

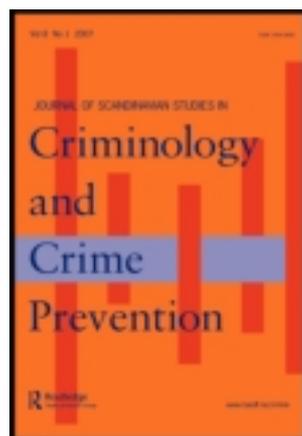
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### Incentives and Earned Privileges Revisited: Fairness, Discretion, and the Quality of Prison Life

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# Incentives and Earned Privileges Revisited: Fairness, Discretion, and the Quality of Prison Life

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## Abstract

An evaluation of the policy of incentives and earned privileges (IEP) in prisons in England and Wales found mainly negative effects on prisoner behaviour and perceptions of fairness and relationships with staff. Some of these negative findings were due to the newly punitive climate in which the policy was introduced and the subsequent ethic underlying new discretionary practices. The evaluation illustrated the significance of prison staff discretion, relationships with prisoners,

and fairness, to evaluations of prison life. A key finding of the research was that prison officers deploy their authority through relationships with prisoners. They use the rules when relationships do not work, and this is one of the reasons for the centrality of staff prisoner relationships to prison life. IEP is an important component of contemporary prison regimes but needs to be administered fairly, individually, and constructively. The author concludes that policies shape

prison life, often in their impact on *sensibilities* rather than in intended ways. Certain types of political policy action pose huge risks to prison quality and stability, in ways that Ministers may not realize. Responsible policy-making is critical in relation to the use of prison and the tone of prison life.

**KEY WORDS:** Discretion, Earned privileges, Fairness, Penal policy, Prison life, Staff-prisoner relationships

IEP is part of what's helped to sort this prison out. It has been a vehicle. The Prison Service needed to sort out order and control. The imposition of it has helped us to get away with making some of these major changes. So yes, it's a good thing. The concept is simple—prisoner behaves, prisoner gets extra phone card. It's the subtleties behind it we need to think about. It feeds into so many things. There are some dangers in it too. We probably need to think about it a bit harder, understand it better. There are some big issues hidden in it. (Governor)

In 1995 a new national policy of incentives and earned privileges (IEP) for prisoners was introduced in England and Wales, first in 32 'first phase'

establishments and shortly afterwards in all prisons. The policy was carefully evaluated in five establishments with distinct functions and was found to have complex effects on prison life. The policy has persisted, with various amendments, and the preparation of this paper coincided with the recent announcement of a 'new compact' for prisoners—or another renewed emphasis on earned privileges by Ministers. Both the principle and the practice of the earning of privileges by 'good behaviour' are thus very much live concerns in England and Wales, as well as elsewhere. Questions of what constitutes 'good behaviour' in prison, what constitutes 'a privilege' (rather than an entitlement), and of who should have the decision-making power in these areas of prison

life, tend to attract different answers over time, telling us much about shifting contemporary penal sensibilities.

The findings and the experience of the study I shall outline below provided the stimulus for several new directions in my own prisons research career, including a close exploration of the work of prison officers and, in particular, the importance of relationships between staff and prisoners in providing a context in which discretion is used. The project precipitated a major article on the *process* of doing prison research because the policy and political context in which the policy was introduced (and therefore the experience of data collection at one stage) was so fraught and complex. So I was grateful for the opportunity to return to this project after some time away from it, at the invitation of the organizers of the Stockholm Criminology Conference 2008. I will outline key aspects of the evaluation, in the interests of brevity. A similar evaluation has recently been conducted of a more recently introduced experiment with incentives-based regimes in Sweden, and it looks from discussions so far as if our findings are similar. This is especially interesting as the context in which the policy has been tested seems to be quite different in the two countries.

This paper will briefly describe the background to and introduction of the IEP policy in England and Wales, and will outline the main findings from the process and the outcomes study. It will describe the theoretical lessons learned and will end with a few words on contemporary developments.

As one Governor said at an early stage in our evaluation (cited above), the idea seems simple, but there are some ‘big

issues’ hidden in it. So what are these big issues? To anticipate, they are to do with the flow of power in prison, the changing vision of prisoners on which penal policy is built, and some new views about the motivation and ‘moral repair’ of individuals.

### The introduction of IEP

In his address to the Prison Service Conference in 1997, Conservative Home Secretary Michael Howard told prison governors as he launched the policy:

Privileges should be earned, not enjoyed as of right. Prisoners who behave well should benefit and those who behave badly should face sanction. Once earned, privileges should not necessarily be permanent. They will be lost if a prisoner’s behaviour deteriorates. The new system is transparently fair. This means real progress towards meeting public expectations about what kind of place prisons should be.

The policy was not new, of course. Incentives and rewards for good behaviour had been intrinsic to the ‘stage system’ and the ‘borstal system’ during the early 20th century (Bosworth and Liebling 1994). Its return coincided with the revival of classical economic theory, rational choice theory, and opportunity theory in political thinking, and, some said, with Victorian notions of less eligibility. Michael Howard’s remarks about meeting public expectations about what kind of place prisons should be flowed from an embarrassing series of escapes from high security prisons, which were linked, in the eyes of politicians, to a lax approach to privilege entitlement.

He went on to say:

The general public could never comprehend—let alone condone—what they used to hear about prisoners living with luxuries and free from control. Nor could I. I am pleased that we are making such stories a thing of the past.

This story needs telling in a little more detail in order to understand how the policy took shape in establishments.

The period just before IEP was, in hindsight, a period of liberal optimism. Prison populations were declining, Lord Woolf had written his 455-page analysis of the importance of justice in prison, following the most prison serious disturbances Britain had ever seen. Prisoners at four local prisons, Manchester (Strangeways), Cardiff, Bristol, and Pucklechurch, one long-term training prison (Dartmoor), and one young offenders institution (Glen Parva), had destroyed wings, education, and gym facilities, and had seriously threatened staff. Long-term problems of overcrowding, dilapidated buildings, and impoverished regimes were starting to be tackled, but, Woolf concluded, prisoners had some legitimate grievances about the way they were being treated. The main problems faced by prisoners were: 1) the unsanitary and overcrowded conditions to which prisoners were subjected; 2) the negative and unconstructive nature of the regime; 3) the lack of respect with which prisoners were treated; 4) the destructive effects of prison on the prisoners' family ties and the inadequacy of visits; and 5) the lack of any form of independent redress for grievances (Home Office 1991b:16).

A major programme of reform was begun, including the appointment of a Prisons Ombudsman, management reorganization to strengthen leadership, and an explicit emphasis on 'respect and responsibility' in the Prison Service. What was most marked about this set of proposals, and the analysis on which it was based, is that there was a broad consensus among a wide range of participants and commentators that it was right. There was agreement, then, among penal scholars and practitioners that (liberal, humanitarian) reform was long overdue. This view was consistent with a more general liberal consensus in the community. The Conservative Home Secretary Douglas Hurd had declared during the preparations for what was to become the radical, anti-custody Criminal Justice Act 1991, that prisons were 'an expensive way of making bad people worse'. Underlying policy at the time was a pragmatic recognition of the financial and human costs of imprisonment, and the limits to use of the prison as a means of rehabilitation. The prison population fell, regimes improved, and a new emphasis was placed on the respectful and legitimate treatment of prisoners, in the interests of fairness, order, and future reintegration.

Prison officers understood, following discussions around the Woolf report, that one way of improving order in prisons was to treat prisoners more carefully. For all sorts of reasons, including an accident of policy personnel, but also because few people digested the whole report, and others were aware of a need for emphasis, Woolf's careful concept of justice was translated into the slippery concept of 'care'. The focus of

his report was on ‘security, control and justice’, but the White Paper to follow had the title, ‘Custody, Care and Justice’ (Home Office 1991a). Serious consequences followed. Disorder in prison increased, as longer hours out of cells, and new visions of ‘model regimes’ were introduced in new build and privately operated prisons without a corresponding increase in structure, education, or work. A competition in ‘liberal humanitarian regimes’—a distortion of the Woolf model—was set in train. Drug use and assaults in particular were high in these new regimes with long hours of unlock and relatively little for prisoners to do. Then two high-profile sets of escapes from maximum-security prisons in 1994 and 1995 were linked to officers under-enforcing certain security procedures in the interests of good relationships, under the explicit guidance of their managers, and influenced by an ideology that linked collective disorder to a sense of unfairness. The theory is right, but few practitioners understood how the concept of fairness operated or applied in prison. Fairness is not the same as care. When six prisoners escaped from Whitemoor’s Special Security Unit in 1994, an investigation found that one prisoner had accumulated 84 boxes of property, a small amount of Semtex, and a bicycle. If this was justice, Michael Howard declared, then the Prison Service should be wary of it. It was not justice at all, it was laxity—but little attention was paid at the time to the meaning of these important words.

The back-lash that followed constituted one of the most dramatic transformations of the inner life of prisons

witnessed to date (although I suspect we are about to see another). The term ‘decent but austere’ was used. Prisoners’ prison lives were completely redrawn. A reassertion of penal authority took place. What David Garland calls penal sensibilities changed dramatically during this period, first in one direction, and then in another. From around 1993–94 onwards, there was a marked harshening of the emotional tone of penal policy (precipitated in part by the murder by two children of the young Jamie Bulger; see Green 2008). Inside prison, following the inquiries into the escapes, there was a deepening of the prison experience—so that prisoners felt the depth, weight, or psychological burden of prison life more acutely. Since 1999 there has been a more complex set of messages about decency, efficiency, and addressing offending behaviour which requires a separate analysis, but for now I am simply setting the scene for the introduction of IEP at the time of our evaluation.

The principles of IEP had originally been agreed by the Prisons Board in accord with the principles developed in the White Paper, ‘Custody Care and Justice’, following the Woolf Report. However, the changing political climate, and the escapes, significantly altered the context in which the final policy preparations were completed. It was launched simultaneously with other policies following recommendations from the Woodcock Report, and anticipating and acting on recommendations from the Learmont Report, following the investigations into the escapes. The clear emphasis of this suite of policies, which interacted in an important way with IEP, was security and control. They

included increased searching, increased physical security, volumetric control of prisoners' possessions, mandatory drug testing, the ending of handing in of property by prisoners' visitors, and restrictions (therefore significant reductions) in temporary release and home leave. Important changes were made to the IEP policy at the last minute, a direct result of an intervention by the then Home Secretary, which involved revising downwards the privileges available (for example, the amount of private cash prisoners could spend) and making it possible for establishments to start prisoners off on the basic rather than standard level of privileges.<sup>1</sup> This altered the tone of the policy and the messages about it understood at establishment level. The moral status of prisoners was lowered, and the starting place was somewhat punitive. As one Governor said to us at the time, for such a scheme to work, the *ethic* driving such a scheme had to be right.

During the policy preparation stage, I had been asked to conduct a brief review of the literature on incentives approaches to prison regimes, with a colleague. We concluded that, historically, regimes based on assessments of prisoners' behaviour had not been very successful. We tentatively suggested that the Prison Service had a somewhat simplified conception of the links between incentives, compliance in prison, and the likelihood of reduced reoffending on release (see Figure 1A). We referred to one of Aesop's Fables—the sun and the wind—in which the moral is

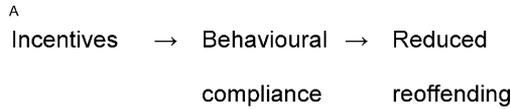
that persuasion (a warm sun) is more effective than force (a fierce wind).

We proposed a more complex model of incentives and prison life (Figure 1B), in which incentives and punishments interact with other aspects of the prison, including the nature and quality of staff–prisoner relationships, and in which the rational choice model of behaviour is not the only dynamic at play. We suggested, in line with Hans Toch's work on coping and maladaptation in prison for example, that there are many varieties of non-compliance, including non-engagement, and that actually behavioural compliance in prison may be the wrong goal (see Toch et al. 1989). Normative engagement or involvement is more likely to be linked to improvements in post-release prospects and behaviour.

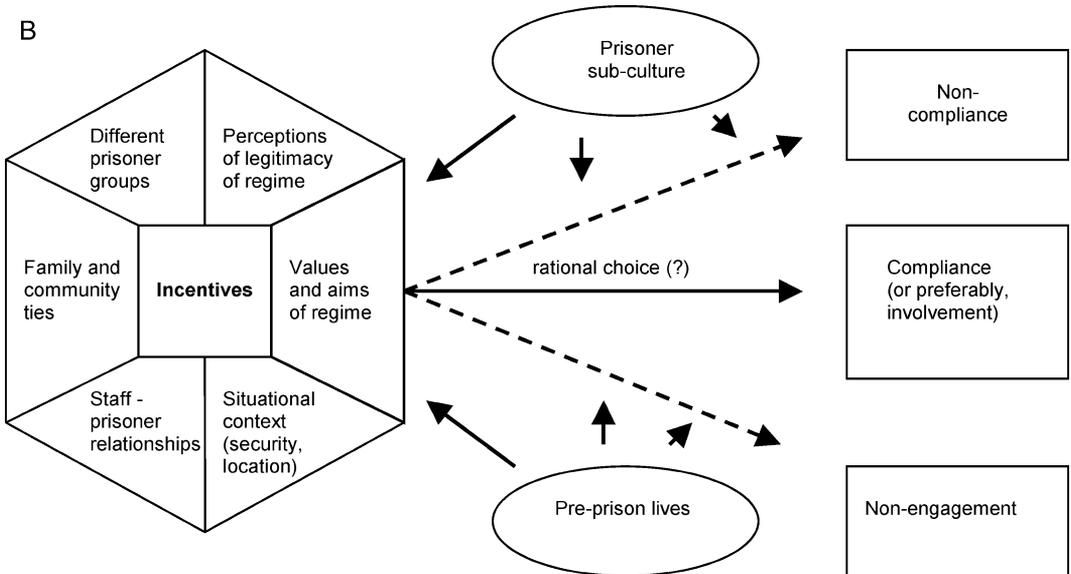
The time was not right for such messages to be heard. Interestingly, there was more interest in this model and its implications at establishment level than at policy level, another paradox of prison life whereby practitioners grasp the complexities of policies not properly understood by those at a distance. But there are few mechanisms for shaping policy or working with establishments at that level. Policy is generally hierarchically developed, from the top down.

There were two 'arms' to the IEP policy. One was related to individual prisoner behaviour and the search to improve it. This part of the policy was primarily aimed at the achievement of order, but it was also consistent with the intention to make regimes purposeful and constructive. The second 'arm' of IEP was about reshaping and gaining

<sup>1</sup>Prisoners on basic were entitled to £2.50 private cash per week, which meant they had to choose between buying tobacco or phoning home. Several prisons started prisoners on the basic regime.



**Figure 1.** *Bosworth and Liebling's Two Models of Incentives in Prison Regimes (1994).* A: *The simple model*



**Figure 1B.** *The complex model.* Source: Bosworth and Liebling (1994), p. 136–137.

better control of ‘the system’, controlling institutional diversity, ‘reining establishments in’ to some sort of framework, so that there was a coherence and limit to policy on privileges within the prison system. So the policy was aimed at controlling the behaviour of prisoners, but also the behaviour of staff and Governors—this was less clearly stated in the instruction but was clearly driving its shape and tone.

The IEP policies’ main aims were ‘to ensure that prisoners earn privileges by responsible behaviour and participation in hard work and other constructive activity’. Within this overall aim, *five specific aims* were:

1. to provide that privileges generally are earned by prisoners through good behaviour and performance, and are removable if prisoners fail to maintain acceptable standards;
2. to encourage responsible behaviour by prisoners;
3. to encourage hard work and other constructive activity by prisoners;
4. to encourage sentenced prisoners’ progress through the prison system; and
5. to create a more disciplined, better controlled, and safer environment for prisoners and staff.

Three levels of privilege entitlement—basic, standard, and enhanced—were introduced, and prisoners were organized onto these levels according to staff

reports on their behaviour. The 'key earnables' were extra and improved visits, eligibility to earn higher rates of pay, access to in-cell television, opportunity to wear own clothes, levels of access to private cash, and time out of cell for association. There were a number of formal processes, like review boards and appeals procedures, in the Instruction to Governors, but as I will suggest below, the process safe-guards were weakly understood or implemented, on the whole.

### The evaluation design

The research was designed to capture processes and outcomes, and to combine the best of structured quantitative with deeper qualitative methods. Methods included:

- A structured before–after questionnaire to random samples of 1022 prisoners and 565 staff in 5 prisons (maximum-security, training, local, women's, and young offenders institutions).
- A process study (observation and interviews with 100 prisoners and 125 staff) in the 5 prisons.
- The collection of institutional data (assaults, injuries, use of 'control and restraint', etc.).
- Structured visits to 7 other establishments.
- Some 'action research': feedback seminars and participation in implementation workshops.

Five establishments of different types were included in the evaluation, from the 32 first-phase implementers (see Liebling et al. 1999). Structured visits were made to seven other establishments to see how much variation existed. Considerable thought went into the selection of the five main pilot establishments, and we

were given considerable advice from our Prison Service Steering Group. We selected a range of performances as well as a range of population types. Because of the speed of implementation and its high-profile political nature, we found ourselves drawn into activities aimed at extracting the learning from our research at every opportunity. This was a difficult but creative tight-rope to walk, as I have reflected in a separate paper, 'Doing Prisons Research' (Liebling 1999).

Our key research questions were derived from a close reading of the policy instruction and its intended outcomes as well as from our theoretical interests in the hypothesized relationship between legitimacy or fairness and order that colleagues had described. They were:

- Is the environment safer? Do prisoners feel safer? Is the environment more disciplined?
- Has compliance (willing co-operation) increased? Has behaviour improved?
- Are prisoners working harder, participating in more activities, addressing their offending behaviour?
- Do prisoners perceive movements through the system as progress?
- Has the pattern of spending changed?
- How meaningful are the 'key earnables'?
- Is the principle being fulfilled that privileges above the minimum level are to be earned?
- Has access to visits changed? Have there been effects on prisoners' families?
- Have there been changes in relationships between 1) staff and prisoners, 2) prisoners?
- Have there been perceived changes in justice and fairness?

We took some important early steps in this project towards the formulation

of composite dimensions measuring complex and important aspects of prison life. The main variables in the structured questionnaire related to the main aims of the policy and to our theoretical expectations, and so were: attitudes towards IEP, prisoner misbehaviour (which was measured using a victim and self-report study since much misbehaviour is invisible to staff), order, living conditions, relationships with staff, perceptions of staff fairness, regime fairness, what we called (given the timing) a 'Woolf dimension' reflecting clarity and consistency or procedural fairness, perceptions of making progress in prison, and 'willing engagement or participation' in activities. Each dimension was measured using a set of questions or items which were then combined statistically. We made very good use of a statistician adviser throughout the project (Gerry Rose). There were also measures of spending and contacts with family.

### **The process findings**

The IEP policy was given a high priority in most establishments. Prisoners knew the policy was being used, and most were acutely aware of the distinctions between basic, standard, and enhanced. They knew that levels and the associated privileges were linked to their behaviour, and they recognized the important role played by staff in making decisions. The majority of prisoners perceived the principles of IEP as fair but felt it was operating unfairly. They were unclear about what behaviour was required and did not fully understand the appeals procedures. Staff on residential wings had the main responsibility for day-to-day running of IEP schemes. Decisions

about prisoners' levels were taken in consultation with senior officers or principal officers. In general, staff approved of IEP and thought of it as a useful tool, allowing them to handle problems with individual prisoners, and to do so quickly. There was considerable variation in the use of levels, whether or not the scheme was location-based, the time it took to move up or down, and the criteria used. We found a low level of accountability for decision-making and little management control. Systems for monitoring were not very effective, and none of the establishments had an IEP Review Board in the form envisaged by the Instruction to Governors. Appeals procedures were under-developed. The policy was seen as 'owned by staff', but this meant that formal procedures were under-developed in most of the research establishments. There was little recognition of the legal framework within which IEP was intended to work. Like with all policies, process short-cuts were taken. No officer saw the written Instruction to Governors.

The legal vulnerabilities included unresolved issues about whether prisoners could be obliged to undertake sex offender treatment or other offending behaviour courses (so that refusal to participate resulted in a level drop), the extent to which privileges were transferable between prisons, insufficiently clear reasons or criteria being given for changes of level, the relationship of IEP with the disciplinary system (and the risk of double jeopardy), the impact of IEP decisions on classification and release/transfer decisions (where the stakes are higher than for other prisoners), the availability of accommodation

(in location-based schemes) restricting earned entitlements, and access to constructive activities on the basis of need (rather than to material privileges based on desert). There continued to be controversial issues relating to visits with families.

IEP had positive 'spin-off effects' in various area of prison life. For example, it required induction, personal officer, sentence planning, compacts and review board processes to be revisited and, in some cases, improved. In some prisons, staff were being encouraged to communicate more, and more systematically, with prisoners. IEP could, at its best, draw together uniformed staff and specialists, including education, civil instructors, administration, psychologists, and probation staff, and require them to communicate effectively. Quiet, conforming prisoners stood more chance of getting noticed and rewarded.

We ranked the establishments on the extent of IEP implementation, using our own criteria. Two were regarded by the research team as 'good implementers'. For example, the maximum-security prison was a good implementer, because it had relatively formal procedures, reasonably clear criteria on paper, good information and links with sentence planning, through-care and personal officer schemes, and a strong staff lead. This was because a strong negative prisoner reaction to the introduction of the policy was anticipated.

### **Prisoner reactions to the IEP policy**

You're hitting us where it hurts ... Do you know what's good about this prison? I can do what a normal father would do. I can play in a field with my

son, and then speak to him afterwards on the phone ... You introduce this and there'll be a kick-back! (Prisoner, maximum-security prison)

Prisoners felt very strongly about the inclusion of family contact in the list of 'key earnables': the prospect of differential quality of contact being linked to perceived behaviour was extremely threatening. Levels of earnings and access to private cash determined the number of phone cards prisoners could buy, so several aspects of the policy were felt to impinge on this most important area of prison life. Prison staff and managers, on the other hand, mostly saw the benefits of engaging families in placing pressure on prisoners to behave well. Families did not see the policy instruction, so there were some difficulties for prisoners when they had to explain that the number of visits they were eligible to receive had reduced. Because the policy was about earning privileges, the transition involved losses in previously taken-for-granted aspects of prison life.

There was no doubt among prisoners at the time of our research that power was being reinvested in staff. Prisoners described feeling powerless. In the maximum-security prison where there was a history of consultation and prisoner influence, they became angry, resistant and unusually collective in their protests about the policy. It felt to prisoners like things were being taken off them, a new arbitrary power was available to staff, and that life in prison had become more unfair. Even prisoners on enhanced described the arbitrariness of the decision-making, where they could see that their own behaviour was not really 'good'.

Table 1. *Allocation to privilege level in one maximum-security prison*

|        |             | Basic |     | Standard |     | Enhanced |     | Total |
|--------|-------------|-------|-----|----------|-----|----------|-----|-------|
| A wing | (VPU)       | 6     | 5%  | 47       | 47% | 48       | 48% | 102   |
| B wing | (Dispersal) | 11    | 10% | 51       | 49% | 44       | 55% | 106   |
| C wing | (Lifers)    | 4     | 5%  | 35       | 40% | 48       | 55% | 87    |
| D wing | (VPU/SOTP)  | 1     | 1%  | 36       | 35% | 66       | 64% | 103   |
| E wing | (Dispersal) | 17    | 18% | 33       | 35% | 43       | 47% | 82    |
| F wing | (Dispersal) | 6     | 13% | 28       | 62% | 11       | 25% | 45    |

SOTP=Sex Offender Treatment Programme; VPU=Vulnerable Prisoner Unit (sex offenders).

One prisoner said:

Staff have become ... I don't know if it's all round but there's been a bit of a different attitude from staff. I think ... there's a sense from them that they're gaining the high ground once again, and that they're tending to be a bit off-hand in their attitude is as near as I can put it. (Prisoner)

The prisoner quoted above expressed the feeling that shifts in the power balance brought about shifts in attitudes and relationships. IEP in this context coincided with and reinforced a sense that prisoners were less morally deserving in general but that some were even less so. Some staff were anxious and uncomfortable about this change in the tone of relationships. As one senior officer said:

I'm afraid this will unite prisoners. It will make or break the prison. (Senior Officer)

The research found that wings within some establishments developed significantly different practices, with distinct outcomes for prisoners, and that these practices reflected identifiable differences in broader aspects of each wing's style and operation. Some staff resorted to formal means of 'control' more

readily than others. The relatively high use of privilege removal (punishment) seemed to be associated with distant and poor staff-prisoner relationships. Conversely, where staff-prisoner relationships were close, and highly rated, resort was less frequently made to privilege removal as a means of control. Table 1 shows that a disproportionately high number of prisoners were being placed on basic by staff on E wing in the maximum-security prison. There was very little staff presence on the wing, and relationships were poor. A disturbance occurred on this wing shortly after implementation. Using our before-and-after data to look at what went wrong, we concluded that staff on the wing with poor relationships were using too much power, of the wrong sort.

There was a complex link, then, between the nature and quality of staff-prisoner relationships, other aspects of life on the wing, and the use of formal mechanisms of control. Staff distance was seen as advantageous to some prisoners, so the question of what a 'good'—or as we have argued since—'right' staff-prisoner relationship is, and whether staff and prisoners have similar visions of 'right relationships', is a complex matter. It was clear to us, and

to senior managers, that staff–prisoner relationships on E were not ‘right’. They were ‘too close’ on C wing, and ‘too distant’ on E. At this time, the Prison Service were acutely aware of the dangers of extremes (of collusion/laxity between staff and prisoners versus distance and over-use of sanctions; see Home Office 1994, 1995). It was clear that despite the acknowledged significance of staff–prisoner relationships to prison life (e.g. Home Office 1984), there was very little clear thinking or empirical knowledge about these relationships, or about what ‘good–right’ relationships looked like. E wing was not especially negatively rated by prisoners on staff–prisoner relationships, suggesting that ‘distance’ and lack of organization among staff may be positively evaluated by some prisoners (for obvious reasons). The questions of the differential use of formal and informal sanctions, the nature of the staff–prisoner relationships in the maintenance of order, and the way in which prison officers carry out their work and deploy their power through relationships were unexplored areas of prison life.

The before-and-after results are summarized in Table 2, showing within-prison differences where important population differences were explored.

The policy lead who chaired our research steering group said to us on reading our report: ‘The arrows are all pointing in the wrong direction’. In other words, there were few improvements to prisoner behaviour. Those we found were related to physical changes in the training prison implemented after the escapes. There were few improvements to order. This summary masks the

fact that within several of the prisons, there were some minority populations, so at the dispersal prison and in the young offenders institution (YOI) vulnerable prisoners and juveniles reported a significant worsening of their behaviour and the most significant reductions in fairness. Overall, there were significant losses to staff–prisoner relationships, perceived fairness of staff and the regime, and perceptions of procedural justice in all five prisons. There were also significant drops in perceptions of making progress in prison and constructive participation in activities. These negative perceptions, particularly of regime and staff fairness, strengthened as prisoners’ levels declined, so that prisoners on standard and basic respectively were least convinced of the fairness of their treatment. Prisoners on basic were often especially sensitive to injustices and to feelings of defiance and resentment, so it was not altogether surprising that in two establishments basic regime units became a battleground, with prisoners repeatedly damaging the furniture and fabric of their cells in angry protest. As one specialist said, ‘IEP is a tool to separate out trouble. It’s not about helping the trouble-makers’. We were concerned, but not surprised, to find that vulnerable prisoners with high levels of distress and suicide risk also found their way onto basic. Of course prisoners found ways of offsetting the new regime, so that some were ‘looked after’ by other prisoners, occasionally in return for saleable goods, or members of staff would bend the rules to let prisoners out of their cells to have a shower, make a phone call, or get a haircut, when others stuck more

Table 2. Overview of Time 1/Time 2 outcome effects based on nine composite variables

|                            | London local |        | CatC |       | Women's<br>open | MaxSec |           | YOI  |      | All prisons |     |
|----------------------------|--------------|--------|------|-------|-----------------|--------|-----------|------|------|-------------|-----|
|                            | Convicted    | Remand | Life | South |                 | North  | Dispersal | VPU  | YO   |             | Juv |
| Attitude to IEP            | —            | ↑↑     | —    | ↓↓    | ↑               | —      | ↓         | ↓    | ↑    | —           | —   |
| Behaviour and order        |              |        |      |       |                 |        |           |      |      |             |     |
| Misbehaviour               | ↑↑           | ↑      | —    | ↓     | ↓↓              | —      | —         | ↑    | —    | ↑↑          | —   |
| Orderly regime             | —            | —      | —    | ↑↑    | ↑↑              | ↓      | ↑↑        | —    | —    | —           | —   |
| Fairness and justice       |              |        |      |       |                 |        |           |      |      |             |     |
| Staff fairness             | ↓            | ↓      | (—)  | ↓     | (—)             | ↓      | ↓         | ↓(↓) | ↓    | ↓(↓)        | ↓   |
| Regime fairness            | ↓            | ↓      | ↓    | ↓     | (↑)             | ↓      | ↓         | ↓(↓) | ↓    | ↓(↓)        | ↓   |
| Justice dimension          | ↓(↓)         | ↓      | ↓    | ↓     | (↑)             | ↓(↓)   | ↓         | ↓    | (—)  | ↓(↓)        | ↓   |
| Relations with staff       | ↓            | —      | —    | ↓     | ↑↑              | ↓↓     | ↑         | ↓↓   | ↓    | ↓↓          | ↓   |
| Progress and participation |              |        |      |       |                 |        |           |      |      |             |     |
| Making progress            | ↓            | ↓      | ↓(↓) | ↓(↓)  | (↑)             | ↓      | (—)       | ↓    | ↓(↓) | ↓           | ↓   |
| Participation              | ↓            | ↓      | ↓↓   | ↓↓    | ↑               | —      | —         | —    | ↓↓   | ↓           | ↓   |

↑/↓ = Statistically significant change (increase/decrease) between Time 1 and Time 2; ↑↑/↓↓ = Highly statistically significant change (increase/decrease) between Time 1 and Time 2. Where arrows (or a dash) are enclosed in brackets, the results show the research team's best judgement, but there is some degree of uncertainty based on statistical test. Abbreviations: CatC=Category C (medium security); MaxSec=Maximum Security; YOI=Young Offenders Institute; VPU=Vulnerable Prisoner Unit; YO=Young Offenders (aged 18–21 years); JUV=Juvenile Offenders (aged 15–17 years).

closely to the rules. Prisoners persuaded other prisoners who did not receive private cash from families to accept it on their behalf, and so on. So individual circumstances could sometimes be negotiated or illegitimate opportunity structures created or exploited. As Foucault argued, ‘where there is power, there is resistance’ (1978: 95). But this was uneven and depended on prisoners’ own resources.

### Staff responses to IEP

IEP is a good thing, you know, it does work. It’s a leverage for us. We can either make or break an inmate. We shouldn’t say that, but it does. It’s down to the stroke of a pen for us, isn’t it? (Officer)

In general staff had two main responses to the policy:

- They believed it improved prisoner behaviour overall.
- They believed that sanctions were more effective than rewards.

Staff liked the IEP scheme—it gave them a lever and could sometimes be used effectively to motivate individual prisoners. Some excellent work was done with individuals. Private cash was controlled and monitored more closely. There was a tighter privileges ‘structure’, which could help to curtail prisoner intimidation of staff in long-term establishments. There were increasing elements of consistency between establishments in levels of ‘key earnable’ privileges offered. IEP contributed to a sense, in some prisons, that staff were more in control. It contributed to improvements to order and perceived safety. Examples of good practice

observed during the course of the research included: the use of psychologists to mediate between staff and prisoners—to explain the criteria, and to assist prisoners in improving their behaviour (and in communication with staff); the foundation of the scheme in a well developed personal officer system, linked to achievable sentence planning targets; training and guidance for staff on report writing; recognizing ‘effort’ to improve behaviour; a team approach to assessments and reviews, including specialists; prisoners attending board reviews; constructive intervention (including motivational interviewing) with prisoners on basic; staff ownership and involvement in devising schemes, with senior management oversight; having very clear criteria (e.g. a behavioural checklist); providing specific feedback to prisoners; creating an ‘interactive’ model, where prisoners could see direct links between their behaviour and outcomes, and knew they can influence them; and schemes building in enough flexibility for individual prisoners to have a ‘bad week’.

Staff liked the authority the IEP policy gave them, particularly after a period in which they had felt the scales had been weighted against them. They felt more in control and had specific avenues to follow if individual prisoners were being difficult. They believed the policy improved prisoner behaviour, even though the evidence did not support this perception. It is possible that prior deficiencies in some of their power bases had led to the establishment of others—so that insufficient coercive power may have led to the establishment of reciprocity or ‘exchange’ (accommodations) in the period following Woolf. Whatever the cause, with the

introduction of IEP and other policies in 1995 the power base of prison officers shifted away from exchange and reward power, towards coercive, professional, and legitimate power. This analysis was important in our understanding of the changing shape and tone of prison life throughout the period.

We suggested in our analysis of the findings—particularly in relation to wing differences—that prison work has similarities to police work: it is low visibility, it involves high levels of discretion, used in the accomplishment of a higher order goal (keeping the peace), which sometimes requires ‘the law’ or ‘rule enforcement’ to be subordinated to it. Prison staff are engaged in the craft of governing a social order, and this is complex work which changes in the light of shifting policy priorities. Staff–prisoner relationships were significant because they constituted the framework within which decisions were made by prison officers and evaluated by prisoners. They were the route through which everything else was achieved. What officers could do was limited not by rules but by relationships (they were both a resource and a constraint). Knowledge of prisoners made the (primary) job of maintaining order possible. Staff could ‘trouble-shoot’. There was an important link between relationships and rule enforcement.

The study of discretion, the informal use of authority and the importance of verbal skills, has a much stronger tradition in the policing field, but these features are also central to prison officer work (see Liebling 2000; Liebling and Price 2003). The recognition of these important themes has been less clear and has tended to focus on the importance of

relationships, without any explicit recognition of why this is such an important dimension prison life. This is something we have investigated more thoroughly since (see, for example, Liebling 2000; Liebling and Price 2001; Liebling assisted by Arnold 2004).

### Prisoner differences

A number of differences were found in the responses of prisoners to the policy, according to demographic characteristics, so that:

- Vulnerable (‘at risk of suicide’), compliant, older and more educated prisoners reacted more unfavourably to the policy.
- The lower the privilege level, the lower were perceived levels of fairness.
- High suicide risk prisoners reported the highest drops in staff, regime and procedural fairness.
- Prisoners with no educational qualifications and younger prisoners responded more positively.
- One group of ‘rational maximizers’ (drug offenders not using drugs) responded positively to the policy.

We interpreted these findings in the light of locus of control theory, so that prisoners with a high internal locus of control (which in turn is related to age and educational level) were more negative about the policy (see further Bottoms 2003). Prisoners at risk of suicide tended to have high needs and to find engagement with formal aspects of the regime difficult, and so fell foul of what the policy required of them (strategic and self-controlled behaviour). Those prisoners who were most able to exploit the policy in their interests were higher up in the prisoner hierarchy, able to appear compliant whilst often playing a lead role in the informal economy.

## Contemporary developments

The policy was revised in the light of our research report, and subsequently, so that the basic IEP policy has been retained—it is a very important part of how most establishments work, but there is a stronger emphasis on the fairness safeguards, and a less punitive tone (aim 1 has been moved, and there is greater emphasis now on ‘effort and achievement in work’). Most prisons now bring prisoners in on standard, and there is greater recognition that the basic level of privileges is somewhat punitive (and can be counterproductive). There has been talk about doing another ‘round’ of the evaluation to see whether these safe-guards have made a difference to prisoner perceptions and behaviour, but, as yet, this has not translated into any formal request to revisit the policy in action.

In April 2008, a planned pay rise for prisoners (linked to some reductions in regime activity which are cost-driven) was interrupted by the Ministry of Justice, who shortly afterwards linked this decision to a new compact for prisoners (under development) which is set to ‘balance the opportunities we give to offenders to turn away from a life of crime against what the community expects of them in return’. Standards of behaviour will include engagement in offending behaviour programmes including drug treatment. The language of rights and responsibilities is being used to emphasize earned privileges and links to addressing offending (again) in part at least to offset (misguided) public and media concerns about ‘cushy prisons’. So the policy has evolved and strengthened, and we are about to witness a return to the more demanding language of the 1995

Instruction, this time in a new context of critical overcrowding, fiscal restraint, restrictions to regimes, punishment rather than ‘repair’, and a stronger emphasis on risk assessment driving early release and categorization decisions. The ethic driving this renewed ‘rights and responsibilities’ agenda is not a clear ethic of constructive encouragement and just practices, but is muddled by a mood of ‘responsibilization’, blameworthiness, and less eligibility.

## Theoretical lessons learned

Many lessons were learned from this evaluation, which have continued to inform my own subsequent research and that of colleagues. Briefly, they are:

1. That *ideas* about prisoners and about policies shape prison life more than we realize, and far more than paper instructions.
2. That power flows upwards in prison as well as downwards: prisoners resist and exert pressure on staff, sometimes in ways that force staff to use their power carefully. It is intriguing that staff implemented the IEP policy most carefully and formally in the maximum-security prison, where strong objections were anticipated. In the women’s prison and the young offender institution, too many prisoners were placed on the basic regime, and, in the young offender institution in particular, staff used their new power carelessly. Prisoners were more effective managers of staff than managers were.
3. Some of the negative findings can be explained by theory failure as well as implementation failure. There are limits to a rational choice model of prisoner behaviour, particularly with prisoners who find prison life difficult, and to the attractions of a particular set of incentives. Maintaining dignity was more important to some prisoners than ‘being rewarded’. Other prisoners were simply too distressed or too afraid to

- engage constructively in the regime. IEP is essentially instrumental rather than normative in its approach to human motivation (see further below).
4. There is empirical support in this project (confirmed in subsequent work), for the relationship between legitimacy and compliance: prisoners who feel treated unfairly quickly become defiant and resentful and withdraw their consent. This is not the only response, however, and some become highly distressed. Feeling frustrated and badly treated can make prison life hard to survive. Research suggests that normative mechanisms are important both in bringing about compliance with authority (Bottoms 2003) and in supporting psychological well-being (Liebling et al. 2005).
  5. The key theoretical lesson from this research was that prison officers deploy their authority through relationships with prisoners. They use the rules when relationships do not work, and this is one of the reasons for the centrality of staff–prisoner relationships to prison life. If they resort to the formal rules without going through relationships—without talking first—this is bad news for prison stability.
  6. Only the complex and relational model of prison life will do. We are continuing to attempt to conceptualize and measure accurately the perceptions and activities of prisoners, staff, and, most recently, senior managers in explaining prison life. Subpopulations of prisoners differ in important ways, but there are some general rules of prison life. One of them is that good implementers of any policy are characterized by high levels of *trust* everywhere in the prison.
  7. Finally, and this is often the missing piece of the jig-saw, policies do shape prison life, but more often in their impact on *sensibilities* than in their intended ways. Certain types of political action pose huge risks to prison quality and stability, in ways that Ministers may not realize. Responsible policy-making is critical in relation to the use of prison and the tone of prison life. I am nervous about policy development in England and Wales at the present time.

Our continuing research agenda includes more direct research on the work of prison officers, on the moral performance of prisons, on links between moral performance and suicide in prison, and most recently on a comparison of public and private sector values and practices. Much of the work I completed in the years since IEP had its roots in this evaluation. The moral here is that sometimes the most apparently straightforward policy-linked research questions, carefully addressed, can lead to the most important fundamental enquiries, and to new thinking, about how prisons work.

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Bottoms AE (2003). Theoretical reflections on a penal policy initiative. In: Zedner L,

## References

Bosworth M, Liebling A (1994). Incentives in Prison Regimes: A Review of the Literature.

- Ashworth A (eds). *The Criminological Foundations of Penal Policy*, Oxford: Clarendon Press.
- Foucault M** (1978). *The History of Sexuality, Vol. 1: An Introduction*. London: Allen Lane, Penguin Books.
- Green D** (2008). *When Children Kill Children: Penal Populism and Political Culture*. Oxford: Clarendon Press.
- Home Office** (1984). *Managing the Long-Term Prison System. The Report of the Control Review Committee: Cm 3175*. London: HMSO.
- Home Office** (1991a). *Custody, Care and Justice: The Way Ahead for the Prison Service in England and Wales*. London: HMSO.
- Home Office** (1991b). *Prison Disturbances, April 1990: Report of an Inquiry*. Rt Hon Lord Justice Woolf and His Honour Judge Stephen Tumim: Cm. 1456. London: HMSO.
- Home Office** (1994). *Report of an Enquiry into the Escape of Six Prisoners from the Special Security Unit at Whitemoor Prison, Cambridgeshire on Friday 9th September 1994, by Sir John Woodcock*. London: HMSO.
- Home Office** (1995). *Review of Prison Service Security in England and Wales and the Escape from Parkhurst Prison on Tuesday 3rd January 1995—The Learmont Report*. London: HMSO.
- Liebling A** (1999). *Doing Prison Research: breaking the silence*. *Theoretical Criminology* 3(2):147-173.
- Liebling A** (2000). *Prison officers, policing and the use of discretion*. *Theoretical Criminology* 4(3): 333-357.
- Liebling A, assisted by Arnold H** (2004). *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life*. Oxford: Clarendon Press.
- Liebling A, Durie L, Stiles A, Tait S** (2005). *Revisiting prison suicide: the role of fairness and distress*. In: Liebling A, Maruna S (eds). *The Effects of Imprisonment*. p. 209-231. Cullompton: Willan.
- Liebling A, Muir G, Rose G, Bottoms AE** (1999). *Research Findings No. 87: Incentives and Earned Privileges in Prison*. London: Research, Development and Statistics Directorate.
- Liebling A, Price D** (2001). *The Prison Officer*. Leyhill: Prison Service (and Waterside Press).
- Liebling A, Price D** (2003). *Prison officers and the use of discretion*. In: Gelsthorpe L, Padfield N (eds). *Exercising Discretion*. p. 77-96. Cullompton: Willan Publishing.
- Toch H, Adams K, Grant JD** (1989). *Coping: Maladaptation in Prison*. New Brunswick: Transaction Publishers.

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