate or even damaging. Anika had no knowledge of whether her children had been told where she had been taken but she was aware that they had been left in the family home with the relatives whose attempts to evict her had been the source of the argument that led to her arrest:

*“I remember I was crying, and when the lady came she said stop crying, I said I want my children, are they OK ... what if they threw them out the house?”* (Anika)

Other participants, who regarded themselves as victims, were also fearful of the potential consequences of prolonged detention in terms of allowing the perceived perpetrators to do further damage. Tom and Rohan believed that they had been set up by their partners, and were stressed by the possibility of further repercussions in terms of the intentions of their accusers. In both cases, concern that plans were being instigated to bring their relationships to an end and deny them access to their children, while they were out of the way, was a major factor in their need to get away from the police station:

*“I was thinking more of [name of ex-partner] at home with and [name of daughter]. I was thinking I’m here sat in a police station being*

*interviewed for something that's, you know, that my partner has complained about ... I just wanna get out of here and, and get home."*

(Tom)

While, Dave was afraid that his daughter would attack his wife while he was in custody and unable to defend her:

*"I didn't know that my daughter had actually said to the police I don't ever want to go back there again. I thought she might have been put back in there and my wife might be, you know, been beaten up or stabbed or something."* (Dave)

Although avoidance of distress was the primary reason given for the need to escape, participants also felt the need to be released for reasons of expediency. Sometimes this related to concern about friends and relatives who might be worried by lack of contact from the participant or by them missing a social commitment:

*"... I mean the fact of wanting to get out of there very quickly, not wanting to leave a bunch of people not knowing ... I mean, I had, I had friends calling hospitals to find out where I was."* (Dev)

Others, had work or college commitments to fulfil. Sometimes it was the importance of the commitment itself that drove the need to be released but participants also feared exposure if they were unable to attend or to provide an alternative explanation for their absence. In these circumstances, participants sacrificed the opportunity of having legal representation so that they could be processed more quickly:

*"I had an exam coming up I think that, the day after, err, they told me that it would take a lot longer if I wanted to be interviewed by the CID, or if I wanted a solicitor because they wouldn't be available until the morning time ... so I would have to stay in that cell all night long."* (Abeer)



In some of the narratives, the need to escape was addressed in multiple contexts. Kelly was hungover and in pain from the injuries that she had sustained in the fight with her boyfriend and co-defendant and she wanted to bring her time in custody to an end. However, she was also afraid that she would be at risk from her boyfriend and his family if she implicated him. Ultimately fear of such repercussions superseded her own needs and she elected not to make a complaint against him or defend herself against the allegation of assault:

*“I just wanted it to be all cleared up and, you know, done with. I didn’t want to get out of there and then have to go and tell [his] family that he’s been recalled to prison because, like, that I’ve put him in there, sort of thing, so I was scared... and then I’d, I’d have been scared that [name of ex-partner] would have, sort of, come after me and if he was to have got sent down because of, because of what I’d said, do you see what I mean.” (Kelly)*

Escape was also related to avoidance of prosecution. Through the experience of arrest and custody, participants came to accept that their earlier assumptions about being able to demonstrate their lack of culpability and the benevolence of the police were unfounded. When it seemed apparent that they were not going to be released without charge, their fear of facing court proceedings led them to accept the caution in the belief that this was both an immediate and a softer option than the alternative of being charged with an offence, along with the risk of being taken to court and being further exposed:

*“I thought it was one or the other, and I thought court, I said oh god, court, you know, I mean, oh god, I didn’t really know, I was terrified by the prospect of that.” (Elizabeth)*

#### **4.6. Theme 3. Suspect vulnerability**

With hindsight, many participants felt that they had been manipulated by police because they were criminally naive. Whether the actions of the police were

based purely on routine procedures or were attributed to a lack of integrity, participants perceived them to have been highly instrumental in shaping the decisions that they made. Participants related how they were caught off guard by an inherent faith in the justice system and the belief that the police were acting in their 'best interests' throughout their time in custody. Without good legal representation or support they were often unaware that, by trying to explain, they might be incriminating themselves. Furthermore, naivety, bewilderment and fear, along with the need to escape, made them malleable and compliant, such that they were unable to withstand the allegations that were being made against them. As such, their, often unquestioning, acceptance of a caution was almost inevitable.

#### **4.6.1. Police tactics and procedures**

In their narratives, participants identified a number of ways in which they felt that they had been poorly served or misled by the police. Some participants expressed the belief that there had been serious acts of omission and sometimes deliberate disregard for procedure on behalf of the police officers who dealt with them, or that deliberate tactics had been used to ensure that the allegations could be upheld.

In Kelly's discourse, she talked about the failure of the police to secure statements or to take into consideration information from two witnesses who could have corroborated her account of events:

*"The police had said there's been two wit, there's two witnesses ... and they both reported the same thing that I was on the floor ... being attacked by a male. So I don't know, I don't understand, why they gave me the caution."* (Kelly)

Participants asserted that were not made aware of their legal rights while they were in custody or, as in the case of Elizabeth, that they were actively led to believe that they had no rights (see quote on page 84). Others spoke of how the police failed to recognise that they might be vulnerable or to take steps to

ascertain their understanding of their rights. Anika implied that the police should have taken account of her mental state before presenting this information to her:

*“I thought maybe they’d have someone medically trained there because I was very distressed ... I don’t remember anything being said to me.”*

(Anika)

In Christopher’s account, he was cautioned, prior to interview, without any consideration of his ability to comprehend the police caution:

*“I don’t really understand what it meant, but I just repeated it back to them in a different order ... I’m not so good at understanding, sort of, legal terms.”* (Christopher)

As a vulnerable adult, Christopher fell within Code C of the Police and Criminal Evidence Act 1984 Codes of Practice and should have had an appropriate adult present when he was interviewed by the police. Code C states that ‘If an officer has any suspicion, or is told in good faith, that a person of any age may be mentally disordered or otherwise mentally vulnerable, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of this Code’. He said this need was not identified at the time of his initial arrest, and on the second occasion that he attended the police station the request was refused, regardless of his father’s intercession:

*“... my dad did actually attend the police station with me on the second interview and asked to sit in on the interview ... he explained the reasons and the custody sergeant disagreed. I think the reason he gave was I was over 18.”* (Christopher)

Failure to identify vulnerability or to put appropriate safeguards in place prior to interview was addressed by other participants who felt that they were processed by the police without regard for their individual needs. Kelly suggested that a risk assessment should have been carried out when she was

in the police station, because her violent partner was also in the police cells. For her, the police should have had the knowledge and experience to identify her as a victim and to recognise that her account of events might be influenced by an awareness of the possible repercussions of saying anything that would incriminate him:

*“Obviously a lot of victims of, especially females, they don’t say anything do they. They’ll just pretend everything is OK.” (Kelly)*

Kelly asserted that this lack of concern was further evident in the later decision to release her and her partner from the police station at the same time, leaving her out on the street with him and at risk of further assault.

After prolonged periods in custody, many participants felt that their police interviews were short and peremptory. They experienced the interviewing officers as being uninterested in carrying out a detailed investigation and mainly concerned with securing an admission as quickly as possible. In some cases, as described by Dev (see page 89), the brevity of the interview was presented in terms of expediting the participant’s release from custody and offered a clear incentive to go along with the officers and not put up any form of defence. In others, this was attributed to work or time pressure. For Kelly, this exemplified poor safeguarding practices:

*“She seemed rushed. I, it had been a long day, I think she said, just got to ask you this, I’ve got to record it ... like what if that was another, like another lady who was in a really, really, really, really bad domestic, sort of, situation, and then she’d gone, she’d gone home that night and then he’d killed her. Because they didn’t explore everything around it, do you see what I mean. Instead of just 15 minutes in and out.” (Kelly)*

Believing themselves to be innocent of any offence and anxious to get out of the police station, participants said they accepted the cursoriness of the interviews in good faith and they were unaware of the jeopardy that might be

associated with being denied the opportunity to refute the allegations against them and give their own account.

In the main, however, participants believed that the police had deliberately tried to impel them towards the acknowledgement of some form of offence. In some instances, participants averred a cynical use of tactics aimed at restricting their access to legal advice. Only six participants had the benefit of legal representation in the police station. The majority were interviewed without the presence of a solicitor. Although some said they made this decision in the belief that they were innocent, others felt that they had been actively deterred from seeking this support, or that they were dissuaded by the assertion that this would extend their time in custody:

*“... the police guy who bought me in, actually was advising me not to have a solicitor.” (Dev)*

Participants often felt that they had been lulled into a false sense of security by police officers who encouraged them to believe that they were on their side so that they remained assured that their innocence would be established and were not vigilant to the risk of self-incrimination:

*“It was all sort of easy going and ... we’ll have you out of here within half an hour. It was that sort of, err, approach.” (Tom)*

*“I think it was a police officer, or the sergeant in charge at the time, they were saying that he would do the exact same thing if his family were in danger.” (Abeer)*

Abeer talked of feeling bewildered when, in the interview room, the officer who had seemed to support him, claimed to have been intimidated by his physique at the time of his arrest:

*“He said my arms are big, and he felt really intimidated by how I was and things like that. He asked me if I worked out. Yeah, so I just felt*

*shocked. I didn't know what, what was going on, I didn't know if they were playing good cop, bad cop, or really trying to be friendly with me most of the time after what had happened, I mean, it was upsetting."*  
(Abeer)

He asserted that it had been intended to undermine his ability to give a true account of himself. To him, this apparent dissemblance was a purposeful ploy that was designed to increase the pressure on him to go along with the suggestion that he had intended to use a weapon:

*"Erm, so, yeah, they kept asking me the questions and it was kind of like they were trying to make me, I don't know if it's the right way to say it, but trying to make me admit to something. They kept prodding."* (Abeer)

Angela also inferred that the police had an agenda and that they were trying to influence her in this way:

*"I felt that they were trying to trick me into saying something, or not saying something, definitely, erm. And I felt that they were, maybe I watched too many things on tele, but I felt that they were being, erm, sympathetic with a, with agenda, if you see what I mean."* (Angela)

Several participants talked specifically of being 'hoodwinked' by the police in respect of the way that they were encouraged to believe that they had nothing to be concerned about during the police interviews and only later learned of the consequences of their naivety. Alex believed that the police had withheld evidence in order to persuade him to accept a caution, while other participants did not appreciate the formality of the situation:

*"... she's talking, erm, sort of in a friendly way, and it's only at the end when she said well that's a caution. I think that was a bit of a shock. It's like, you know, I, I thought you were talking as if to say, OK, then, all, you know, let's, let's draw a line under this and off you go. Erm, so, yeah, so*

*it was, I guess it was, was ... she came across as friendly enough. I was a little bit, sort of, felt a little bit hoodwinked at the end of it all.” (Tom)*

This notion was later conveyed in participants’ discourse about the language of the police officers when presenting the decision to administer a caution:

*“I have a green card, and he says, oh this sergeant recommends for you that you should have a caution ... you know, recommends for the language that the use for that, it’s not saying this guy’s gonna give you a caution and the caution’s gonna do this, this and this to you. It’s gonna not let you have any jobs working with kids, it’s not gonna, gonna stop your seeing your family in America, it’s gonna cause all, all ... that doesn’t happen. I mean, as, and I said, the guy recommends for you specifically that a caution would be good for you, as well as what the guy behind the computer was telling me, that this other one, but it’s, you know, it’s not the same, it’s like recommending it as a favour to me, it’s like, what? But it’s, it’s not the case.” (Dev)*

Participants also described more overt forms of interrogative pressure. They often articulated the experience of being led towards inadvertently incriminating themselves:

*I think, he, he led me into, not an admission but almost like, you know, so you, kind of, I think you, you know, so you accept that you grabbed her. But when you use the word grabbed her, it’s, it’s, it ... and then you start going to where you grabbed and how you grabbed, they’re two very, three very different things. and they, they homed in on the fact that because I’ve accepted, or acknowledged, or however they put it, admitted to, that I grabbed [name of partner] and, err, therefore, they are going to issue me with a simple caution.” (Rohan)*

Participants alluded to how their protestations of innocence were ignored and they were presented with options for disposal during interviews that were based entirely on the assumption of guilt:

*“He was like you, you’ve got one choice, two choices. Either you admit to it, and then you get a caution, or you, erm, what else did he say, or if you deny it then, erm, you will, erm, it’ll have to go to court and then you can get a criminal conviction.”* (Anika)

Furthermore, the narratives of some participants infer that on occasions the tactics that the police adopted to secure an admission were transparently dishonest. Christopher related how he was urged to give a false statement by accepting that he was familiar with a piece of evidence that he had no knowledge of. While Elizabeth told how the police had falsified her evidence. Her accusing daughter had alleged that she had a drink problem and, although she was not offered a breathalyser test at the time of her arrest and she denied this assertion and gave an account of her alcohol consumption, she spoke of how they ignored her and subsequently reported it as a ‘serious concern’:

*“... they put mother, alcoholic, eventually admitted to it ... I went absolutely ... oh god, I went mad.”* (Elizabeth)

She detailed how this apparent duplicity subsequently created difficulties with her professional regulator, whereby she was obliged to obtain medical evidence to confirm that she was not an alcoholic, in order to retain her registration and the right to practice in her field of employment.

#### **4.6.2. Poor legal representation**

None of the participants felt that they had benefitted from having a solicitor with them in the police station. The majority of participants said they waived this right through the naive belief that they had done nothing wrong or because they had been led to understand that this might further extend their time in custody, while those who were represented asserted that they had been disadvantaged by the advice that they had been given.



All six participants who chose to consult a solicitor or to have legal representation when they were interviewed by the police accepted the services of the duty solicitor. They did this with the expectation that they would be provided with expert advice from a lawyer who was on their side. In retrospect, these participants felt that they had been credulous in their assumptions and that they had been done a disservice by solicitors who they perceived to be partisan, perfunctory and to have had a poor understanding of the potential consequences that accepting a caution might have for them as individuals.

Participants felt that they had been manipulated, not only by the police, but by the lawyers who failed to act upon their explanations and protestations of innocence and presented them only with a choice of disposals:

*"... looking back on it, he didn't advise me, he didn't say you have three options. One is not to accept a caution, you know, you may be offered a caution, and you, you don't have to accept anything. I mean the duty solicitor was not really representing me. I felt that he was working for the police really, that he was part of their team, you know. I mean the solicitor says to me basically that you're not walking out of here tonight. You either accept a caution or you'll be charged, you know. Erm, and then I just thought well it's a no win situation really."* (Penny)

The idea of a conspiracy between the police and the duty solicitor was taken further by Christopher:

*"The solicitor, erm, spoke to the, err, the, err, interviewing officer and for, for some reason then come to some agreement that, that, erm, if, if I didn't accept that I'd seen the video then, then that they would take it to court and, and use some other evidence that they'd found, erm, so, I felt quite pressured to say that I recognised something that I absolutely didn't. I felt that was quite bad."* (Christopher)

Others talked not of collusion but of disinterest on the part of their legal representative:

*“Although he was representing me, I think he was more, err, let me just get this out the way.” (Anika)*

This lack of concern was later manifest in the misleading advice that participants experienced:

*“You know, the fact that he told me I was not being charged led me to believe that no action was being taken, and, therefore, I was being released and the caution was, was nothing.” (Elizabeth)*

In respect of the impact of accepting a caution, many participants felt that the police had led them to believe that the caution was a soft option, but for some this was also promulgated by the duty solicitors who encouraged them to believe that this was the better of only two possible alternatives:

*“You see I’d been told by the solicitor that I, I really only had a choice it’s either a caution or go to court. A caution is nothing, they told me it was a ‘slap on the wrist’.” (Alex)*

#### **4.6.3. The delivery of the caution**

With escape as their primary objective, participants often spoke of being compliant with the delivery of the caution for purely pragmatic reasons. They were, therefore, vulnerable in circumstances where the reliability of their purported admissions and their understanding of the offence for which this form of disposal was being applied, were not properly tested by the custody officer before the caution was formally administered. In their narratives, like Dev (see page 89), some participants infer that they were dealt with in ways that were in clear breach of these criteria:

*“... it said on the caution sheet, erm, a person that had abused and, some of the things were really awful. I said to the officer, but I didn’t do*

*any of these things, and he said it doesn't matter this is what they fall under. And, erm, I signed it, and I was just glad to get out."* (Angela)

More generally, however, participants inferred that these directions were only partially adhered to or that inaccurate advice was given:

*"I asked them specifically because, erm, I, I teach martial arts ... his words were, has the caution been explained to you? And I said no it hasn't, but I'm particularly interested as to whether this will come out on a DBS check. He said there's no sexual element to this offence, you've nothing to worry about. They've just taken the easy way out and thought oh well let's move this along."* (Dave)

In their narratives, participants indicated that the omission of this key information was highly salient in determining the decision to accept. Participants perceived themselves to have been offered only two options for disposal. They talked of how they were presented with the choice of accepting a caution or risk being charged with an offence and all that might be associated with a statutory disposal. For them, this was 'Hobson's Choice':

*"... just sign it, get, you know, you're better off just signing it otherwise you could get charged."* (Kate)

Participants identified being charged with the ultimate likelihood of being taken to court and the possibility of prosecution, but also with more immediate consequences such as further detention in the police station, pending an appearance in court, and the prospect of a long delay before the matter could be brought to a conclusion. In contrast, most participants related how they understood the caution to be no more than a reprimand or a 'slap on the wrist'. In these circumstances, accepting a caution was regarded as 'the lesser of two evils' and a number of participants felt that they were actively encouraged to conceptualise the caution in this way by the police:

*“... they also seemed to home in on the, the fact that a simple caution will not necessarily be revealed to my employer in the sense that, or, or ... unless I’m applying for future jobs ... whereas a court case would potentially be out in the public domain and would draw more attention. So they were keen to, kind of, stress a few of those things to me.”*  
(Rohan)

#### **4.6.4. Just a slap on the wrist**

*“You know, if it was a case of slap on the wrist or we’re going to take you to court and we’re going to make this stick, you’re going to take the slap on the wrist.”* (Dave)

As first-time offenders, the majority of participants said they were unaware of the caution as a legal term and they considered the meaning of this form of disposal in lexical terms. For them a caution was little more than a passing admonishment:

*“... the fact that it was simple, as it, and it was a caution ... like a parking offence or something like that. You know, it was like a warning.”* (Tom)

*“... it does imply that, you know, you, you are actually it’s, it’s like a fine, saying watch out, it’s even before a fine because you’re not having to pay anything out. For me, it’s saying oh watch out what you’re doing here, you are, you’re treading some lines, next time I’ll give you a fine, yeah.”*  
(Dev)

Participants also drew on vicarious knowledge which seemed to support this understanding. Christopher recalled a number of occasions when his parents’ foster children had been in trouble and had received a youth caution or a telling-off by the police without further consequences:

*“Basic, basically and, and my impression was that it’s something not very serious at all.”* (Christopher)

Meanwhile, Angela, who had to return to the police station after further investigations prior to cautioning, relied on the advice of a friend:

*“... my friend was saying to me oh, you know, if you get a caution, erm, my husband got one years ago, you know, it really is just a slap on the wrist, it’ll be fine.” (Angela)*

#### **4.6.5. Bypassing the Ts and Cs**

In their narratives participants indicated that there were local and regional variations in the way that the caution and the form that sets out the implications of acceptance was presented to them. Some were given the document in paper form, others were asked to read the information from a notice on the wall behind the custody officer or on a laminate, and in a number of cases the information was presented electronically, using a computer or tablet on the custody desk. Most participants related how they were asked to provide an electronic signature to confirm their acceptance.

Some participants spoke about the obstructive behaviour of police officers who they now believed had deliberately circumvented the Ministry of Justice guidelines by denying them access to the document or deterring them from reading it:

*“I wasn’t given, I, I didn’t get it to read and they didn’t say would you like to read this before you sign it.” (Elizabeth)*

Both Penny and Dave indicated that they were unable to read the material that was presented to them without their glasses:

*“So I was trying to open my handbag to get my glasses out, because I couldn’t read it without, and then the police officer standing next to me, I had three male police officers around me, said to me don’t open that until you leave the police station.” (Penny)*

*“But when I said look, I can’t read this, I don’t have my glasses, oh, just sign it, just sign it, it’s just to do with the caution, just sign it.” (Dave)*

More often, however, participants related how the process of cautioning had just been truncated so that they left the police station without full understanding of the offence for which the caution has been administered or the implications of accepting this disposal:

*“He just said, yeah, you’re going to be given a caution. So, no, I don’t think he did then, erm. It was very quick. It was like I was just being processed really. There wasn’t any kind of, erm ... big discussion about it.” (Angela)*

*“It felt quite pressured and rushed, erm, all, almost felt like I wasn’t really given opportunity to sort off digest the information that they were trying to give me. Erm, so I, I wasn’t able to come up with quite sensible decisions.” (Christopher)*

Not all participants felt that they had been denied the opportunity to form an understanding of the potential consequences of accepting a caution. Some, like Kate and Anika, were aware that for them there could be particular implications, but their concerns were outweighed by the desire to go home and they disregarded risk of accepting:

*“I remember going up and, and reading it. And then it was like, travel restrictions, and employment, and I’m like, well this will affect my career. I remember questioning them, you know, after five years, I, I, it will be off my record and them not replying and then, erm, I signed it. I just wanted to go home. All I wanted to do was go home.” (Anika)*

*“So then he took me back downstairs and he said oh you just need to sign this piece of paper, and I’m thinking, thank god, I’m gonna go home, so I kind of look at the paper and it says if you are a teacher or you work*

*with children, something about they should let me know, and I said, oh, I said, it says here that you, he was like it's OK, it's OK, so I just signed it and gave it in and I shook his hand and said thank you very much. He said nobody's ever shaken my hand before, and now with hindsight I realise why."* (Kate)

The narratives of the participants also suggest that the manner in which the caution was delivered was pertinent to their decision-making. Participants related how they were misled by the casual attitude of the custody officers:

*"It was all sort of easy going. The, guy was actually eating a kebab on the, erm, on the desk. ... I think it, to me it was just a form filling exercise at the end of it all."* (Tom)

In this context Tom cited contemporary consumer culture as further explanation for his unquestioning acceptance of a caution:

*"I certainly didn't read through all of that ... my demeanour, whatever, how I was feeling was, OK, OK. In the same way that you sign your terms and conditions on your i-Tunes or whatever it was."* (Tom)

#### **4.7. Theme 4. The not so simple caution**

Participants described how they left police custody often without full knowledge or understanding of the possible implications of accepting a caution and how, only following their release, did they form a realisation of the true impact of their acceptance. Retaining belief in their own innocence, they felt vilified by the police. In these circumstances, they were motivated to seek redress for the injustice that they considered to have been done. In challenging the caution, participants related how they had encountered significant obstacles before they were able to have it removed and this exacerbated their distress and impacted on their faith in the legal system and the police:

*“... putting simple caution, putting the word simple in front of a caution is just, it, it’s just not appropriate, because a simple caution has severe consequences for people and individuals, and I think, you know, that, that ... when your head’s all over the place and someone says it’s just a simple caution, you almost think, well, I think the word simple is just, well, it, it’s not a big deal, but you only realise that when you’ve actually got home in the cold light of day, and you actually realise what you actually almost accepted and signed up for.” (Rohan)*

#### **4.7.1. No smoke without fire**

Participants spoke varyingly about their emotions in the immediate aftermath of custody. For some there was an initial period in which they felt relieved to be free and they retained the belief that the unpleasant experience of arrest and detention in police custody was no more than a misadventure and a story to tell:

*“I phoned my nephew, who is about 19, and I said [nephew] you won’t believe this, I’ve been arrested.” (Kate)*

Generally, participants felt an immediate need to process their experiences. Regardless, however, of when they came to consider the impact of accepting a caution, participants were shocked and dismayed when they became aware of the offences that had been assigned to them. Although some acknowledged that they had been told of the offence at the time of cautioning, they articulated how their emotional state had prevented them from fully assimilating this information. With a fuller appreciation of the offences that had been documented, participants struggled with the dissonance between their perception of themselves as non-criminal and the representations of themselves that they saw on paper:

*“When they write it down and, and it, sort of says assault by beating, and they obviously put your wife’s name on there, that’s the worst reality check.” (Rohan)*



Participants' discourse often demonstrated that fear of how others might perceive them in the light of these offences, and the slur that this might have on their previously good reputations, formed the incentive to seek legal advice. In particular, participants who received cautions in respect of an offence category within the Children and Young Person's Act 1933, talked of their distress when they saw that the full description of the offence indicated that they had 'wilfully assaulted, ill-treated, neglected, abandoned or exposed the said children in a manner likely to cause them unnecessary suffering or injury to health'. These participants, who had perceived themselves to have committed no more than an error of judgement and to have done no harm, spoke of an initial need to question their apprehension of the events that had taken place but this was followed by an awareness of the social and professional implications of being labelled with such an emotive offence as child cruelty or child abuse:

*"And then it said a person that has wilfully, erm, assaulted, inflicted harm upon, erm, neglected, abandoned, erm, all these awful things, erm, or, or, or called psychological damage or something like that, I thought oh, perhaps, perhaps I have caused them psychological damage, but then I thought well that's a hell of a thing to have on your record." (Angela)*

*"I was like, my god, I'm the most evil person in the world, what, what, and it's saying, you know, you've abandoned your child, you've neglected your child, and all these words that you kind of go that's not what it, that's not what I intended to do that day and, erm, it meant that I couldn't teach, so the job that I'd waited ages to get ...". (Kate)*

Other participants evaluated how having a caution and the nature of the offence that had been attached to it might be perceived by others:

*"... when they arrested me they said it was for domestic affray and then in ... when I got my, erm, CRB back for my, for my job it said common assault on there, and it just looks, it looks so much worse." (Kelly)*

#### 4.7.2. Identifying misconceptions

When participants undertook their own research and they fully understood the ongoing impact that the decision to accept a caution could have on their lives and those of their families, they were confounded. Having agreed to a disposal that they had taken to be no more than a passing admonishment, participants related how more detailed investigation of the caution revealed that, far from being just a slap on the wrist, for them, it was associated with a range of implications that were potentially just as damaging as having a criminal conviction:

*“I mean, the caut, caution, and if it, it feels like they’re just giving you a slap on the wrist, you know, and they’re saying well if you go to court you’ll be convicted, but if not you’ll get this caution but what, what’s the difference? The only difference you realise is that if you ask me have I been convicted of a crime, I will say no ... but there’s absolutely no difference beyond that, so in terms of effect on your life is all, it’s all exactly the same.” (Dev)*

For participants, already employed in regulated professions, or who undertook activities that were subject to safeguarding processes, the consequences of accepting a caution were sometimes immediate. Disclosure of the caution resulted in the withdrawal of employment, suspension or the imposition of a warning or sanctions:

*“I told my boss. He said you have to tell the [professional body]. And then I informed the [professional body], and then I couldn’t believe, you know, what implications that had. If I’d beaten her, I would have had to have accepted that and say oh, you know, you, you made, you made a mistake and you did it. But I didn’t.” (Elizabeth)*

Participants spoke of how they received support from colleagues who knew them to be of good character and were sympathetic to their account of the

events that led them to accept a caution. Ultimately, however, they learned that safeguarding legislation provided no leeway for their personal stories or for the perceived injustices that had been done to them and they were subjected to the humiliating experience of being removed from their roles:

*“I immediately told my boss, who was the director, she was the only person above me actually in the service, and, erm, she was very nice about it and then, err, she, she suspended me from work out of the blue.”*

(Penny)

Other participants related a more gradual discovery of the full impact of having a caution on their employment prospects. Those who did not immediately disclose this information experienced feelings of fear, guilt and anxiety in relation to this adjudged deceit and eventually they felt obliged to divulge the caution in order to manage their distress:

*“I worked for an agency, and they sent me to a school and I remember not feeling very fully engaged in the work, and being very afraid. So then I thought I must tell them. They were very supportive and then, erm, they phoned me up one day and said, erm, sorry, but you can’t work for us anymore because of that. I did feel like a criminal. And I, I felt incredibly guilty.”* (Anika)

Those participants who were undertaking studies for a professional qualification, or who aspired to do so, talked of how their hopes and ambitions were crushed when they eventually sought employment and of the humiliation associated with rejection:

*“Interviews have gone really, really well. I was like, yeah, I’ve definitely got that, and then it was no. They didn’t say, they didn’t say why, as such, you know, you haven’t been successful ... but I remember thinking, oh, it’s probably just to do with my CRB anyway ... cause I’m thinking well if I’ve got common assault on my record, and you’ve got a candidate*

*that has got a clean record. It just it makes, makes you feel like you're a bad person."* (Kelly)

*"... then I went on to do a counselling course, erm, and there was no problem with the CRB there ... [once qualified] I went into the school, erm. I was there one day. The next day I went in with my CRB, I showed them, and I was escorted off the premises straight away. It was awful."* (Angela)

For other participants, the impact of accepting a caution was associated with safeguarding in a domestic context. The narratives of the two participants, who asserted that their partners had made allegations against them in order to create a catalyst for ending their relationships, outlined their fear of losing access to their children:

*"I'd said I'd want half, I want 50 per cent custody prior to this, and then after that it was like I felt, I was being painted as this, this, this person that couldn't possibly expect to get 50 per cent."* (Tom)

Some participants related how they had to curtail family and other child-related leisure activities. Dave and Alex were obliged to face questioning about their suitability as sports coaches for children when they had a caution for assault on record. While Kate spoke of feeling like a pariah:

*"And I was due to do a music session at the cubs, and I did it because we read a bit, thought, no, that's all right, and then realised, my lawyer friend said you can't do, do anything ... so I wasn't allowed to look after any children for quite a while, and that meant, you know, we're always having play dates so I kind of cut myself off from speaking to people ... because I was on the ISA barred list."* (Kate)

Christopher inferred that safeguarding concerns that were associated with his caution and also being put on the sex offender register, were more transformative for his parents than himself:

*“Unfortunately I didn’t actually, I didn’t actually realise that until after I’d left the police station ... actually, it affected not only me but it affected my parents as well ... that was because they were foster care ... parents ... even though I don’t actually, well didn’t at the time anyway, err, live with them err, because a member of their family has a, is on the sex offender’s register, they’re not allowed to have children in their care.”*  
(Christopher)

Participants not in regulated professions learned that acceptance of a caution may impact on their employment in other ways:

*“My mum ... told me that I wouldn’t be allowed to go to certain countries with a caution, and it would affect my employability with some companies, and that’s when I really found out what, what could actually happen to me.”* (Abeer)

For others, there were wide-ranging effects of having a caution:

*“It just, it seemed like a, a, an endless list of anybody who had any, erm, documentation about me just kept on wanting to phone me up and say what, what, you know, are you a criminal, that kind of thing.”* (Alex)

Participants who regarded themselves as victims were also fearful that, having accepted a caution, they were vulnerable to further of malicious allegations by their accusers that might lead to more serious harm:

*“I felt very scared that, erm. you know, there was, there was an incident with my, with my brother and he wanted me to leave the house. I said I’m not leaving this house, and he goes, oh, we’ll call the police again, you’ll be locked away forever.”* (Anika)

#### 4.7.3. The obstacles to challenging

On release from custody, a few participants related how they immediately sought legal advice and began the process of trying to have their caution overturned, while some spoke of needing to come to terms with what had happened to them before taking action:

*“It took a couple of months before I, I got my head together and thought OK I’ve got to sort this out and then the trigger was the concern about what it was going to do in terms of, of child care and access and, and so on. Yeah, and work.”* (Tom)

Others said they remained unaware of the full implications of accepting a caution or the possibility of having it overturned for much longer:

*“I thought I would have to live with it. I was never told that I could challenge a caution, nothing like that, erm, and then when I, erm, got the, err, the letter, err, the letter saying that I couldn’t work, I had to stop any kind of voluntary work, the safeguarding thing, and I had three months to make representations, I thought, I thought I’ll do what I can so I did everything.”* (Angela)

Participants talked of the difficulties of getting appropriate advice or legal representation. Because the offender must agree to accept this form of disposal at the material time, there is no formal right to appeal against a simple caution once it has been administered, and the only true option that was available to the participants was a formal complaint. Such actions against the police are a civil matter but most of the participants were unaware of this and, having accepted a caution for a criminal offence, they initially sought advice from voluntary organisations such as Citizen’s Advice or from criminal lawyers. In their narratives, participants outlined the prolonged nature of the difficulties that they incurred, and how dispiriting it could be:

*“I looked up solicitors, and this was very unfortunate, I phoned a firm of solicitors who have on-call solicitors at the weekend, and got put through to a very nice solicitor, but he was a criminal lawyer, so for seven months I was with this firm of solicitors in this terrible muddle, trying to challenge this caution.” (Penny)*

*“The gist of the conversations I had with a few of the solicitors were you should have probably taken the opportunity to get a solicitor involved and you probably shouldn’t have, erm, seemingly admitted to the offence because that’s gonna lessen your chances of, of, erm, any sort of removal.” (Rohan)*

*“I was phoning around everywhere, and I did try NACRO. They also said there’s no, there doesn’t seem to be any way of challenging a caution.” (Angela)*

*“I think it was over six months it took us to actually find a solicitor that specialised in, err, challenging cautions.” (Christopher)*

Even with good legal representation, participants said they found the process of challenging slow and difficult. Participants attributed this largely to obstructive practices on the part of the police:

*“The custody footage never turned up. He [the solicitor] wrote again for it and they said oh, you’re out of time now, so, you know, it’s not available.” (Dave)*

*“... with the access of information I applied for the tape. You probably know they have up to 40 days it takes, it took me four and a half months to get the tape ... and I had to get the ICO involved ... so there was a delay of three months over and above the time it should have taken, again, so it was a long time.” (Penny)*

*“At one point, the police were, sort of, almost refusing to look at the case, you know, my emotions were, were, were, you know, were rock bottom.”*

(Rohan)

It was clear from the discourse of the participants that, as for Rohan, taking legal action brought with it significant emotional upheaval. Many of the participants felt that they had been subject to a process of attrition by the police which had had an enduring impact on their wellbeing:

*“... it is certainly the worst experience I’ve ever had in my life. Err, yah, yes, it’s been very frightening and, err, at the height of all the muddle of the legal case, erm, the middle of last year, erm, I developed symptoms of post-traumatic stress.”* (Penny)

*“Getting this caution removed has been awful, I think they’ve behaved in a terrible way, now they’re arguing about whose going to pay legal costs.”*

(Angela)

A number of participants talked about the ongoing ramifications of accepting a caution in their professional lives, even after it had been removed:

*“... for 14, 15 months of my life it has blighted it really. I couldn’t, there wasn’t a day that went past without me thinking about it, and even now, though it’s been removed, the [professional body], they’re looking for something to investigate and they want to know why it was removed. But it seems to me that they’re not even letting it drop now. I’m still in limbo.”*

(Elizabeth)

#### **4.7.4. Attitude to the police**

Participants, who had previously held faith in the police and the criminal justice system, spoke about their changed attitude towards the police and the newfound feelings of fear and distrust arising from their experiences of arrest



and cautioning. For Abeer, this was characterised by intrusive thoughts and increased vigilance:

*"I've never forgotten about it, I mean, there isn't a day where I don't think about it. Erm, if I see police officers on the street, and I think to myself, oh, are they gonna stop me now and do something to me." (Abeer)*

Others, spoke of a wider determination to eschew the police, whatever the circumstances:

*"I don't think I'd ever call the police again. I don't think, erm, even if there was a situation where, erm, something terrible was happening to me, or, god forbid, my children, I don't think I would call the police because, erm, things can be manipulated." (Anika)*

The majority of participants' cautions were removed or expunged on grounds of procedural failure and poor adherence to the Ministry of Justice Guidance on behalf of the police. These participants often attributed their experiences to a lack of care or consideration for them as naive suspects and their narratives were often concerned with the need to be more circumspect in any future encounters that they or their loved ones might have with the law, and with the importance of exercising their legal rights:

*"I don't want them to be, kind of, naive in the sense and I've said to them, you know, sometimes by saying things you can get yourself into more trouble. So it really probably is better if you ever do, you're only 12, you know, best to say nothing at all. Just tell Mummy." (Angela)*

Some participants, however, talked about their perceptions of the police as deliberately malign:

*"... their objective is not to administer justice or support justice, it's to secure convictions, and I don't think they can be very nice people, and, that's, that's a shame." (Dave)*

#### **4.8. Conclusion**

Using thematic analysis four main themes from 13 participant interviews were identified and explored. These are discussed in Chapter 5, along with a discussion of existing literature that might help to advance an understanding of the participants' narratives.

## **5. DISCUSSION**

### **5.1. Chapter introduction**

In this chapter the aims and objectives of the research are viewed, and consideration is given to the extent to which they have been addressed. The four main themes identified through the process of thematic analysis are discussed in relation to concepts found in the relevant literature. The researcher deliberates on the strengths and limitations of the study and reflects on the process of undertaking this research. Lastly, the implications of the research are examined, along with recommendations for future practice and areas requiring further research.

### **5.2. Aims of the study**

The aims of this study were to retrospectively investigate the factors which influenced individual decision-making when accepting a simple adult caution in respect of an alleged offence, to consider them in relation to the existing literature on suspect decision-making, and to develop an understanding of why the outcomes of having a caution led some individuals to invoke judicial proceedings to have it overturned. Overall, the objective was to contribute to developing a greater awareness of the processes that are involved in the delivery and acceptance of this form of disposal, and to consider how this might illuminate practices and procedures within the criminal justice system, along with the implications for future research.

### **5.3. Summary of findings**

Using thematic analysis, four main themes were identified from 13 participant interviews. The first three themes will be discussed together in terms of the psychological processes that are involved in accepting a simple caution. They will be considered in relation to the literature on suspect vulnerability and to existing models of decision-making that might help to illuminate the reasons for

acceptance of a caution. The fourth theme relates more directly to the impact of the law and is considered separately later in the chapter.

The first theme, 'Presumed innocent', relates to participants' constructions of criminality and how they defined themselves and their actions in relation to the law. It outlines how naivety and the presumption of innocence created a false sense of security in the participants, so that they were caught unawares by the actions of the police.

The second, 'Response to arrest and custody', is concerned with the participants' responses to arrest and detention in police custody. Participants sometimes reported that they were forcibly arrested, and many said that they were held by the police for long hours, such that escape became their primary motivation.

The third theme, 'Suspect vulnerability', focuses on factors that contributed to the vulnerability of the participants, and how they constructed the impact of police practices and procedures in determining their decisions to accept a caution for a criminal offence.

The fourth theme, 'The not so simple caution' is concerned with the wide-ranging consequences of accepting a caution, and the journey that participants took in pursuit of having it removed.

## **5.4. Discussion of results**

### **5.4.1. Vulnerability factors**

The results of this study suggest that naivety and perceptions of innocence were primary motivating factors in accepting a caution. Many participants said that, with hindsight, they felt that they had been manipulated by the police because they were criminally naive. Implicit within participants' narratives was a notion of 'them and us'. Most participants held stereotypical ideas about crime and criminality. They perceived themselves to be law-abiding citizens,

and on the same side as the police. This is consistent with existing research, which has shown that social identity is a predictor of the legitimacy that is given to the police (Tyler, 2006; Bradford et al., 2016).

In their constructed stories, it was notable that, although there was often an acceptance of making a mistake or of an error of judgement, these participants did not consider their actions to be criminal. In these circumstances they had confidence in the police and they did not immediately perceive themselves to be in jeopardy. This has been reported in the literature on attitudes to the police (Jackson & Bradford, 2009). Such views might lend themselves to a sociological debate and to discussion about the thresholds for criminal behaviour. In the context of the aims of this research, however, it is the decision-making processes that led these participants to accept a caution, without their acknowledgement of guilt in respect of the offence for which they had been arrested, that are most salient.

Whether the actions of the police were attributed purely to pragmatic procedures or to a lack of integrity, participants perceived them to have been highly instrumental in shaping the decisions that they made. Participants related how they were caught off-guard by their inherent faith in the justice system, and the belief that the police were acting in their 'best interests' throughout their time in custody. Believing in their innocence, and giving legitimacy to the police (Tyler, 2006; Bradford et al., 2016) they expected that the matter would be resolved in their favour. They indicated that, when these expectations were not fulfilled, they experienced bewilderment and fear, along with a need to escape and this made them vulnerable, such that they were unable to properly withstand the allegations that were being made against them, or to resist acceptance of the caution that was offered.

While the Police and Criminal Evidence 1984 Codes of Practice provides safeguards for suspects who are deemed to be vulnerable, the participants in the current study were predominantly high-functioning professional people. Although one participant was later found to have a neuro-developmental disorder, none had an intellectual disability, nor would they have considered

themselves to have had major mental health difficulties at the time of their arrest, such that they would have been identified as needing the special provisions that are highlighted in the revised Code C (Home Office, 1991). However, it has been noted in previous research (Moston et al., 1992), that first-time offenders who do not believe that they have committed an offence, are potentially vulnerable in terms of their ability to cope with being arrested and detained in police custody.

More recently, in the literature on confessions and false confessions, Scherr et al. (2016) showed that innocence is associated with passivity, and Gudjonsson (2012, 2018) proposes that innocence and an individual's belief that truth and justice will prevail can be powerful risk factors, particularly when the suspect's primary focus is on the immediate effect of ending an interrogation or being released from custody, and where they don't exercise their legal rights.

Less than half of the participants in this study reported that they had requested legal representation while they were in custody. In some cases, they explained that they had been deterred from doing this as consequence of deliberate police tactics, which led them to believe that to make such a request would inevitably increase the length of their detention. In the main, however, they said that they did not think that a lawyer was necessary, because they did not believe that they had committed an offence. Other research suggests that suspects who believe in the power of their innocence are significantly more likely to waive their legal rights (Kassin & Norwick, 2004; Scherr et al., 2016, 2018). This may be because they don't believe that they have anything to fear (Kassin, 2005) or because they consider that invoking their legal rights may lead the police and others to infer guilt, (Rogers et al., 2017). Certainly, some of the participants in this study, said that they believed that requesting a solicitor may be regarded as an indication of guilt.

Moston et al. (1992) and Snook et al. (2015) have demonstrated that offenders with no prior criminal record are more likely to give incriminating information while being interrogated. In this study it was striking that, finding themselves in police custody and facing what they reported to believe were unfounded

allegations of criminal behaviour, none of the participants invoked their right to silence during police interview. Instead, they related how, relying on the fundamental principle of 'innocent until proven guilty', they tried to give an account of themselves and to justify the circumstances leading to their arrest. Without good legal representation or support, however, they were often unaware that, in trying to explain, they might be unwittingly providing the police with information which could be interpreted as being incriminating, and which could pave the way for offering a caution on grounds that they had made the necessary 'clear admission of guilt' (Ministry of Justice, 2013a). They spoke of being largely unsuspecting of the harm that might be caused by taking this course of action, and how they did not, therefore, evaluate the consequences.

Gudjonsson (2012) proposes that, to ensure fairness and justice, it is important that suspects are able to understand and exercise their legal rights, understand the questions that are put to them and the implications of their answers, communicate their version of events, and make informed decisions, including paying sufficient consideration to the long-term consequences of what they tell the police. In the case of the current study, it is suggested that participants' reported naivety may have rendered them vulnerable and led to the delivery of a caution that was subsequently deemed to be unlawful, such that it was overturned.

The notion of innocence and naivety may also provide one explanation for why participants failed to read and process the details of the caution at the time of acceptance. Many of the participants described how they made the assumption, or came to believe, that the caution was just a 'slap on the wrist' or a 'telling off'. It is reasonable to think that, for these participants, this might have seemed to be a commensurate response to behaviour that they perceived to be non-criminal or no more than a misdemeanor. With this understanding, they said they were prepared to accept the offer of a caution to get out of the police station. In most cases, even those who were presented with the caution document in full, spoke of how they did not appreciate the potential impact of this disposal until after their release. These narratives draw some parallels with the landmark cases of JB and CC (as discussed in the

introduction chapter section 2.3.5) which raised concern around the time that some of the participants received their cautions.

Participants' perceptions of themselves as innocent may also have given rise to compliance. Gudjonsson (1989) argues that compliance is associated with eagerness to please and the need for the person to protect their self-esteem when in the company of others, as well as avoidance of conflict or confrontation with people, particularly those in authority. In line with this, for the most part, participants in this study indicated that they regarded the police as representatives of the law, and that to challenge them would have been a source of dissonance. Instead, they went along with what they felt was required of them.

The participants in this study cited the need to escape as another major precipitant for accepting a caution. They defined the experience of being detained in police custody as highly aversive and they reported that this impacted markedly on their self-efficacy and decision-making. This is not surprising, given that existing literature shows that, for many suspects, being detained at a police station is a highly stressful experience. Gudjonsson et al. (1993) and Kassin et al. (2010) assert that prolonged physical detention and isolation can heighten a suspect's distress and represent key situational risk factors in police-induced confessions.

One such risk factor might be the need to escape. Participants often constructed their experiences of arrest as being immediately discordant with their conceptualisation of themselves as non-criminal and with their expectations of the law. They indicated that they were completely taken aback by the circumstances that they found themselves in and that they felt highly exposed and afraid. A number of participants spoke of being forcibly arrested and taken to the police station in handcuffs. Many of the participants were detained for more than 12 hours. Some were held overnight in the cells and one participant was in custody for over 19 hours. Some of the participants described injuries arising from the incident that led to their arrest, and others how they were affected by alcohol or were hungover. In addition, some



alluded to being highly stressed in relation to the incident that led to their arrest, and how concern about the potential consequences of these circumstances exacerbated their distress.

A number of participants defined their experience in terms of isolation, exposure and powerlessness in custody. As such, they reported that escape became their only objective, such that they were compliant and vulnerable to the police practices and procedures that may have ensued, and did not give consideration to the possible consequences of their decision-making. A similar phenomenon has been noted in the existing literature on false confessions, whereby the length of interview has been shown to increase the likelihood of temporal discounting (Madon et al., 2013).

#### **5.4.2. Decision-making**

The participants in this study were largely professional people, who possessed the intellectual capacity to process the situation that they were in, and the information that was provided, and it is important to understand why their decision-making might have been impaired in the circumstances of their acceptance of a caution.

Objectively, these participants did have choices. Firstly, they could all have asked for legal representation and they could have remained silent during the police interview, rather than trying to explain and justify their actions. Their narratives suggest, however, that naivety and their perceptions of themselves as innocent prevented them from making informed decisions in respect of exercising these legal rights. They related assumptions about the erroneous nature of the allegations that they faced, and often how they did not appreciate the constructions that the police might place on their explanations, or the legal consequences that they might face.

Secondly, they could have denied that they had committed an offence and refused to accept the caution. However, participants spoke of how, as their distress increased, and their belief in their own self-efficacy was eroded by the

duration of custody, the utility of escape became paramount to them (Madon et al., 2012; Yang et al., 2015).

Hilgendorf and Irving (1981) suggest that physical confinement increases anxiety fear and compliance and thus impairs a suspect's ability to make judgements. In the case of this study, many participants failed to evaluate the options that were available to them, and they went along with the police and accepted the caution that was offered. This was tantamount to an acknowledgment of guilt and it enabled the police to proceed with the disposal (Ministry of Justice, 2013a).

The models of decision-making proposed by Hilgendorf and Irving (1981) and Gudjonsson (1989) are resonant in the accounts of several of the participants in this study. Whereby innocent suspects, whose priority is to end an interrogation or who believe that they will be allowed to go home if they co-operate, may falsely confess under the misguided belief that their innocence would be later proved in court, The findings of the current study suggest that participants attributed their acceptance of a caution to the belief that this was the only way to expedite their release from custody and that, once removed from this aversive environment, they would be able to take necessary action to prove their innocence and sort out the injustice that had been done to them.

Hilgendorf and Irving (1981) also postulate that the police can exert pressure on suspects to give excessive emphasis in their decision-making to the approval or disapproval of the officer. This is especially relevant to narratives of some of the participants in this study who, although they continued to believe that their actions were not criminal, came to accept that they had done wrong or that they had 'crossed a line' during interview. Particularly where the allegations related to matters of domestic abuse or child neglect, these participants spoke of how they felt the need to justify their actions to the interviewing officers, and to seek understanding. They reported that, at the time, they were unaware that in so doing they were potentially incriminating themselves.

Forensic research has demonstrated that the police may alter suspects' perceptions of the cost of making an admission by implying that the allegations are not serious (Hilgendorf & Irving, 1981; Russano et al., 2005; Narchet et al., 2011; Normile & Scherr, 2018). While this research relates to interrogative processes, it might be extrapolated that the decision to accept a caution may also be influenced by such minimisation. Participants often felt that they had been 'hoodwinked' by the police into believing that they had nothing to be concerned about. A number of them spoke of how they continued to believe that the police would not take action against them until they reached the point of being discharged. Some said that, even then, they were often not made fully aware of the offence for which the caution was administered.

The Home Office circular 016/2008 Simple Cautioning for adult offenders (Home Office, 2008) and Ministry of Justice Guidance on Simple Cautions for Adult Offenders (Ministry of Justice, 2013a), outlines clear directions for the delivery of this disposal. The police are required to ensure that an offender has made a clear and reliable admission of guilt, understands the implications of accepting a caution, and consents to accept it. In this study, however, many of the participants argued that they were not afforded all the information that they needed or should have been provided with to make an informed choice about accepting a caution. They related how, in the absence of a full understanding of the nature of the charges against them, or the knowledge that they might be incriminating themselves, they were vulnerable to manipulation and their purported admissions were not reliable.

#### **5.4.3. Police tactics and procedures**

Not only did the participants' narratives infer the use of tactics by the police officers who interviewed them in the police station, they also suggested that they were influenced by the practices and procedures of the custody officers who delivered the caution to them, which impacted on the decision to accept it. Their narratives were often consistent with the assertions of Hynes and Elkins (2013), who argue that the 'theory and practice of the caution procedure don't

coincide, resulting in unfairness, dissatisfaction and grounds for potential challenge’.

Most notable in the participants’ stories was the perceived peremptory nature of the delivery of the caution. Ministry of Justice Guidance on Simple Cautions for Adult Offenders (Ministry of Justice, 2013c) emphasises the need for suspects to provide informed acceptance of the disposal. This relies on the recipient being made aware of the possible consequences and having time to reflect on them. A majority of participants in this study, however, related an experience of leaving police custody without full knowledge or understanding of the possible implications of accepting a caution and how, only following their release, did they gain a realisation of the true impact that it might have on them.

The Home Office circular 016/2008 Simple Cautioning for adult offenders (Home Office, 2008) and Ministry of Justice Guidance on Simple Cautions for Adult Offenders (Ministry of Justice, 2013a) also provide clear criteria for determining the circumstances in which a caution can be given. There are several exclusion criteria. Firstly, where the severity of the offence is considered very minor, and more suited to a community resolution or a more informal response. Next, that a caution should not be given unless it is in the public interest, and the police are satisfied that there is sufficient evidence to provide a realistic prospect of conviction, should the case be taken to trial. This is established by a Full Code Test as currently set out in the Code for Crown Prosecutors (2013).

In this study, 10 participants were cautioned in respect of what was deemed to be an offence of assault, but most successfully challenged on grounds that included failure to meet the evidential test for such an offence. As such, they constructed the actions of the police as disproportionate to the circumstances of their arrest and they spoke of feeling vindicated by the subsequent removal of the caution. This is perhaps best illustrated by the narratives of two participants who were charged with offences under the Children and Young Persons Act 1933. Both participants indicated that, at the time of their

detention, they had accepted that their actions might have been irresponsible, but they believed that no harm had resulted from them and that the nature of their offence was minor, if indeed an offence had been committed at all. They described their disbelief when they realised that they had accepted a caution for the offence of assault and child cruelty, placing them in the same category as that of some violent offenders.

Another criterion for exclusion relates to circumstances where an offender is understood to have made admissions but also raises a defence or lack of intent. Although many of the participants described how they sought to explain that they had acted in self-defence or in the defence of others, they did not feel that this had been considered in terms of the clarity and reliability of the admissions that they were deemed to have made when they were offered a caution. This was also cited as grounds for challenging the caution on the basis that it had not been properly administered. Particularly, where participants described how their behaviour had been intended to restrain a partner or a child to prevent themselves from being attacked, they related how they experienced their representations of themselves more as victims than perpetrators as having gone unheard.

There is a clearly outlined process for the delivery of a caution in the Home Office circular 016/2008 Simple Cautioning for adult offenders (Home Office, 2008) and Ministry of Justice Guidance on Simple Cautions for Adult Offenders (Ministry of Justice, 2013a). This refers specifically to explaining the implications of accepting a simple caution. Amongst these, the police are required to ensure that the offender understands the significance of an admission of guilt, in so far as it will form part of their criminal record and may be disclosed to their current or prospective employer in certain circumstances. Further, for a recordable offence, the information will be retained on the Police National Computer (PNC). Offenders should also be made aware of the potential implications of having a caution in respect of working with children and vulnerable adults in any capacity, and the possibility that having a caution on record might result in refused entry in respect of the immigration rules of some countries. If the offence for which the caution is being administered is a

sexual offence, the offender must be advised that this will result in them being put on the sex offender register for two years from the date of the caution.

The implications of accepting a caution are also clearly laid out on the declaration that the offender is required to sign in order to acknowledge acceptance of the caution (Appendix 1) and the potential consequences. In the current study, however, most of the participants said that they did not read, and digest this document in its entirety, if at all, while they were in the police station. Nor did they believe that it had been explained to them. Some attributed this to deliberate obstruction on the part of police officers who did not allow them access to their glasses, so that they could read the small text on the form. Other participants held the belief that the process had been truncated, contrary to the relevant guidance on cautioning (Home Office, 2008; Ministry of Justice, 2013a). They characterised this as a deliberate tactic to prevent them from questioning the nature of the offence or the implications of accepting a caution and spoke of accepting the caution without making the informed decision that is required.

In an article on The Justice Gap, Stefano Ruis, a civil actions specialist, comments on how the use of varying formats across different police areas exacerbates the likelihood of inconsistent practice (Ruis, 2017). Further, Hynes and Elkins (2013) forward the view that individual police forces are free to create their own version of the caution form, subject to guidance as to the contents, with manifest potential for inconsistency and challenge. This seems to be demonstrated by the reported experiences of the participants in this research. They spoke of differing ways in which the information was presented to them and the impact of this on their understanding of the content. They defined some of the methods that they experienced as failing to meet the criteria of explaining the implications of the caution to the offender before they were invited to accept it. They spoke of being presented with the information in paper form, electronically, or of it being on the wall behind the custody officer, and of being asked to sign without being able to see the document in full.

Some of the participants also alluded to having no time to read the caution notice. As a densely written document with each of the potential consequences that are itemised containing more than one element (Appendix 1), even within the best circumstances, an offender might be expected to require certain conditions in order to be able to digest all the information that is presented to them. Difficulties with comprehending all the elements on the caution document, and making an informed decision were apparent in a number of the participants' accounts of their experience. This has been reported in other research that has examined information processing in a forensic context.

Two studies, (Clare, Gudjonsson & Harari, 1998; Fenner, Gudjonsson & Clare, 2002) have examined the understanding of the current 37-word police caution, which provides information about the right to silence to suspects in police detention. Clare et al., (1998) showed that, under optimal conditions, only one in 10 A-level students could demonstrate full understanding of this caution in its entirety. While in the study by Fenner et al. (2002), none of a group of suspects in police detention were able to demonstrate full understanding of this form of caution.

Some participants in the current study attributed their poor understanding of the implications of accepting a caution, not so much to procedural short-cuts, but to deliberate tactics by the police:

*"...the fact that he told me that I was not being charged led me to believe that no action was being taken, and, therefore, I was being released and the caution was nothing."* (Elizabeth)

Like Elizabeth, they took the view that they had been misled into thinking that the caution was no more than a 'slap on the wrist', or that it was just an inconsequential matter that did not warrant close inspection of the terms and conditions. As the participants were often heavily invested in the moral authority of the police, minimisation or reassurance might be regarded as a form of inducement, as described by Gudjonsson (2002).

Similarly, participants' spoke of how the omission of key information about their rights, at the time of discharge, was highly salient to their decision to accept a caution. The custody officer has responsibility for ensuring that the offender is aware that they do not have to make an immediate decision to accept the caution, but they can consider the matter and, if need be, take independent legal advice. This would have afforded the participants the opportunity to fully appraise the consequences that accepting a caution might have for them as individuals. The information is reiterated in one of the items on the caution document, but none of the participants said they were aware that they did not have to accept the caution at the material time.

Ultimately, many participants felt that they had been given 'Hobson's Choice'. They spoke of how, given what they perceived to be the options of either accepting a caution or risk being charged with an offence and facing the likelihood of being taken to court, they chose the caution. In their narratives, the possibility of prosecution, along with concerns about the more immediate consequences such as further detention in the police station pending an appearance in court, and the prospect of a long delay before the matter could be concluded, was not considered to have been a viable alternative. A number of participants felt that they were actively encouraged by the police to conceptualise the caution in this way. Hynes and Elkins (2013) provide support for this viewpoint. They suggest that it is reasonable to think that the police will be motivated by the need to allocate time and resources as efficiently as possible in the circumstances of a busy police station, and that it is easy to see the possible incentives for circumventing the process to achieve the efficiencies of a quick disposal.

As participants in the current study were detained for up to 19 hours and, at the time of cautioning, they were imminently about to be released, they were particularly vulnerable at this point of their detention. This is characterised by one participant, who spoke of being willing to sign anything because he just wanted to go. Other participants spoke of being aware that there could be some implications of accepting a caution, but that their concerns were



outweighed by the desire to go home and they disregarded the risk of accepting. The custody area is a highly pressurised environment and existing research (Madon et al., 2012; Yang et al., 2015) shows that, where the utility of escape predominates, it is unlikely that vulnerable individuals would be best placed to evaluate the potentially life-changing consequences that they might face by opting for the immediacy of accepting a caution and being released.

#### **5.4.4. The impact of legal representation**

Participants who had legal representation in the police station often spoke of how their expectations went unmet, and of their dissatisfaction with the advice that they had been given. They defined their experience of those who represented them in terms of poor understanding, disinterest and sometimes of collusion with the police. Some related how the presentation of the caution as a softer option by the police was perpetuated by the lawyers who advised them. In their narratives, they reported that their decision to accept had been influenced by poor legal advice and, in some cases, they asserted that this was demonstrated by the reasons given for expungement.

Elkins (2016), a leading caution removal solicitor, suggests that the choice between advising a suspect to accept a caution or electing to deny guilt and therefore risk criminal proceedings is a real dilemma. In an article in the *Criminal Law and Justice Weekly*, he asserts that this may arise from the principle of open justice and the lack of anonymity that is afforded to adults who face criminal charges. Many solicitors may perceive the risk of exposure, associated with the process of going to trial, to be greater than that of having a caution, regardless of the outcome of the trial, particularly for professional people whose reputations may be damaged by press coverage of their cases.

Elkins (2016) proposes a solution to this. He suggests that Article 6 of the European Convention on Human Rights could be interpreted differently to afford anonymity to defendants in the pre-trial stage. For participants in this study, who defined themselves as having done nothing wrong, this could have presented a viable alternative to accepting a caution and led to greater

consideration of the options for disposal. Overall this may seem to be a contentious argument in so far as it deviates from the legal principle of open justice, which is characterised by openness and transparency, but in the case of low-level first-time offenders this would be an area for consideration.

#### **5.4.5. The not so simple caution**

The final theme within the present study related to how participants defined the consequences of accepting a caution and the process of having a caution removed. Participants argued that the simple caution is not simple. For them, accepting a caution had major social ramifications in terms of their working and professional lives, particularly those in regulated industries or professions, and sometimes these went beyond them, to those of their families. They described how domestic and leisure activities were curtailed, particularly where they carried out voluntary roles with children or vulnerable adults, and they faced the possibility of restrictions on travelling abroad. Some of the participants also spoke of having significant concerns regarding the custody of their children and, for those who perceived themselves to be victims of malicious allegations, concern about the possible repercussions of any similar allegations in the future.

The participants also outlined how they experienced considerable emotional distress. Often, they said that they were not aware of the actual offence that had been attributed to them until after their release. This came when they reviewed the offence details on the copy of the caution document that they had signed after their release, or sometimes much later when they saw it documented on their DBS record. Once confronted with the information, they reported struggling to come to terms with the disparity between their perceptions of themselves as innocent and the representations of themselves that they saw on paper. They described feeling angry and humiliated by what they saw. A number of participants, spoke of how these feelings were proliferated by the realisation that they would need to disclose this information to others, and by the impact of this disclosure on their immediate lives and the implications for their future ambitions. They saw themselves as victims of

injustice and they indicated that these were the factors that led to the decision to challenge the caution.

There is no formal right of appeal against a simple caution, but it is possible to challenge grounds that it was not administered in accordance with the relevant guidance in the Home Office circular 016/2008 Simple Cautioning for adult offenders (Home Office, 2008) and Ministry of Justice Guidance on Simple Cautions for Adult Offenders (Ministry of Justice, 2013a). There is a specified time limit for challenging, and prompt and effective action is required for a caution to be successfully overturned.

There was a sense that, in challenging the caution, the participants encountered significant obstacles before they were able to have it removed. One reason given for this lay with the difficulties that they encountered in obtaining appropriate legal representation. Many of the participants described how they began the process by searching for a solicitor on the internet. As they had been cautioned for a criminal offence, these participants considered their situation to be a criminal matter and they sought advice from criminal lawyers. Actions against the police, however, are a matter of civil, rather than criminal, law. They related how, as they were unaware of this, the solicitors who they approached were sometimes poorly informed about the process of caution removal and they were often given inadequate advice. In their constructions, this prolonged the matter and added to their distress, before they were able to find a solicitor with the expertise to represent them, and the delay in finding appropriate legal representation had a knock-on effect in terms of putting forward the challenge within the necessary time limits.

The participants in this study often experienced the police response to their challenge as obstructive. They recounted difficulties with obtaining necessary information from the police, slow communication, and refusal to accept the grounds for challenging as being a source of frustration and emotional upheaval. Ultimately some of the cautions were overturned by the police but other participants related how the only form of redress was to take their cases to the Court of Appeal.

The participants in this study received their cautions in or before 2015. In the last few years, a growing awareness of the potentially damaging misconceptions that are associated with the caution and the demand for representation has seen a growth in the number of solicitors who explicitly advertise caution removal as one of their services on the internet. As such it might be assumed that it is now easier to find appropriate representation. For the participants in this study, however, the process of challenging was constructed as practically, intellectually, emotionally and financially demanding. The researcher questions whether the, still relatively small, number of cautions that are challenged might be attributed to a lack of such resources on behalf of other individuals who find that the decision to accept a caution has had a damaging impact on their lives, such as those who write about their experiences on social media. Many of these individuals relate that they have had to give up their aspirations to work in, or have been removed from employment in, regulated professions. While the importance of effective safeguarding procedures can't be overestimated, there may be occasions when miscarriages of justice, associated with the inappropriate use of a caution could impact unnecessarily on the workforce of both the public and third sectors.

### **5.5. Strengths of the study**

This study provides insight into a previously unresearched area and the findings are highly relevant at a time when out-of-court disposals are under review and consideration is being given to abolishing the simple caution. Dissemination of this study may have a role to play in future police practices and procedures and policy-making, particularly as the results highlight the arguments that have been put forward by some of the legal professionals who specialise in this field during the time that the research has been undertaken. Furthermore, although this was a small exploratory study, the insights that are provided and the recommendations for future research are such that they may help to draw greater attention to factors that might make first-time offenders vulnerable in the context of police detention.

## **5.6. Limitations of the study**

Although the current study does provide insight into a previously un-researched area, the utility of the research must be considered within the context of possible methodological limitations.

### **5.6.1. Sampling and recruitment limitations**

Firstly, time restraints and the difficulties with recruiting prevented the researcher from interviewing more participants and, by default, 10 of the 13 participants who were interviewed had received a caution for an offence of assault. Some offences for which a caution might be received were not represented within the sample and a larger group of participants might have further enriched the analysis and overall account of decision-making in respect of accepting a caution.

Secondly, this study is based on retrospective self-report. The experience of arrest and detention and the process of challenging was reported to be highly distressing by most of the participants, and a review of the literature by Marloes et al. (2009) suggests that stressful aversive events are extremely well remembered. However, as participants were interviewed a considerable time after their arrest and detention in police custody, and after their challenge had been concluded, a number of factors might have distorted the constructions that they made of their experiences. For example, their accounts might have been influenced by the input of their solicitors during the construction of their legal cases, and the judgements that were made by the decision-making bodies.

A third possible limitation might be the method of recruitment. As this was a hard-to-reach population, the researcher accessed participants through solicitors who specialised in the protection of civil liberties and, particularly, civil claims against the police and caution removal. Four of the solicitors, who were responsible for recruiting seven of the participants, were members of the

Police Action Lawyers Group (PALG), a national voluntary organisation that is comprised of solicitors, barristers and legal executives who represent complainants against the police throughout England and Wales. The PALG has a lobbying role in relation to the police complaints system, and members are active in trying to improve accountability in police practice. While they were considered the most likely representatives of the target group, the researcher was aware that there might have been political context to their support for the study. She was not party to how these solicitors made decisions about which of their clients to approach and whether any were excluded, so it is possible that the sample was skewed by an unknown agenda, or by unknown assumptions on the part of these solicitors.

### **5.6.2. Methodological limitations**

Braun and Clarke (2006) suggest that thematic analysis provides an accessible and theoretically flexible approach that can be applied across a range of theoretical and epistemological approaches, including essentialist and constructionist paradigms within psychology. It allows for the analysis of a large amount of data from multiple participants to be analysed. Braun and Clarke (2006) propose that it has the potential to provide a rich and detailed account of the data, and other proponents, such as Boyatzis (1998), go further in asserting that it can also interpret various aspects of the research topic.

Braun and Clarke provide systematic guidelines for conducting the analysis and it has been suggested that, done well, the findings generated by thematic analysis may be more accessible to both the general public and policy makers (Braun & Clarke, 2006; Howitt, 2010). As a novice qualitative researcher, undertaking a study where no current research or theory exists, and with the hope of informing future practice, thematic analysis was considered an appealing and appropriate qualitative methodology for exploring the data.

Thematic analysis is not, however, without criticism. It has been suggested that it is a process contained within many qualitative methodologies, rather than being method in its own right. As such the use of thematic analysis might

be considered a methodological limitation. In order to overcome such potential criticism, the guidelines produced by Braun and Clarke (2006) for conducting thematic analysis were used to ensure that the analysis was done systematically, and to a good standard.

### **5.7. Generalisability**

For many people the simple caution may provide an expedient, cost-effective and just response to first time low-level offending. This study was based on a small sample that includes, excepting one participant who did not complete all the possible stages of the process for financial reasons, only people who had been successful in challenging a caution, and who, therefore, felt that their belief that the disposal was unjust had been vindicated. It provides a unique insight into the perceptions and experience of arrest and detention in police custody of this group of participants and the impact of this on their decision-making. Furthermore, not all areas of crime for which a simple caution can be administered were represented, for example sexual offences.

The study also excludes two potentially much larger groups of people. Firstly, those who have not chosen to, or been able to, challenge a caution that they believe to have been unfairly administered through lack of capacity or resources. Secondly those who have accepted a caution in the circumstances of a genuine admission of guilt, but later complained about lack of understanding of the potential consequences of doing so. This must be considered in terms of the generalisability of the findings.

Willig (2008) argues that the aim of qualitative research is not to make generalised claims. However, the results of this research do still offer an insight into the importance of adhering to the guidelines for the delivery of the caution in all circumstances and, more particularly, the need to promote awareness of the impact that it can have on working lives, especially for those of regulated professionals and industry workers, in both the general public and the representatives of the law.

## **5.8. Future research**

This study contributes to the existing literature on suspect vulnerability and decision-making, by investigating the previously unresearched area of suspect decision-making in the context of the acceptance and subsequent challenge of a simple caution for adult offenders. In line with previous research, participants were most likely to identify naivety and the perception of innocence as key factors in influencing their responses to arrest and custody. These factors were also implicated in how they constructed the choices that they made in terms of exercising their legal rights and the decisions that they took in respect of the acceptance of a caution.

The study provides an insight into caution acceptance amongst a small number of participants who have been successful in challenging the disposal, and having it removed on grounds that it was wrongly administered. Not all offences for which a caution can be administered were represented within the sample. Furthermore, criminal justice statistics show that there is a much larger majority of people who accept a caution who do not go on to challenge. Posts on social media suggest that some of these recipients also believe that they have been treated unjustly but have been unable to find the means to challenge. There is, therefore, scope for future qualitative research to investigate the groups that have not currently been represented.

An important implication of this study is that participants often reported that that they had accepted a caution without full understanding of the potential consequences of this disposal. As such, the current caution procedure may not adequately fulfil the purpose for which it is intended. There is a need to further explore the extent to which suspects absorb and understand the consequences of accepting a simple caution at the time of administration and to identify better methods for delivering this information and ensuring comprehension. It is suggested that comprehension of the simple adult caution, across both suspects and members of the general population, in both optimal and stress conditions might be studied empirically, in order to identify ways of improving understanding at the time of acceptance. This might follow



the design of earlier studies on the understanding of the current police caution on the right to silence.

Further, a study of current practices in the delivery of the caution by the police might help to identify the impact of varying practices within different police stations and across different forces. In this study, participants described a range of formats in which the caution document was presented to them, and it would be useful to evaluate these in terms of the extent to which they might contribute to suspects' understanding of the implications of the caution.

While this research explored how participants constructed their experiences in police custody, the custody records and the documents that are available in relation to the process of challenging may provide a useful resource for a future study or evaluation of police practices and procedures in respect of the delivery of a caution.

## **5.9. Quality check**

Qualitative psychology seeks to investigate how psychological processes are shaped by all the people, activities and understanding that make up their ever-changing context, including the research context (Yardley, 2017). There have been a number of models put forward for establishing quality and Cohen and Crabtree (2008) propose that the recommendations are broadly convergent. Yardley (2000, 2008) suggested that procedures for ensuring quality could be broadly grouped into the key dimensions of sensitivity to context; commitment to rigor; transparency and coherence; and impact and importance.

Choosing to analyse the data using thematic analysis, the researcher followed the systematic guidelines provided by Braun and Clarke (2006), which include a checklist of criteria for good analysis (Appendix 21). This was done as rigorously as possible and with the intention of making the process transparent and meaningful. The researcher has also tried to consider the eight key markers of quality in qualitative research in the Eight "Big Tent" Criteria for Excellent Qualitative Research (Tracy, 2010). Throughout the analysis, the

researcher also discussed both the process and results with her supervisors, who provided comments and a credibility check.

In the presentation of this thesis, the researcher hopes that she has demonstrated evidence of both the quality of this research and its utility.

### **5.10. Reflexivity**

At the start of this study it was not anticipated that recruitment would be a challenge. The reality of the experience was, however, rather different, and recruitment was slow. Reflecting on the reasons for this, one possible explanation might have been the ongoing distress that appears to be associated with the phenomena of accepting a caution and then challenging it. A number of participants spoke of how they continued to experience feelings of distress in relation to their experiences with the police, and some were overtly distressed at times during the research interview. This was a hard-to-reach population, and participants were recruited through the solicitors who had represented them through the process of a successful challenge. As such, this raised an ethical question in relation to whether participants might have felt obliged to participate because of their relationship with, or though gratitude toward, their solicitor. On consideration of this, the researcher is confident that all the participants who took part did so because they wanted to share their experiences, and often because they felt that it was cathartic to be able to talk freely about what had happened to them. Indeed, the final participant in the study, represented something of an anomaly, due to being unable to take his challenge to the final stage for financial reasons, but he was so keen to be involved and to tell his story that he was included partly on this basis.

The researcher was aware that, in some instances, she and the participants shared social and, sometimes, professional characteristics that might need to be considered when interpreting the results. Indeed, several of the participants' professional roles were quite closely related to that of the researcher. In such circumstances, she was aware that there may be duality in the way in which these participants related to her, which could impact on the

interview process. To ensure rigour, care was taken to review this issue throughout the process of analysis. In effect, these participants did not appear to mediate their responses to fit with professional or social norms.

In relating to the professional roles of some of the participants, the researcher was able to notice occasions when she was pulled towards concurring with the assertion that their employability had been erroneously affected by the acceptance of a caution. Reflecting on this, she was able to see that identifying with this viewpoint was tantamount to making assumptions about the veracity of their constructions of innocence. Such understanding was important in recognising the extent to which her own position and experience could have influence on the research process and, in keeping with the current methodology, helped her to retain focus on how the participants defined their experience.

The professional background and pre-existing skills of the researcher were considered beneficial in terms of engaging participants and managing the interview process. They allowed the interviewer to adopt a style that was warm, and appropriate to the possible sensitivities of the participants, but also to be objective and non-leading, thus encouraging participants to construct their narratives in their own way. However, the researcher remained aware that her own values and judgements may not be entirely removed from the process and that unconscious influences might have been introduced to the narratives of the participants, through the introduction of non-verbal cues. The use of a reflexive diary throughout the process of the research was helpful in illuminating such instances.

Through the process of reflection, it was apparent there were times when the researcher was drawn into the participants' narratives. Particularly where participants spoke about heavy-handed or disproportionate responses on the part of the police, she was conscious of the ease with which these attributions could lead to her to form opinions about the behaviour of the police. It was essential to acknowledge this in order to remain true to the social constructionist epistemology. Listening to how they defined their experiences,

it was important to remember that they represented only one side of a story and that the perspectives of any alleged victims, and of the police, might differ. Furthermore, the passage of time since the alleged offence, and the process of challenging their cautions, might also have influenced their representations of events. In recognising this, the researcher was able to be alert to any realist assumptions that might be made in the interpretation of the data, so that these could be considered in the interpretation of the results.

### **5.11. Recommendations for future practice**

The current study describes the experience of a specific group of people who accepted a caution, without acknowledgement of guilt, and who were subsequently successful in having it removed on grounds that it had been unlawfully administered. There is a need for greater awareness by the police that naive and innocent suspects, who present with normal intelligence and are mentally healthy, may be psychologically at risk of accepting a caution. As such, there should not be presumption of guilt but a more collaborative approach to establishing the facts. Further, the appropriate guidelines for the delivery of this disposal should be followed consistently and transparently across all police forces.

Finally, greater awareness of the consequences of accepting a caution is needed for the general public, within professional groups and amongst criminal solicitors.

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## 7. APPENDICES

### Appendix 1: Copy of simple caution form

CONFIDENTIAL - INVESTIGATIONS	
SIMPLE CAUTION	
<p>Please read the declaration below and make sure you understand it</p> <ol style="list-style-type: none"> <li>1. I have been informed before completion of this form of my right at any time to consult and communicate with a solicitor and that free and independent legal advice is available. I was informed following that admission that a simple caution would be offered to me. I have admitted to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution will be kept on police databases. A record of this simple caution will be kept; simple cautions will be entered on the Police National Computer if they have been administered for a recordable offence.</li> <li>2. I have been informed of the evidence against me and the decision by the Police / Crown Prosecution Service to administer a simple caution. I understand that I do not have to accept a simple caution.</li> <li>3. If new evidence comes to light suggesting that the offences(s) I have committed are more serious, you might still take legal action against me.</li> <li>4. If there are any victims as a result of these offences, they might still take civil action against me and you might give my name and address to the victims so they can do this.</li> <li>5. If I am charged with another offence and I go to court, you will tell the court that I received this simple caution.</li> <li>6. If I already work in a job which is included in a list of notifiable occupations (these are jobs where you are in a position of trust or responsibility, for example, teachers, care workers, taxi drivers, soldiers and doctors), you might tell my employer about this simple caution. (I can ask you for a copy of the full list of notifiable occupations.)</li> <li>7. If I apply for certain jobs, either paid or unpaid, and the organisation requires me to have a criminal records check via the Disclosure and Barring Service (DBS check), you will disclose this simple caution on a Standard or Enhanced Disclosure Certificate. (DBS checks may be requested by an employer for jobs or voluntary work where you work with vulnerable groups including children, as well as for other sensitive jobs involving a high level of trust).</li> <li>8. If the offence I have admitted is included in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (as amended), accepting this simple caution means I may not be allowed to do certain activities which involve working with children or adults. You have told me if this is the case. I will be committing an offence if I carry out (or try to carry out) any of those activities. You will provide details of this caution to the Disclosure and Barring Service, who may consider me for inclusion in the Children's Barred List and / or the Adults Barred List which are lists kept by the Disclosure and Barring Service in reaching decisions about the suitability of persons to work with vulnerable groups.</li> <li>9. If the offence I have admitted is a sexual offence, I understand that accepting this simple caution may mean that you will add my name to the Violent and Sex Offender Register and I will have to agree to certain conditions you explain to me. You have told me if this is the case and explained the conditions I need to agree to, and I agree to those conditions.</li> <li>10. I understand that accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit (for example, on business, for a holiday or as a student).</li> <li>11. I understand that the simple caution <i>may</i> not preclude a subsequent prosecution and that it <i>will</i> not preclude a civil action by an aggrieved party.</li> </ol> <p>I have read / have had read to me the contents of this form and understand that my signature confirms that I understand the consequences of the simple caution being administered to me. I agree to accept a simple caution for the offence(s) shown above.</p>	
Person Cautioned: <span style="background-color: black; color: black;">[REDACTED]</span>	Date: 13/12/2014
Appropriate Adult: Name: Signature of appropriate adult: (where applicable)	
Date:	



## Appendix 2: QualSyst checklist for assessing the quality of quantitative studies

Criteria		Yes (2)	Partial (1)	No (0)	n/a
1	Question / objective sufficiently described?				
2	Study design evident and appropriate?				
3	Method of subject / comparison group selection <i>or</i> source of information / input variables described and appropriate?				
4	Subject (and comparison group, if applicable) characteristics sufficiently described?				
5	If interventional and random allocation was possible, was it described?				
6	If interventional and blinding of investigators was possible, was it reported?				
7	If interventional and blinding of subjects was possible, was it reported?				
8	Outcome and (if applicable) exposure measure(s) well defined and robust to measurement / misclassification bias? Means of assessment reported?				
9	Sample size appropriate?				
10	Analytic methods described / justified and appropriate?				
11	Some estimate of variance is reported for the main results?				
12	Controlled for confounding?				
13	Results reported in sufficient detail?				
14	Conclusions supported by the results?				

From standard quality assessment criteria for evaluating research papers from a variety of fields (Kmet et al., 2004).

## Appendix 3: Ethical approval



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02 May 2014

MS S.C. RUTTER  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Sue,

Re: Ethical Approval Application (Ref 13007)

Further to your application for ethical approval, please find enclosed a copy of your application which has now been approved by Dr Wayne Wilson on behalf of the Faculty Ethics Committee.

Yours sincerely,

Mel Wiltshire  
Ethics Administrator  
School of Health and Human Sciences

cc. Sarah Manning-Press, REO  
Frances Blumenfeld, Supervisor  
Chris Green, Supervisor

v2

### Application for Ethical Approval of Research Involving Human Participants

This application form should be completed for any research involving human participants conducted in or by the University. 'Human participants' are defined as including living human beings, human beings who have recently died (cadavers, human remains and body parts), embryos and fetuses, human tissue and bodily fluids, and human data and records (such as, but not restricted to medical, genetic, financial, personnel, criminal or administrative records and test results including scholastic achievements). Research should not commence until written approval has been received (from Departmental Research Director, Faculty Ethics Committee (FEC) or the University's Ethics Committee). This should be borne in mind when setting a start date for the project.

Applications should be made on this form, and submitted electronically, to your Departmental Research Director. A signed copy of the form should also be submitted. Applications will be assessed by the Research Director in the first instance, and may then passed to the FEC, and then to the University's Ethics Committee. A copy of your research proposal and any necessary supporting documentation (e.g. consent form, recruiting materials, etc) should also be attached to this form.

A full copy of the signed application will be retained by the department/school for 6 years following completion of the project. The signed application form cover sheet (two pages) will be sent to the Research Governance and Planning Manager in the REO as Secretary of the University's Ethics Committee.

1. Title of project:  
The factors that influence decision-making in individuals who accept and subsequently challenge the simple caution for adult offenders.

2. The title of your project will be published in the minutes of the University Ethics Committee. If you object, then a reference number will be used in place of the title.  
Do you object to the title of your project being published? Yes ☐ / No ☒

3. This Project is: ☐ Staff Research Project ☒ Student Project

4. Principal Investigator(s) (students should also include the name of their supervisor):

Name:	Department:
Sue Rutter	Doctorate in Clinical Psychology, School of Health and Human Sciences
Dr Frances Blumenfeld	Doctorate in Clinical Psychology, School of Health and Human Sciences
Dr Chris Green	School of Health and Human Sciences

5. Proposed start date: 15/04/2014
6. Probable duration: 1 year

7. Will this project be externally funded? Yes ☐ / No ☒  
If Yes,

8. What is the source of the funding?



9. If external approval for this research has been given, then only this cover sheet needs to be submitted

External ethics approval obtained (attach evidence of approval)

Yes ☐/ No ☒

**Declaration of Principal Investigator:**

The information contained in this application, including any accompanying information, is, to the best of my knowledge, complete and correct. I/we have read the University's *Guidelines for Ethical Approval of Research Involving Human Participants* and accept responsibility for the conduct of the procedures set out in this application in accordance with the guidelines, the University's *Statement on Safeguarding Good Scientific Practice* and any other conditions laid down by the University's Ethics Committee. I/we have attempted to identify all risks related to the research that may arise in conducting this research and acknowledge my/o

rights of the participants.

Signature(s): .....

Name(s) in block capitals: .....Sue Rutter.....

Date: ...09/04/2014.....

**Supervisor's recommendation (Student Projects only):**

I have read and approved both the research proposal and this application.

Supervisor's signature: .....

**Outcome:**

The Departmental Director of Research (DoR) has reviewed this project and considers the methodological/technical aspects of the proposal to be appropriate to the tasks proposed. The DoR considers that the investigator(s) has/have the necessary qualifications, experience and facilities to conduct the research set out in this application, and to deal with any emergencies and contingencies that may arise.

This application falls under Annex B and is approved on behalf of the FEC ☒

This application is referred to the FEC because it does not fall under Annex B ☐

This application is referred to the FEC because it requires independent scrutiny ☐

Signature(s): .....

Name(s) in block capitals: .....

Department: .....

Date: .....

The application has been approved by the FEC ☐

The application has not been approved by the FEC ☐

The application is referred to the University Ethics Committee ☐

Signature(s): .....

Name(s) in block capitals: .....

Faculty: .....

Date: .....

## Appendix 4: Solicitor recruitment procedure

STEP	PROCEDURE	COMMENTS
1	SOLICITOR CONTACTS CLIENT TO INVITE TO PARTICIPATE	
2	<b>CLIENT AGREES</b> - SOLICITOR FORWARDS <b>PARTICIPANT INFORMATION SHEET</b> AND ASKS THEM TO RETURN SIGNED <b>INITIAL CONSENT FORM</b>	<i>Steps 1 &amp; 2 could be merged if judged appropriate</i>
3	CLIENT RETURNS SIGNED CONSENT	
4	SOLICITOR SIGNS CONSENT FORM	
5	SOLICITOR FORWARDS SIGNED CONSENT FORM, CUSTODY RECORD AND COPY OF DECISION/JUDGEMENT TO RESEARCHER WITH CLIENT CONTACT DETAILS	<i>This can be electronic or researcher will provide a supply of SSAEs</i>  <i>Participants who need an appropriate adult should be identified at this stage.</i>
6	RESEARCHER CONTACTS CLIENT TO ARRANGE INTERVIEW	
7	<b>CLIENT AGREES TO INTERVIEW AT [RESEARCHER'S PLACE OF WORK]– APPOINTMENT MADE</b>  <b>OR</b>  <b>CLIENT WISHES TO BE INTERVIEWED AT SOLICITORS OFFICE – PROVISIONAL DATES AGREED AND RESEARCHER CONTACTS SOLICITOR TO CHECK AVAILABILITY OF ACCOMODATION</b>	<i>Where facilities are available</i>
8	CLIENT ATTENDS FURTHER CONSENT GIVEN INTERVIEW TAKES PLACE	
9	INTERVIEW COMPLETED – CLIENT GIVEN VOUCHER	

## Appendix 5: Circulation e-mail to PALG

**Rutter, Sue**

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**From:** Stefano Ruis <sruis@hickmanandrose.co.uk>  
**Sent:** 18 August 2014 14:43  
**To:** Rutter, Sue  
**Cc:** Stefano Ruis  
**Subject:** RE: research on the simple caution

Sue – email now sent to all of our group. I have asked them to contact you directly if they can assist

Best wishes

Stefano

---

**From:** Rutter, Sue [mailto:██████████]  
**Sent:** 18 August 2014 14:13  
**To:** Stefano Ruis  
**Subject:** RE: research on the simple caution

Dear Stefano,

Thank you, I would really appreciate that. I have drafted the email below which I hope is short enough to encourage people to read it but still provides enough information. If you think that I have pitched it appropriately, I would be very grateful if you could circulate it with the attached participant information sheet.

Thank you again for your help.

Kind regards

Sue

Dear Solicitors,

I am an experienced clinical and forensic psychologist at the Institute of Psychiatry, King's College London. I am currently carrying out a doctoral level research project on the factors that influence decision-making in individuals who accept and subsequently successfully challenge the simple caution for adult offenders. As recent court judgements suggest that some individuals who accept a simple caution may do so without fully understanding the potential consequences, I believe that it is important to study the decision-making processes that may be involved in accepting the caution and in the decision to challenge it afterwards. In doing this I hope to inform and enhance police custody procedures in the future.

Some members of the Police Action Lawyers Group are already participating in this research by identifying clients who may be prepared to meet with me, to talk about their experiences. I would be very grateful if you would also consider supporting my research. It does not require a large time commitment. You would asked to circulate information about my research to clients who have successfully challenged a simple caution, to seek their consent to participate in the study and to provide a copy of their custody record and the judgement. I have attached a copy of the participant information sheet which provides more detail of the study.

I very much hope that you will be interested in this study and that you will think that it is worth supporting. If you do feel able to be involved or you would like more information, I would be delighted to hear from you. I can be contacted by email ██████████ or by phone ██████████ or ██████████.



Sue Rutter  
Clinical Director  
Doctorate in Clinical Psychology  
P0 78, Addiction Sciences Building  
Institute of Psychiatry  
4 Windsor Walk  
London SE5 8AF

Tel: +44 [REDACTED]  
Email: [sue.rutter@kcl.ac.uk](mailto:sue.rutter@kcl.ac.uk)

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**From:** Stefano Ruis [<mailto:sruis@hickmanandrose.co.uk>]  
**Sent:** 15 August 2014 14:08  
**To:** Rutter, Sue  
**Cc:** Stefano Ruis  
**Subject:** RE: simple caution research

Sue -

You may wish to consider a message to all members, which is fine – I am happy to forward this for you if you care to email it to me in the first instance

## Appendix 6: Example of follow-up e-mail to solicitors

**Rutter, Sue**

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**From:** Rutter, Sue  
**Sent:** 18 August 2016 17:42  
**To:** 'david.caleb@tvedwards.com'  
**Subject:** Research on the Simple Adult Caution  
**Attachments:** Participant Information Sheet - solicitors.docx; recruitment procedure for solicitors.docx; Participant Initial Consent Form (solicitors).docx

Dear Mr Caleb ,

Last May you were kind enough to take an interest in my research on the Simple Adult Caution and to recruit one of your clients for my study. Since we were last in touch, I have carried out detailed interviews with 11 participants. I am coming to the end of my data collection phase and preparing to write up my doctoral thesis with a view to publishing my results.

It has been more difficult to recruit participants than I expected and I still need to interview one or two more people in order to meet the statistical requirements of my study. As it has been some time since we last spoke, I wonder if you might have any clients who have been successful in having their caution overturned over the last year, or who are in the process of challenging a caution, who might be prepared to meet with me and talk about their experiences?

I have attached copies of the participant information leaflet, initial consent form and the recruitment procedure for solicitors again.

I do appreciate that you are very busy but I would be extremely grateful if you could find a few moments to contact any of your clients who might be interested in my research .

I look forward to hearing from you.

Kind regards,

Sue

Sue Rutter  
 Clinical Director  
 Doctorate in Clinical Psychology  
 PO 78  
 Institute of Psychiatry, Psychology and Neuroscience  
 Addiction Sciences Building  
 4 Windsor Walk  
 London SE5 8AF

Tel: +44 (0)20 7848 0800  
 Email: [sue.rutter@kcl.ac.uk](mailto:sue.rutter@kcl.ac.uk)

Dear Solicitors,

I am an experienced clinical and forensic psychologist at the Institute of Psychiatry, King's College London. I am currently carrying out a doctoral level research project on the factors that influence decision-making in individuals who accept and subsequently successfully challenge the simple caution for adult offenders. As recent court



judgements suggest that some individuals who accept a simple caution may do so without fully understanding the potential consequences, I believe that it is important to study the decision-making processes that may be involved in accepting the caution and in the decision to challenge it afterwards. In doing this I hope to inform and enhance police custody procedures in the future.

Some members of the Police Action Lawyers Group are already participating in this research by identifying clients who may be prepared to meet with me, to talk about their experiences. I would be very grateful if you would also consider supporting my research. It does not require a large time commitment. You would be asked to circulate information about my research to clients who have successfully challenged a simple caution, to seek their consent to participate in the study and to provide a copy of their custody record and the judgement. I have attached a copy of the participant information sheet which provides more detail of the study.

I very much hope that you will be interested in this study and that you will think that it is worth supporting. If you do feel able to be involved or you would like more information, I would be delighted to hear from you. I can be contacted by email [redacted] or by phone [redacted] or [redacted]

Sue Rutter  
Clinical Director  
Doctorate in Clinical Psychology  
PO 78, Addiction Sciences Building  
Institute of Psychiatry  
4 Windsor Walk  
London SE5 8AF

Tel: + [redacted]  
Email: [redacted]

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## Appendix 7: Evidence of ethical approval

19 May 2015

MS SUE RUTTER

111 BUSHY LANE 2015

[REDACTED]

[REDACTED]

Dear Sue,

**Re: Ethical Approval Application (Ref 13007a)**

Further to your application for ethical approval, please find enclosed a copy of your application which has now been approved by Dr Wayne Wilson on behalf of the Faculty Ethics Committee.

Yours sincerely,

Lisa McKee  
Ethics Administrator  
School of Health and Human Sciences

cc. Sarah Manning-Press, REO  
Frances Blumenfeld, supervisor

## Appendix 8: Participant information sheet



University of Essex

### PARTICIPANT INFORMATION SHEET

#### **The factors that influence decision-making in individuals who accept and subsequently challenge the simple caution for adult offenders.**

We would like to invite you to take part in this research study. This information sheet is designed to give you some information about the study, including details of why we think that the study is important, what we hope to achieve and what your involvement would entail, should you agree to participate. You are welcome to take your time in coming to a decision about whether to take part and you will have the opportunity to ask for further information, if you need it.

Your solicitor is aware of the study and has agreed to support it.

#### **The researcher:**

My name is Sue Rutter. I am a qualified clinical and forensic psychologist at the Institute of Psychiatry, King's College London. I have over 20 years of experience of carrying out psychological assessments for the courts. My particular area of interest and expertise is in assessing the possible vulnerability of people who are arrested by the police or who may have to give evidence in court.

I am also currently studying for a professional doctorate at the University of Essex. As part of my studies I am doing this research study under the supervision of Dr Frances Blumenfeld and Dr Chris Green. I will be starting this research in April 2014 and I hope to complete my study by April 2015.

#### **What is the purpose of the study?**

In recent years I have been involved in some cases that have led me to become very interested in learning more about the reasons why people accept a simple adult caution from the police and then seek to have it withdrawn. Recent court judgements suggest that some individuals who accept a simple caution may do so without fully understanding the potential consequences. I believe that it is important to study the decision-making processes that may be involved in accepting a simple adult caution and in the decision to challenging it afterwards. This research aims to inform and enhance police custody procedures in relation to the simple caution.

#### **Why am I being asked to take part?**

I am inviting people who have successfully challenged a simple caution to talk to me about what happened to them.

#### **Do I have to take part?**

No, it is up to you to decide whether or not to take part in the study. If you decide not to take part or to withdraw later on, this will not disadvantage you in any way.



### **What will the study involve?**

If you decide to participate in the study you will be asked to give your solicitor permission for them to give me your contact details. You will also be asked to give your permission for them to give me a copy of your police custody record and the final decision in your case, which will help me to learn about what happened before I meet you. Your solicitor will ask you to sign a consent form to show that you are willing to do these things. If you give your consent, I will then contact you to arrange to meet with you to carry out an interview. At this time you will be able to ask any questions that you would like.

The study will involve a one-off interview that may take around one hour but may be shorter. The interview will be arranged at a time that is convenient for you. If possible, I hope to be able to meet with you face to face but if you live a long way away from London and you can't meet me in person, it would be possible for the interview to take place on the phone or using Skype. Face to face interviews will take place in an interview room at the Institute of Psychiatry, King's College London, which is in South East London. Alternatively, when possible, they may take place at your solicitor's offices if you would prefer this.

Before the interview takes place you will have another opportunity to ask questions and you will be asked to sign a further consent form. After this you are still free to withdraw from the research at any time without giving a reason and without consequence.

During the interview you will be asked to provide some basic background information about yourself. The interview will involve asking you to give your own account of what happened, the experience of being in the police station and why you decided to accept a caution. I am particularly interested in talking to you about your thoughts and what you were feeling throughout this process. I am also interested in learning what the personal consequences of accepting a caution were for you.

### **Expenses and payments:**

Once the interview is complete you will receive a high street gift voucher for £10.

### **What are the benefits of taking part?**

It is hoped that you will find it helpful to talk about your experience. By taking part in this research, you will also be helping us to understand more about the circumstances in which people accept a caution and the possible consequences of doing this. This should enable us to improve knowledge and future practice by the police.

### **What are the possible risks or disadvantages of taking part?**

The study involves taking part in an interview about experiences that might have been difficult for you. If at any point this leads to feelings of discomfort or distress, you are free to decline to answer any particular question that you are uncomfortable with. You may also withdraw from the study immediately, as described below. You will be welcome to contact the Chief Investigator (Sue Rutter) or the supervisors, Dr Frances Blumenfeld and Dr Chris Green, at any time following your withdrawal to discuss any issues that you have with the research.

At the end of the interview you will be given time to discuss anything that has troubled you and any support needs that you might have.

### **What will happen if I want to withdraw from the study?**

If you wish to stop your participation in the study at any point you may do so without giving a reason and without any consequence.

**Will my taking part in the study be kept confidential?**

All information collected will be anonymous and strictly confidential. Any information that you provide will have your name and other personal details removed, so that no individual can be recognised. Information will be collected with only a participation number to identify it. All information will be stored away in a locked filing cabinet or stored on a password-protected memory stick for the duration of the study, so that only the researchers will have access to it. At the end of the study all of the recorded interviews will be destroyed.

If you withdraw from the study any information that you have given will not be used, unless you agree for us to use it. You may request that we destroy all data that has been collected about you immediately.

**What happens to my information?**

This anonymised research data will be analysed by the researcher at the Institute of Psychiatry, King's College London. The interview will be recorded and then transcribed into written form. All of the data will be examined to look for common themes in what people say.

The aim is to produce a final report. In this report we may want to include direct quotations from individuals who have taken part but, if we do this we will not identify you. You will be given a pseudonym.

**What will happen to the results of this study?**

If you choose to take part you will receive a written summary of the final report. Further information on the research and results can be sought from the researcher team.

If possible a report of the study findings will be published on the completion of the research. Participants in the research will not be identifiable in any reports, journal articles or presentations.

**Who has approved this study?**

The study has been approved by the University of Essex Ethics Committee.

**Contact details:**

Chief Investigator: Sue Rutter  
School of Health and Human Sciences  
University of Essex  
Wivenhoe Park  
Colchester  
Essex CO4 3SQ

**Correspondence address:**

Institute of Psychiatry, King's College London  
PO 78, Addiction Sciences Building  
4 Windsor Walk  
Denmark Hill  
London SE5 8AF

Telephone: [REDACTED]

Email: [REDACTED]

Supervisors: Dr Frances Blumenfeld  
School of Health and Human Sciences  
University of Essex  
Wivenhoe Park  
Colchester  
Essex CO4 3SQ

Telephone: 01206 873125  
e-mail: [fblume@essex.ac.uk](mailto:fblume@essex.ac.uk)

Dr Chris Green  
School of Health and Human Sciences  
University of Essex  
Elmer Approach  
Southend-on-Sea  
Essex SS1 1LW

Telephone: 01702 328373  
Email: [cmgreen@essex.ac.uk](mailto:cmgreen@essex.ac.uk)

**Thank you for taking the time to read this information. We would be happy to answer any questions that you have.**



## Appendix 9: Initial consent form – solicitors



University of Essex

### PARTICIPANT INITIAL CONSENT FORM

**Project Title:** The factors that influence decision-making in individuals who accept and subsequently challenge the simple caution for adult offenders.

**Chief Investigator:** Sue Rutter

**Supervisors:** Dr Frances Blumenfeld and Dr Chris Green

**Please read the following statements and sign at the bottom of the form, if you are happy to continue with the study.**

1. I confirm that I have read and understand the information sheet for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily.
2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason, without my legal rights being affected.
3. I understand that, if I agree to participate in this study, my solicitor will pass my contact details to the researcher (Sue Rutter). She will then contact me to arrange an appointment to meet with her for an interview about my experience of receiving a simple adult caution.
4. I understand that, should I agree to take part in the study, a copy of my police custody record relating to the offence for which I was cautioned and a copy of the final decision in my case will be sent to the researcher to provide background information prior to interview.
5. I understand that I will have the opportunity to ask further questions when I speak to the researcher. This will be before I agree to meet for interview and again before the interview takes place.
6. I understand that the researcher will seek further consent from me prior to the start of the interview.
7. I agree to take part in the above study.

Continued/...

Name of Participant: .....

Date: .....

Signed: .....


Person Taking Consent: .....

Date: .....

Signed: .....



## Appendix 10: Participant consent form



**University of Essex**

**PARTICIPANT CONSENT FORM**

**Project Title:**        **The factors that influence decision-making in individuals who accept and subsequently challenge the simple caution for adult offenders.**

**Chief Investigator:**   Sue Rutter

**Supervisors:**        Dr Frances Blumenfeld and Dr Chris Green

**Please read the following statements and sign at the bottom of the form, if you are happy to continue with the study.**

1.    I confirm that I have read and understand the information sheet for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily.
2.    I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason, without my legal rights being affected.
3.    I understand that where it is relevant to my part in this research, information about me collected during the study, may be looked at by the named researchers from the University of Essex. I give permission for these individuals to have access to this information.
4.    I understand that should I take part in an interview, a selection of my quotations may be used in the final research report, though these will be completely anonymised and will not be identifiable as mine.
5.    I have had the opportunity to ask questions. The researcher has explained the project and has answered any questions honestly and fully.
6.    I agree to take part in the above study.

**Name of Participant:**    .....

**Date:**    .....

**Signed:**    .....

**Person Taking Consent:** .....

**Date:**    .....

**Signed:**    .....

## Appendix 11: Interview schedule

### Interview Schedule

1. Could you begin by telling me about your experience of going to the police station?

Prompts:

- Tell me about what happened and why you were arrested?
- Had you ever been arrested before?
- Did you have any preconceptions of what it was like?

2. How were you feeling in the week before your arrest?

3. How did you feel when you were in the police station?

Prompts:

- How did you feel within yourself?
- How did the police make you feel?

4. What information were you given by the police?

Prompts:

- Were you told your legal rights?
- Were you told how long you might be there?

5. Was anybody there with you? If so, who and how did this come about?

6. Was it helpful to have somebody with you, what did they do to help?

7. Were you interviewed by the police - if so, tell me about what happened during the interview?

8. Did you understand that you were admitting an offence?

Supplementary question:

- Can you tell me about why you did this?

9. What were you told about the charging options?

10. Was the caution explained to you – if so, what did you understand about it?

11. How did you feel after you accepted the caution?

12. What were your thoughts about what had happened after you left the police station?

13. Why did you subsequently challenge/appeal against the caution?

Supplementary questions:

- Did something particular happen to make you do this?
- Can you give me more detail?

14. Have there been any benefits from the successful outcome of this challenge/appeal?

## Appendix 12: Participant support information



University of Essex

### PARTICIPANT SUPPORT INFORMATION

**The factors that influence decision-making in individuals who accept and subsequently challenge the simple caution for adult offenders.**

Thank you very much for taking part in this study. We hope that you have found it helpful to talk about your experience. However, if talking to the researcher has brought up any issues that have caused you to feel discomfort or distress and you need support, please do let the researcher know.

You are welcome to contact the researcher or her supervisors with any issues that arise after the interview. The contact details are listed below, along with some useful numbers and website addresses where you can find help.

#### Contact details:

Chief Investigator: Sue Rutter  
School of Health and Human Sciences  
University of Essex  
Wivenhoe Park  
Colchester  
Essex CO4 3SQ

#### Correspondence address:

Institute of Psychiatry, King's College London  
PO 78, Addiction Sciences Building  
4 Windsor Walk  
Denmark Hill  
London SE5 8AF.

Telephone: [REDACTED]

Email: [REDACTED]

Supervisors: Dr Frances Blumenfeld  
School of Health and Human Sciences  
University of Essex  
Wivenhoe Park  
Colchester  
Essex CO4 3SQ

Telephone: 01206 873125  
e-mail: [fblume@essex.ac.uk](mailto:fblume@essex.ac.uk)

Dr Chris Green  
School of Health and Human Sciences  
University of Essex  
Elmer Approach  
Southend-on-Sea  
Essex SS1 1LW

Telephone: 01702 328373  
Email: [cmgreen@essex.ac.uk](mailto:cmgreen@essex.ac.uk)

Continued/...

**Help and support:**


Samaritans: Telephone: 08457 909090 (24-hour helpline)  
Website: [www.samaritans.org.uk](http://www.samaritans.org.uk)

NHS choices –  
Mental health  
helplines: Website: [www.nhs.uk/conditions](http://www.nhs.uk/conditions)

Citizens Advice: Telephone: 08444 111 444  
Website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Thank you again for taking part in this study**

## Appendix 13: Participant receipt



University of Essex

**PARTICIPANT RECEIPT**

I \_\_\_\_\_ can confirm that I have received an Amazon voucher to the sum of £10.00 in recompense for attending an interview as part of Sue Rutter's research.

Date: .....

Signed: .....

**Appendix 14: Reflective note**

The first three participants have all been very different but what stands out is the level of emotion that they experience when talking about their experiences of arrest - they feel victimised by the police and this seems to be a thread through their stories, and an area to explore further.

there are 2 threads:

1. own psychological processes

2. police is manipulative and belittling

= possible codes.

also

ongoing impact - post challenge



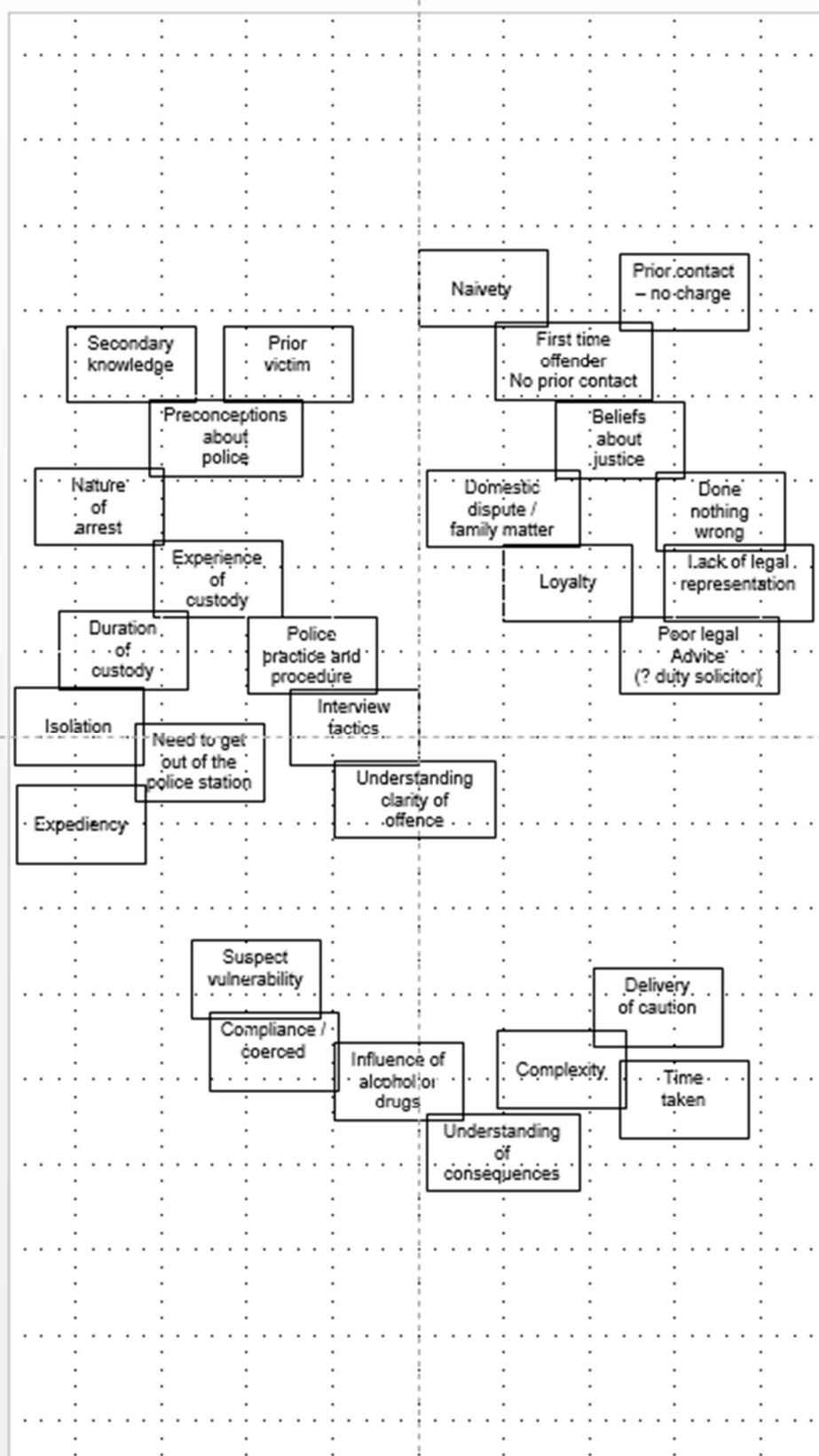
## Appendix 15: Initial coding

	<p>afraid, we're going to arrest you, erm, and I just, I just took it in my stride, I phoned my partner, erm, who'd gone back to work, he was doing something, he was, really important day for him, so he immediately left and came over and, what I was thinking was I don't want my kids to know, I just want them to think, you know, we're just gonna go and have a chat, so the police, [Partner] arrived and he said, he was going to tell them that I was a teach, a teacher and for some reason I went oh god, don't tell them that they'll never let me teach again ...</p>	<p>Acceptance of police action</p> <p>Contacted partner</p> <p>Inconvenience/bad timing for him – something important on</p> <p>He had to drop everything to collect children</p> <p>Need to protect children from events</p> <p>Deters partner from mentioning her role as a teacher</p> <p>Awareness of possible consequences of doing this</p>
Sue	Mmmm.	
Interviewee	<p>... so I kept that quiet, you know, I didn't really talk about that, I thought that was a bad thing to tell them cause I was</p>	<p>Decision making around disclosure of personal information</p> <p>A bad thing to tell them about teaching role</p>



<p>being judged so, you know, I know I was being judged, and [Partner] took them home so the picnic they, I said to [Partner], please can you take them to the swim thing because we were really excited about it, and of course he couldn't, so they were all marched home and spent the day at home while I was taken to the police station.</p> <p>The officious one went, I never saw him again, and I was with these two police officers, and we were chatting in the car, I mean I was just chatting to them about how, because I've got really strong opinions about my partner working in 24-hour news, how the world is really terrified, and most of the time I don't think it needs to be, I just think we live in a fear, a fearful culture because we see so</p>	<p>Feeling judged</p> <p>Outing curtailed by events</p> <p>Concern for the children</p> <p>Prospects for the day spoiled</p> <p>Marched home (does this say something about partner's attitude)</p> <p>Bad cop went and was not seen again</p> <p>Different officers escort to police station</p> <p>Chatting</p> <p>Personality traits – strong opinions</p> <p>News creates an unnecessary culture of fear</p>
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## Appendix 16: Emerging codes









## Appendix 18: Further coding analysis using MAXQDA

Code System	Memo	#
Code System		964
GREEN		1
MAGENTA		1
BLUE		1
POLICE PRACTICES		0
police don't care		13
assumption of guilt		2
experience of arrest		24
preconceptions about arrest		3
police tactics?		12
one size fits all		6
distorted information/took out of context		3
compliance		9
interrogative pressure		5
minimisation		10
feeling misled		11
police failure to follow guidelines		28
options not fully explained		1
a friendly face		8
good cop\bad cop		18
personal characteristics described		6
penalties for domestic violence		1
NAIVITY		0
unaware of admission		12
informal interview		1
first time offender		7
belief in justice		9
previous experience of the police		15
perceptions of the police		14
constructions of criminality		12
I've done nothing wrong		23
justifies actions		12

Code System	Memo	#
	victim not perpetrator	14
	wanting to explain	7
	this isn't part of my world	16
	offence category seen as disproportionate	2
	it's not serious	12
	understanding of legal rights	3
	acceptance of wrongdoing	1
	a domestic is different	10
	acceptance is seen as an admission of guilt	4
	Hobson's choice	24
	lack of information	17
	slap on the wrist	10
	consequences of caution understood	16
	the caution is not simple	6
	solicitors lack knowledge	11
	knowledge of the law	3
	need for representation and support	10
	denial of rights	7
	caution poorly explained	22
	poor legal advice	30
ESCAPE		4
	fear of retribution	3
	protection of others	14
	Fear of exposure	6
	fear of prosecution	5
	fear of consequences	8
	fear of exposure	1
	expediency - things to do	11
	concern of others	1
	experience of custody	18
	duration of custody	14



Code System	Memo	#
	time stands still	1
	time spent in custody	2
	disbelief	1
	feeling judged	6
	issues with communication	1
	physical/emotional state	31
	need for self preservation	5
	Feeling distressed	11
	self blame	3
	shock	3
	feeling intimidated	11
	humiliation	9
	restrained	8
	oppressive policing	10
	feeling vulnerable	12
	escape is paramount	24
	detention breaks you down	4
	lack of dignity	3
	loss of self-efficacy	7
	feeling isolated	5
	CONSEQUENCES OF ACCEPTING A CAUTION	0
	shame	4
	feeling vindicated	1
	delayed understanding of consequences	12
	attitude towards the police	3
	changed attitude to the police	12
	distrust of the police	5
	feeling victimised by the police	6
	difficulties with challenging	7
	you need capacity to challenge	1
	need for expert legal advice	9
	complaining about the police is difficult	5

Code System	Memo	#
	no redress with solicitor	1
	police obstructions to challenge	12
	lasting impact of experience	16
	personal consequences of accepting caution	46
	relationship damaged	8
	fighting back	10
	reference to other cases	3
	challenging is expensive	4
	confidence in own recollection	2
	attitude to parenting	7
	attitude to alcohol	5
	excessive/solo drinking is wrong	1
	enlists strategy	12
	inaccurate police record	4
	importance of rank	2
	seeks explanation of events	1
	contextual factors	24
	relationship issues as a precipitant	6



Document System

Project View Documents Codes Variables Analysis Mixed Methods Visual Tools Reports Help

Document Browser: Transcript 9 - interview 23.09.15

Documents

- Transcript 13 - interview 06.09.16
- Transcript 12 - interview 01.09.16
- Transcript 11 - interview 09.07.16
- Transcript 10 - interview 29.01.16
- Transcript 9 - interview 23.09.15
- Transcript 8 - interview 11.08.15
- Transcript 7 - interview 14.05.15
- Transcript 6 - interview 20.04.15
- Transcript 5 - interview 12.03.15
- Transcript 4 - interview 12.10.14
- Transcript 3 - interview 01.09.14
- Transcript 2 - interview 29.06.14
- Transcript 1 - interview 03.05.14

Sets

964

30 So did you have any, kind of, preconceptions about the police, I mean, what would you have said about what the police were like before this incident?

31 Interviewee Erm, I mean, my preconceptions were that because, erm, I like to think I'm a fairly, you know, intellectual person who knows the difference between ... and I just, I, I felt that my, my, the nature of why they were called out to my home, and the way they'd taken me away almost, I felt that I wasn't going to get, because if it would have been a domestic dispute, my, my, sort of, inclination was that, that their view was, or their conception would be that as I'm, as I'm the male in this equation I've automatically done wrong, and I felt that that conception was going to filter through in their dealing with me, if you like ...

32 Sue Mmmm.

33 Interviewee ... and, and their approach. And I, I felt very exposed and very nervous about that because I thought that whatever I'm going to say is going to compromise my position

Retrieved Segments

distressed.

Interviewee But, erm, it was, it was like being in a, sort of like in a, in a whirlpool going round and round and round and round, where you get totally disorientated and it's not real. That's what it felt like.

Transcript 13 - interview 0...  
436 - 436

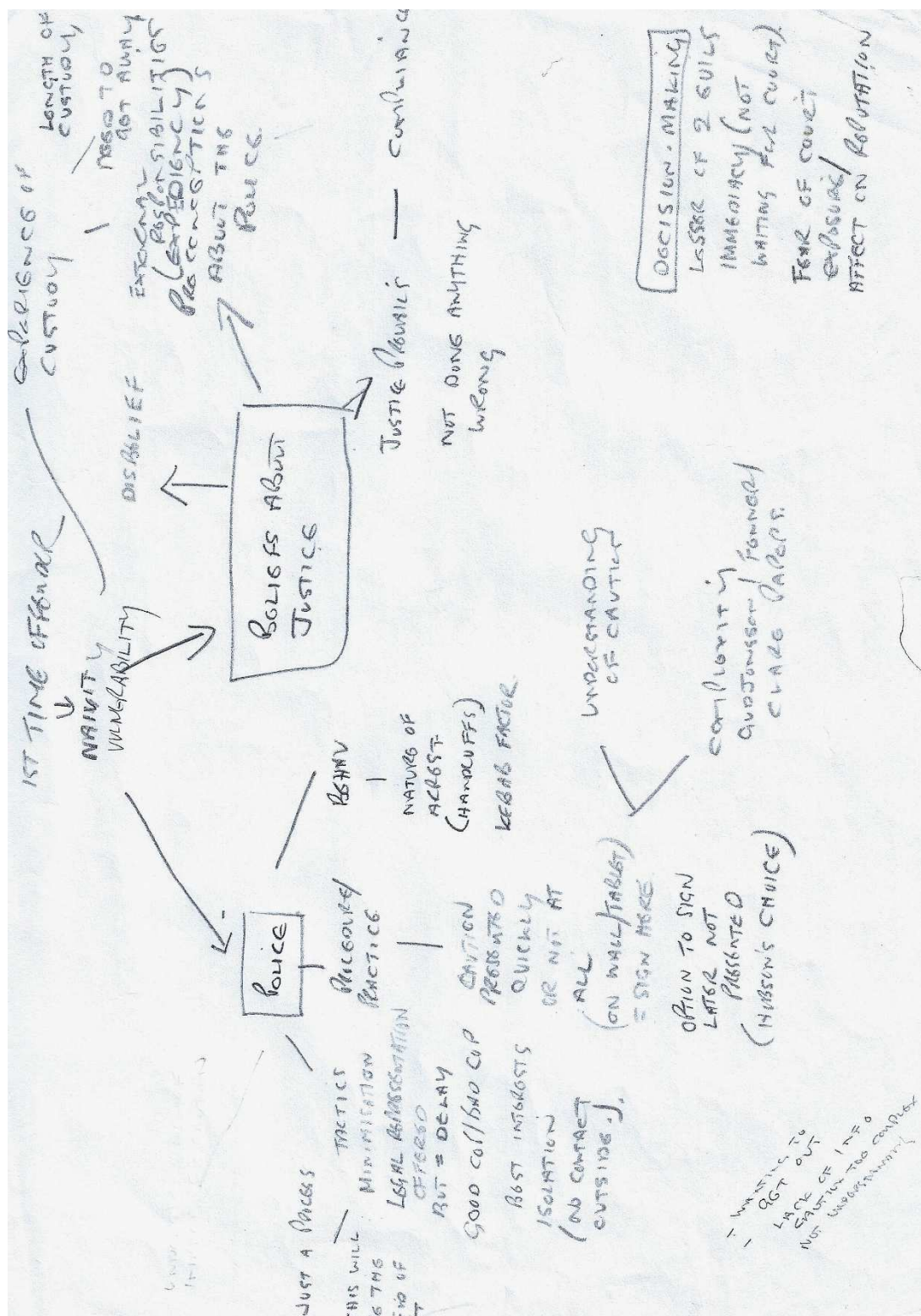
Simple Coding Query (OR combination of codes)

Code System

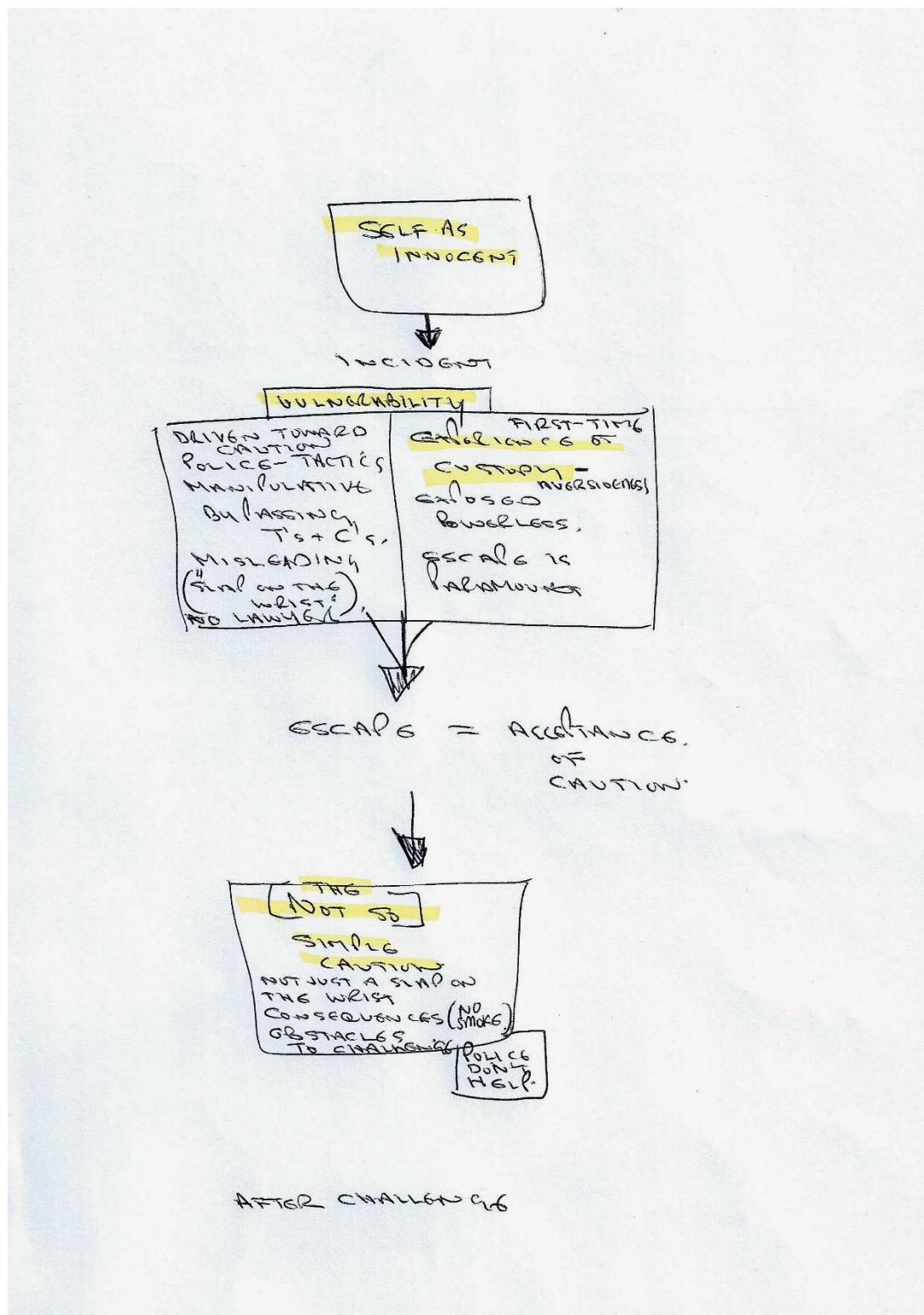
- previous experience of the police
- perceptions of the police
- constructions of criminality
- I've done nothing wrong
- this isn't part of my world
- offence category seen as disproportionate
- it's not serious
- understanding of legal rights
- acceptance of wrongdoing
- a domestic is different

13 32 252 0

## Appendix 19: Thematic map – sub-themes



## Appendix 20: Thematic map – initial sub-themes





## Appendix 21: 15 item check list by Braun & Clarke (2006)

**Additional file 2 15 Item Checklist by Braun and Clarke (2006)**

Table 2: A 15-Point Checklist of Criteria for Good Thematic Analysis

Process	No.	Criteria
Transcription	1	The data have been transcribed to an appropriate level of detail, and the transcripts have been checked against the tapes for 'accuracy'.
Coding	2	Each data item has been given equal attention in the coding process.
	3	Themes have not been generated from a few vivid examples (an anecdotal approach), but instead the coding process has been thorough, inclusive and comprehensive.
	4	All relevant extracts for all each theme have been collated.
	5	Themes have been checked against each other and back to the original data set.
	6	Themes are internally coherent, consistent, and distinctive.
Analysis	7	Data have been analysed - interpreted, made sense of - rather than just paraphrased or described.
	8	Analysis and data match each other - the extracts illustrate the analytic claims.
	9	Analysis tells a convincing and well-organised story about the data and topic.
	10	A good balance between analytic narrative and illustrative extracts is provided.
Overall	11	Enough time has been allocated to complete all phases of the analysis adequately, without rushing a phase or giving it a once-over-lightly.
Written report	12	The assumptions about, and specific approach to, thematic analysis are clearly explicated.
	13	There is a good fit between what you claim you do, and what you show you have done - i.e., described method and reported analysis are consistent.
	14	The language and concepts used in the report are consistent with the epistemological position of the analysis.
	15	The researcher is positioned as <i>active</i> in the research process; themes do not just 'emerge'.