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HOW ABOUT:

HUMAN

Special Edition

Recovery in Prison

‘Polite, Assertive and Sensitive’: Procedurally Just Searching at HMP Holme House

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Introduction

Prisons can easily be tense places, where staff and residents exist alongside each other, both needing the other’s cooperation, but sometimes feeling uneasy about trusting or depending on each other. Prison staff make people safe through legitimate authority, and need to be able to turn their hand to numerous conflicting demands, including social work, mental health support, life coaching, control and restraint, and meeting the complex requirements of security such as searching for contraband, disrupting drug supply and preventing escape. Sometimes these goals conflict, such as when a male prisoner who has experienced childhood trauma becomes violent. His violence communicates distress, which is best met through a caring approach, but also threatens the immediate safety of others, which may be have to dealt with through use of restraint.

Prisoners, we know, want prisons to be safe, and in order to feel safe, they look to staff to communicate both that they have authority and that they care. These two messages can be difficult to communicate simultaneously.

One way that staff can effectively combine authority and caring is to adopt the principles of *procedural justice* in how they deal with prisoners. Procedural justice means carrying out the duties of law or authority in a way that is perceived as fair by those you are dealing with. There are four aspects to perceived fairness:¹ (1) Voice, where everyone is able to give their side of the story; (2) Respect, where

everyone is treated with courtesy; (3) Neutrality, where it is clear that all decisions are made from a neutral, unbiased starting point, and (4) Trustworthy motive, where it is clear that the authority is acting in everyone’s best interests.

The importance of procedural justice is shown by a large and consistent body of research across all aspects of the criminal justice setting (police, courts, prisons) as well as in other more general aspects of life. When people perceive their treatment by the authorities to be procedurally just, they are much more likely to cooperate with laws and rules.² When they perceive their treatment to be procedurally unjust, people become hostile to the authority, they experience feelings of anger, and they feel alienated from the law.

In prisons, those who experience their imprisonment as less procedurally just have greater feelings of psychological distress in prison,³ are more likely to break prison rules including being violent,⁴ and are more likely to reoffend after release.⁵ Even when subject to multiple petty prison rules, people who are treated with courtesy and have the reasons for the rules and their punishments explained to them are more likely to succeed on release⁶

Procedural justice is probably the nearest thing we have to a silver bullet to make prisons safer and more rehabilitative. Even better, it has a small cost to implement. We don’t, in the main, need new processes or systems; we just need to apply and administer the processes that we have in a way that is felt to be procedurally just by those on the receiving end. This applies across the whole raft of prison processes; those that have been specifically

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1. Tyler, T. R. (2008). Procedural justice and the courts. *Court Review*, 44, 26-31.
 2. Tyler, T. R. (2006). *Why people obey the law*. Princeton University Press.
 3. Beijersbergen, K. A., Dirkzwager, A. J. E., Eichelshim, V. I., Van Der Lann, P. H., & Nieuwbeerta, P. (2014). Procedural justice and prisoners’ mental health problems: a longitudinal study. *Criminal Behavior and Mental Health*, 24, 100-112.
 4. Beijersbergen, K. A., Dirkzwager, A. J. E., Eichelshim, V. I., & Van der Lann, P. H. (2015). Procedural justice, anger, and prisoners’ misconduct. *Criminal Justice and Behavior*, 42, 196-218.
 5. Beijersbergen, K. A., Dirkzwager, A. J. E., & Nieuwbeerta, P. (2016). Reoffending after release: does procedural justice during imprisonment matter? *Criminal Behavior and Mental Health*, 43, 63-82.
 6. Franke, D., Bierie, D., & MacKenzie, D. L. (2010). Legitimacy in corrections: A randomized experiment comparing a boot camp with prison. *Criminology & Public Policy*, 9(1), 89-117.

researched include Incentives and Earned Privileges schemes⁷, Offender Management⁸ and Complaints procedures.⁹

A task that prison officers must carry out is the searching of cells and prisoners for contraband such as mobile phones, illicit drugs, and cigarettes. These items are prohibited in prisons because they contribute to illegal activity, bullying, violence and distress. However, they are also highly desirable items for prisoners to possess. Mobile phones, for example, enable contact with families as well as criminal behaviour, and drugs enable people to self-medicate against the pains of imprisonment. Searching is therefore a necessary duty for staff to perform in the interests of prison safety, but it causes anxiety and stress for prisoners who face losing possessions that are important to them, or risk being caught with items that they have been instructed to hold for others, causing fear that they will be punished within the 'inmate culture' if the items are found. Searching can therefore be a flashpoint for anger, fear and violence. The nature of the interaction between an officer and the person she or he is searching can inflame these reactions or, potentially, calm them.

This article describes how the principles of procedural justice have been applied to searching at HM Holme House, a Category C training and resettlement prison specialising in drug recovery that is part of the Tees and Wear Prisons Group in the North East of England. Searching in this context refers to area searches of parts of the prison, searches of prisoners' cells, and searches of prisoners themselves, with the intent of discovering contraband articles such as mobile phones and illicit drugs. It includes physical searching and searching technology such as X Rays and Scanners. Searches can be random, targeted as a result of intelligence, or routine, such as searching all men on their arrival at the prison and again on their departure. Searching is also carried out on staff and on prison visitors, sometimes randomly and sometimes in special operations. Increased searching has been a vital

component of the drug recovery programme, which seeks to reduce supply of drugs while simultaneously reducing demand for them and improving people's ability to cope without them. Since January 2018, the specialist drug searching team at Holme House has deliberately adopted a procedurally just approach. In this article I will set out the elements of their approach, drawing on interviews conducted with several members of the searching team and with their managers. The searching team were keen to emphasise that the fundamental aspect of a procedurally just approach is the way in which the authority chooses to treat the people they hold sway over:

The key message is not the resources. It's how the staff interact

The nature of the interaction between an officer and the person she or he is searching can inflame these reactions or, potentially, calm them.

Staff selection and training

Staff were invited to apply for the specialist searching role. The selection process involved an interview where the main focus was to assess interpersonal skills and attitudinal support for a procedurally just approach. Second, applicants took part in a mock search exercise. This not only assessed their searching skills but crucially their manner of interaction with the person they

were searching. Could they use humour appropriately to diffuse some situations, calming skills for others, and equally be able to show care for the vulnerable? Those selected undertook specialist searching training, and also took part in training in Five Minute Intervention skills¹⁰ and in keyworking. The new searching staff were specifically instructed that searches should not end in use of force (restraint). They were briefed to 'get people on side' while they searched them or their possessions. They were trained to understand that applying the principles of procedural justice would improve cooperation and reduce the likelihood of a hostile response from the person being searched.

7. Liebling, A. (2008). Incentives and Earned Privileges revisited: Fairness, discretion, and the quality of prison life. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 9, 25-41.
8. Bickers, I. (unpublished). Offender supervision, prisoners and procedural justice. MSt thesis, University of Cambridge.
9. Bierie, D. M. (2013). Procedural justice and prison violence: examining complaints among federal inmates (2000-2007). *Psychology, Public Policy, and Law*, 19, 15-29.
10. Tate, H., Blagden, N., & Mann, R. (2017). Prisoners' perceptions of care and rehabilitation from prison officers trained as 5 minute interventionists. Ministry of Justice Analytical Summary. Available from www.gov.uk.

The initial days: Use of cue cards to ensure a procedurally just approach

In line with published accounts of introducing procedurally just approaches to routine practice¹¹, the team began by using cue cards to help them remember all the components of procedural justice. The cue card used is shown below. The cue cards did not have to be used for long. Once staff were familiar with how to apply procedural justice during searching they were easily able to remember the components and adapt them to different circumstances and tasks.

Key Points	Script Reminders	Side 1
Targeted Intel	* Hello - Introduction	
Search	* Today you are being searched because intelligence suggests..... * We have many code blues each month. Each code blue has an impact on your regime and could be dangerous for those directly involved. * We are really keen to reduce drug use in the prison. This would be better for everyone here	
Impact	* We're also worried about tying up emergency services, reducing their ability to respond to incidents in the community. * Will you help us to provide a safe secure drug free environment by giving us your co-operation today and more generally by abstaining from illicit activity?	
Drug Use / Prevention	* Last month's MDT figures were ## * There were ## incidents of self-harm * There were ## incidents of violence * There were ## incidents at height * These figures are much higher than anyone wants, staff & prisoners alike	

Key Points	Script Reminders	Side 2
Drug Use / Prevention	We are trying many things to try and reduce drug use and make the prison a safer place for all. Is there anything you think staff should be aware of doing? * Can you please identify your belongings? * Is there anything in this cell which does not belong to you or is an illicit item?	
Search	* Is there anything you think we need to be aware of? * I will now search each of you (double cell). I will guide you through the process * Once the search is complete we will bring you back and inform you of any finds / actions.	
Positive Message	I just want to finish off by thanking you (for a positive thing they have done). I.e. Your co-operation today / Keeping your cell clean & tidy / Adhering to volumetric control	
ANY FINDS TO BE PROCESSED AND ACTIONED AS NORMAL, INFORM THEM OF SUCH		

Respect: Taking care with people's possessions and speaking with courtesy

The team emphasised the care they take when searching cells, recognising that in prison a person's cell is their home, and taking the view that they should treat it with the respect that you would show to anyone else's home. This is counter to the assumption that in searching a cell it is acceptable to leave it in a mess for the occupant to clear up and return to normal. The following quotes provide further examples of the team's commitment to treating people with respect, both in their actions and in their behaviour:

When you search, put things back as you found them. Leave it so that all he has to do is make the bed, Always make sure the place is as you found it.

Once a man had his photos put up really carefully on his noticeboard. We had to take them down to look behind them. On that occasion I left them in a neat pile for him to put them back. I explained that I could see the way they were displayed was precise and important to him and I didn't want to get it wrong.

If we have to take things for examination, we're polite. Explain exactly what's gone on, what we've taken, what they should get back and when.

If you trash the cell and speak down to the man, it just causes animosity

In these ways, the team showed respect both to the men whose space they were searching, and to their colleagues: one of their mantras was, 'Never leave an angry man behind you for someone else to have to deal with.

Neutrality: Understanding the other person's perspective

The PJ component of neutrality refers to the importance of conveying to people that they do not need to fear that they will be judged unfairly because of a pre-existing bias against them or a group that they represent. In terms of cell searching, bias could exist towards prisoners as a group, for example if there was an assumption that secreting contraband is an expected expression of their criminality. Staff could potentially also hold stereotypes of drug users, mirroring those that often found in wider society. Bias could also exist towards individual prisoners because of previous behaviour, associates, ethnicity, reason for imprisonment, and so on.

One way to overcome biases of this nature is to use the strategy of perspective taking. At Holme House, the searching team emphasised that empathy was one of the deliberate features of their approach that helped them conduct their work in a procedurally just way:

11. Mazerolle, L., Antrobus, E., Bennett, S., & Tyler, T. R. (2013). Shaping citizen perceptions of police legitimacy: A randomized field trial of procedural justice. *Criminology*, 51(1), 33-63.

Put yourself in their position and think about how it feels

Using empathy enabled them to approach each person they had to search as an individual, and reminded them that his behaviour, even if he was found to be holding contraband, should be understood and not judged:

You have to think about what it is like to be addicted to drugs. If you are an addict the tablets are everything. That's why they try to hide them from us. It's not personal

'Treat him as you would want to be treated. We all have to live and work together'

Trustworthy motive: Explaining while searching

The PJ component of trustworthy motive means that people feel assured that the authority is acting in their best interests. To assure someone of trustworthy motive, you must both verbally explain your motive, and then ensure that your style of interaction throughout the engagement is congruent with your initial explanation. Transparency is an essential aspect of trustworthiness.

Prison searching has traditionally been designed to be carried out in an intimidating manner as it has been (incorrectly) thought that this makes people most likely to yield information or give up contraband. Procedurally just searches are completely different. Having a trustworthy motive means that you are searching men in order to keep the prison safe, not because you want to see people caught out or punished. This motive must be communicated transparently throughout the process. Therefore, a procedurally just search involves constantly explaining what is happening and why; and what will happen next:

We talk through the processes and the consequences if he does and doesn't hand it over. When you talk on the way, it's fine. Nine out of ten times they will hand it over. Because it is done good-naturedly—polite, assertive and sensitive

The emphasis is on good-natured relationships and good interpersonal skills. If it is indicated during a cell search that someone may have swallowed or secreted something, they are taken for a body scan. Again, the searcher will explain the process and the consequences calmly and transparently:

When it comes to the scan, we show them the images. We use previous scans to show them the difference between a clear scan and what it looks like when someone is 'plugged'. We are upfront in everything we do, and we tell them everything

As a result of adopting this approach, the searchers at Holme House have never had to take anyone for a scan under restraint.

Voice: Gathering intelligence through relationships and trust

The PJ component of 'voice' means that the authority engages people in telling their side of the story and listening to their experiences and suggestions. By engaging with the voice of people in prison, the searching team came to realise that searching for contraband was not an 'us vs them' task. In fact, the majority of the men in the prison approved of their objective:

A lot of them are sick of the way it is. They live in fear or they are being bullied. They want us to know. They just need a safe way to tell us

To capitalise on this support, in one operation the search team decided to gather intelligence from a whole houseblock of the prison, where a higher level of Psychoactive Substance use had been noted. The team invited every man living on the houseblock to an individual, confidential, five minute interview. It was explained to each man in turn that he did not have to offer any information or intelligence, but that the purpose of the opportunity was for him to be able to do so if he wished too. If he did not wish to offer information, he would still be asked to stay for five minutes in the interview room making general conversation, so that others on the wing would not be able to tell who had used the time to pass on information and who hadn't. The general

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conversations often involved discussions about the problems caused by drug use on the houseblock. All the men took part willingly in interviews. Some declined to pass on any information but many did; either offering specific information about drug entry and trading routes, or more general information about the price of illicit drugs and so on:

Some said they wouldn't speak, but they had to stay on for five minutes anyway and then some would speak, when they saw they couldn't be identified

One important realisation was that this approach worked so well because the other components of procedural justice had already been established over a period of time. The men at Holme House knew that the searching team had a trustworthy motive and were not seeking to catch them out for punishment:

Everyone knows we are fair. We don't put people at risk when they give information

Conclusion

Procedural justice research indicates that when people feel they are treated fairly, they will accept harsher outcomes more easily than people who get lighter outcomes but do not feel treated fairly.¹² Or in other words, as one of the Holme House searchers put it, *'they may not like what happens but they will like the way we do it'*.

This article has only represented the views of the staff team who conduct searches at Holme House. We have not yet heard the voice of the men who have been searched, and so we cannot assume that they perceive themselves to have been treated with procedural justice. This is an essential next step, as the men's perspectives are necessary to know whether the approach is experienced as intended, or whether any changes are needed to the approach. Furthermore, there is unfortunately no hard data or counterfactual available to confirm the searching team's belief in the effectiveness of their approach. We do not know whether the search team has uncovered more contraband using a procedurally just approach than they would have done with a more traditional searching approach, or whether the lack of need to use force is significantly different to the experience of other prisons.

However, the behavioural responses of the people being searched—especially their lack of violent resistance to searching, and their willingness to supply intelligence—suggest cooperation with the authorities, which in turn suggests that procedural justice is being experienced. To the search team, who have experienced for themselves the benefits for everyone of paying attention to procedural justice, this way of working is a no-brainer.

There's an easy way and a hard way to do this job. Why would you want to do it the hard way?

12. Tyler, T. R. (2006). *Why people obey the law*. Princeton University Press.