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ALISON LIEBLING


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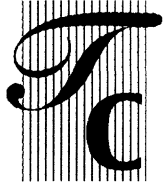
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# Prison officers, policing and the use of discretion

ALISON LIEBLING

*Cambridge Institute of Criminology, UK*

## Abstract

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This article considers the relevance of the policing literature to the work of prison officers. It explores the role of discretion in the distribution of privileges in prison, the results of an exploratory observational research project recently completed in a maximum security prison and the implications of the findings to date for penology. 'Policing' in its broadest sense is a term meaning 'the whole craft of governing a social order', as Reiner observes in his *Oxford Handbook of Criminology* review of the policing literature. This craft, of governing a social order, is a key problem of the prison. The policing literature—with its emphasis on 'law in action', peacekeeping, the need for community consent and the observed social practices of 'low visibility' police officers, offers some useful sensitizing tools to apply to the less researched practices of prison officers. Many relevant issues arise: the use of informal rules, the deployment of authority *rather* than the rules, the significance of 'talk', and the need for scrutiny and management of discretion. Important (and possibly more distinct) aspects of prison life include the role of relationships, which are arguably 'instruments of power', and the shifting power base of prison staff away from exchange and accommodation towards coercion. There is a gulf between the 'rule following' or 'compliance model' of prison work favoured by risk-averse officials and the 'negotiation model' actually delivered by most prison staff. The sociology of prison life needs to turn its attention to these significant and changing forms of the penal enterprise.

## Key Words

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discretion • policing • prison • prison officers • staff–prisoner relationships

It is difficult to define what corrections officers do, let alone assess how well they have done it. Nevertheless, it is clear that the direct work product that these officers produce is not security, control or safety but personal interactions between themselves and inmates. The affective nature of these interactions directly influences the level of tension between officers and inmates and indirectly influences the safety, security and control within the prison.

(Gilbert, 1997: 53)

[T]he central concept underlying police research has been *discretion*, the recognition that the police do not automatically translate law into policing practice.

(Reiner, 1997: 999, emphasis in original)

## Introduction

This article arises out of extensive familiarization over many years with the world of prisons. This article will consider:

- 1 the relevance of the policing literature to the work of prison officers;
- 2 the role of discretion in the distribution of privileges in prison;
- 3 the results of an exploratory research project recently completed in one prison; and
- 4 the implications of our findings to date and our reflections on them for penology.

## The policing literature

First, the relevance of the policing literature.<sup>1</sup> 'Policing' in its broadest sense is a term meaning 'the whole craft of governing a social order' (Reiner, 1997: 997). This craft, of governing a social order, is a key 'problem' of the prison (Sparks *et al.*, 1996). Even in its more obvious, narrow sense of the professional task of 'policing the state'—or more appropriately in modern language, the community—there are key parallels with the social practices of prison life. As Reiner argues in one of his reviews of the policing literature, criminology's concern with labelling theory, and its later critical incarnations, made visible and analytically problematic the operation of actors on the criminal justice stage. The central concerns of the more than three decades of policing research to follow have been the exercise, nature and control of discretion, the organizational and cultural influences on 'police deviation from the rule of law' and police effectiveness in controlling crime and disorder (Reiner, 1997: 999–1000). The centrality of detailed observational studies to this research industry was a key feature in the development of theoretical understanding of otherwise low visibility police work. The significance of non law-enforcement, peacekeeping work and the dependence of formal on informal modes of social control arose as

a major theme in many of these studies (see, for example, Banton, 1964; Bittner, 1967; Smith, 1986; and the commentary by Reiner, 1992: 440). Studies of police 'deviance', discrimination, culture(s), of the police as 'streetcorner politicians' (Muir, 1977), of police acts of interpretation, of general underenforcement and selective over-enforcement, and of 'noble cause corruption' proliferated (Reiner, 1997: 1010–15).

Policing can be seen as a set of processes aimed at 'providing security through surveillance and the threat of sanctioning' (Reiner, 1997: 1005). Underlying all police practice is the use of 'legitimate' force, although this potential remains unused most of the time. Police practice has complex and often contradictory functions, and most 'good' policing depends upon verbal skills rather than physical means of coercion. All of these observations are also true of prison work. It is useful then, to explore links between research in policing and the task of 'policing' prisoner behaviour in prison. Both tasks—the task of imprisonment and the task of policing require the use of power and authority, the use of discretion, the pursuit of order and an opposition to lawlessness (see, for example, Sykes and Brent, 1983; McKenzie and Gallagher, 1989; for excellent reviews, see Reiner, 1992, 1997; Chan, 1997).<sup>2</sup> Concerns about the abuse of power have shaped the organization and control of police work (Jefferson and Grimshaw, 1984; Benyon and Bourne, 1986; Grimshaw and Jefferson, 1987). The use, scrutiny and management of prison officer discretion has rarely been the focus of such research attention.

Modern policing has the additional complexity of greater emphasis on 'risk management', the impact of modern technology and increasing accountability (Ericson and Haggerty, 1997). The contemporary policing literature alerts us to the rapidly changing 'external' context in which police officers operate and provides some challenge to the classic literature, which has to be interpreted in the light of this changing external management and technological environment and should be integrated with it. Increasing emphasis is being placed on the role of middle and senior managers and on external agencies, as well as on the officer using 'low level discretion'.

There are, of course, important distinctions between policing and prison officer work. First, prison officers have (more) continuing contact with their charges. As a result, they form relationships, of varying types and degrees, and often deploy their authority through these relationships. These questions, of rule following, the use of formal disciplinary and informal sanctions, and the use of authority—particularly through or alongside relationships—are critical to the shape of prison life. Second, prison officers are (formally) more visible to their line managers (so that the extent of oversight over their work is broadly speaking more a matter of management choice). Third, the formal legal power they have over prisoners' lives is arguably greater since prisoners are no longer free citizens. Considering the similarities and the differences may sharpen accounts of both prison

work and policing. The policing literature offers some useful sensitizing tools to apply to the less researched practices of prison officers.

### **The role of discretion in the distribution of privileges**

Now, to prison. During the last decade, there have been major changes in the way punishment is administered in England and Wales, as indicated earlier. There are new modes of exercising power in prison—new knowledges, new responsibilities, new technologies, objectives and techniques. These are, of course, linked in complex ways (deserving of separate analysis) to broader social practices of an increasingly exclusionary, authoritarian and punitive kind. There are new categories: ‘roughest’, ‘rough’ and ‘respectable’ or ‘deserving’ and ‘undeserving’, as earned privileges schemes proliferate (Liebling *et al.*, 1999).<sup>3</sup> The behaviour of prison officers, for example, in translating specific policies into practice, became a major interest to the current author during a national evaluation of a new strategy of Incentives and Earned Privileges (IEP) in all prisons in England and Wales during 1995 (Liebling *et al.*, 1999).

The policy for IEP was introduced in 32 first-phase prisons in July 1995 and to all prisons by July 1996. The policy sought ‘to ensure that prisoners earn privileges by responsible behaviour and participation in hard work and other constructive activity’ (Instruction to Governors 74/1995: Incentives and Earned Privileges). Within this overall purpose, five main aims were identified:

- 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.

The IEP policy effectively gave increased power and discretion to prison staff to determine newly differentiated privilege entitlement. Prison officers were required to form judgements about prisoners’ behaviour, which would in turn form the basis of a decision taken (technically at a higher level—by a senior rank or a review board; but see Liebling *et al.*, 1999)<sup>4</sup> about his or her level of privilege entitlement. Prisoners could be allocated to ‘Basic’, ‘Standard’ or ‘Enhanced’ levels of privileges.

In a national evaluation of the operation and effects of the policy, major and important differences appeared between prisons in their use of IEP.<sup>5</sup> For example, the five prisons studied varied widely in their use of the Basic regime (the lowest level of privileges, regarded as a punishment by prisoners) in terms of numbers, criteria and precise details of regime and material provision. These differences were linked to other systematic differences

between establishments (including, for example, the perceived aims of the IEP policy, but also the nature and extent of control problems in each establishment, the quality of staff–prisoner relationships and the perceived compliance of the prisoner population). 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. These different wing styles were not explained by population differences alone, but reflected qualitative diversity in staff approaches towards prisoners. 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. On the wing where high numbers were placed on the Basic regime, staff were ‘retreating into their offices’ rather than mixing with prisoners. Very few prisoners reported having been ‘warned about their behaviour’, despite the relatively high use of Basic (and the due process requirement that staff warn prisoners before formally placing them on a Basic level of privilege entitlement). Conversely, where staff–prisoner relationships were close, and highly rated, resort was less frequently made to privilege removal as a means of control. Staff used their verbal skills, their ‘tactics of talk’, to cajole prisoners into compliance. There seemed to be a link between the quality of staff–prisoner relationships, and the use of *formal* rather than *informal* sanctions. On the wing with poor staff–prisoner relationships and a high resort to formal sanctions, a major disturbance followed (Liebling, 1999). This was an empirical illustration of the maxim that ‘staff–prisoner relationships matter’ (Home Office, 1984), but was a complex finding, and required further exploration.<sup>6</sup>

## The staff–prisoner relationships research

This interest in the relationships between prisoners and prison officers was crystallized by an invitation to spend a nine-month period in one maximum security prison exploring staff–prisoner relationships and the work of prison officers more broadly in the ‘post-Learmont context’ (see Liebling and Price, 1998; and later). The invitation arose in part as a result of the findings referred to above. The following section considers the results of this research, completed in January 1999. A literature review on the work of prison officers was also carried out (Liebling and Price, 1998). Some of the results of that review are also considered here.

### *The neglect of prison staff*

Prison officers are in many ways the invisible ghosts of penalty. They are often portrayed, if at all, as the ‘ghastly alter ego’ of liberal enlightened senior management (see Grimshaw and Jefferson, 1987, for their account of the police, which prompted these observations)—or even of liberal

enlightened academics. They embody 'the power to punish', expressing its essence (Garland and Young, 1979), representing everything that is dangerous and unpalatable about the use of power. Yet few detailed narratives exist of prison work. Some studies have explored what prison officers think, but very few have considered sociologically, what prison officers do (with some notable exceptions, for example, Sykes, 1958; Sparks *et al.*, 1996). They tend to emphasize distance and antagonism between staff and prisoners—although a few recent studies (and, of course, some of the classics—e.g. Sykes, 1958) have looked at co-operation and accommodation. A study by Shapira and Navon in Israeli prisons found that contrary to the picture of total institutions painted by Goffman and others after him (Goffman, 1961; Cohen and Taylor, 1972) the apparent 'gap' between staff and prisoners is often narrow, linked as officers and prisoners often are by common interests, cultural and social values and experiences and by common deprivations (Shapira and Navon, 1985; see also Morris and Morris, 1963). This narrowing of the gap can render officers vulnerable to corruption (for example, bribery, malign underenforcement, yielding to unreasonable demands, or even 'romantic ties'; see Shapira and Navon, 1985: 136–9) as Learmont was at pains to argue following the escapes from maximum security custody (Home Office, 1995). Staff and prisoners live in a state of mutual dependence within prison, and may share extra-institutional pressures (such as political or religious affiliations, neighbourhoods, family problems, etc.) which serve to moderate the 'basic split' so often assumed by commentators on the prison. These personal hesitations, tensions and conflicts, which shape policy, and resist attempts made to enforce compliance (for example by training audit and inspection) constitute a key and underestimated part of a prison officer's working role.

Being a prison officer is a 'protective service occupation'. A prison officer's job is to:

- 1 maintain secure custody, in a context where people are held in confinement against their will;
- 2 provide prisoners with care, with humanity;
- 3 provide prisoners with opportunities to address their offending behaviour; and
- 4 assist with day-to-day management in the complex organizational environment of the prison (Prison Officer Employment Information, in Price and Liebling, 1998).

There are 24,000 uniformed officers working in the Prison Service in England and Wales. Women represent 12 percent of all prison officers, 4 percent of Principal Officers and 11 percent of governor grades (although women make up 50 percent of Accelerated Promotion Scheme candidates). There has been little change to the proportion of prison officers from an ethnic minority (3.5 percent) over recent years. Prison officers earn just over £9 per hour (police officers earn £12 per hour; Office for National Statistics, 1996). This is half-way between the national average for manual



and the average for non-manual male workers. There are systematic variations in assault levels against officers, with less experienced, younger officers being assaulted more frequently than older, more experienced officers. This has been shown to be an age–experience factor, rather than simply a result of age (Ditchfield, 1997).

Following the completion of a review of the literature on prison officers (Liebling and Price, 1998), we embarked on a microsociology of the role of prison staff. We wanted to know: how do prison officers approach their work? What is the nature and the quality of the staff–prisoner relationship in a maximum security prison? Why are staff–prisoner relationships significant? What sort of vision do staff and prisoners have of each other? What does the term respect mean, in the prisons' context? The full account of our research is available elsewhere (Liebling and Price, 1999).

### *An exploratory methodological approach*

One key concern at the outset was the question of how best to approach this task methodologically. We were acutely aware that much previous research had approached staff superficially, very critically or with stereotypical assumptions (e.g. Morris and Morris, 1963; Cohen and Taylor, 1972) and that staff were (rightly, in the light of these studies) deeply suspicious about the aims and the likely impact of research. Providing reassurance and avoiding resistance were important prerequisites of our project. Unlike the police, detailed ethnographies of staff were not part of the tradition of the prison world, at least since the 1960s and especially in the UK. We aimed to provide a detailed scrutiny of staff–prisoner relationships in a single 'case study' maximum security prison, and to carry out the research in an exploratory and largely 'appreciative' way (Liebling *et al.*, 1999). We knew the exercise would require extended periods of observation and reflection. We wanted staff and prisoners to trust us and to talk openly about their work. We clarified our research questions as we progressed, forming and reforming our methodological agenda as we began to understand this aspect of prison life more fully. What started out (and was intended to end) as a study of staff–prisoner relationships grew into a study of the use of discretion and the broader nature of prison officer work (Liebling and Price, 1998).

After relatively few exploratory visits, we were granted unlimited access to all areas of the prison. We were given our own office (a portacabin, which we came to share with a number of representatives of the Prison Officers' Association, and which we came to regard as something of an 'anthropologists' hut'). We were given keys, a whiteboard (for our thinking) and a kettle. We embarked on the research steeped in the prisons literature and in prisons research more generally. We had built up good working relationships with the establishment over a considerable period and we were able to proceed with no apparent limits around our investigation. There was at least no explicit policy agenda steering our way.<sup>7</sup> For



these reasons, this was perhaps the most satisfying and unconstrained research experience we have embarked upon to date. We were trusted to 'do things our way': 'You're the experts', we were advised, 'you know what you're doing'.

Only we did not. How *do* you, as a research team of two (and an advisor), seek the truth about a prison? Whose accounts should be privileged? How are complex social practices to be properly understood? This is our story of a (we think) highly successful piece of grounded exploratory research, its findings and its implications for penology. We used mainly qualitative (but supplemented by some quantitative) methods, with a focus on elucidating meaning. We conducted an 'appreciative inquiry' exercise (Liebling *et al.*, 1999). We engaged in a slow movement from unstructured to slightly structured observation, reserved participation and talk. We searched for 'role model' staff (identified by officers, prisoners and managers) and we carried out some 'shadowing' exercises, following a number of officers closely during their shifts. Towards the end of the research, when we felt satisfied that we were known and trusted, we carried out long, discursive tape-recorded interviews, which were fully transcribed and analysed with the aid of NUD\*IST.<sup>8</sup> Throughout the nine-month period of the research, we were full participants in the prison's weekly Dialogue Group: a forum in which a regular group of (mainly) prisoners, but occasionally also some staff, discussed the pains and realities of imprisonment, and their relations with each other, often passionately. This served as an important check on any tendency we felt to take on the less painful vision of imprisonment held by most staff. It also served as a check on our (early) vision of ourselves as 'without power'. Prisoners (and others) quickly taught us that this was not so. Our first conclusion was that this exploratory approach is a legitimate and effective way to carry out prisons research.

This link between legitimacy and effectiveness turned out to be our key theme. What we learned about the prison world was that unless staff can become 'experts in vision and principle'—normally held to be the preserve of senior management—as well as 'occupational experts', they may use their vastly underestimated discretion against legitimacy and not for it.<sup>9</sup> There needs to be some link between 'what works' for today, 'what works' for tomorrow or the end of the week, and 'what is fair'.

But this is to anticipate. The prison we were investigating had a traumatic history. It had been the site of a recent escape attempt in September 1994, the reaction to which changed the face of English penal history. Its 'biography' shaped its present in a rather dramatic fashion (see Liebling and Price, 1998). The remainder of this article reflects the results of our research. First we examine changing power bases within the prison, drawing on Hepburn's characterization of power bases in the use of legal authority. Second, we explore two relatively neglected areas in analyses of prison officer work, developed from our forays into the policing literature: the role of *discretion* and the *peacekeeping* aspects of their behaviour.

Finally, we reflect on the significance of this exploratory study for the empirical study of prisons and for theoretical penology.

### *Staff, power bases and relationships*

According to Hepburn (1985), staff might draw upon six types of power bases in a prison:

- 1 *coercive* power (for example, the use of segregation, searches, transfer, disciplinary system, etc.);
- 2 *reward* power (the distribution of privileges, prized jobs, favourable reports, etc.);
- 3 *legitimate* power (formal authority, the 'rule of law');
- 4 *exchange* power (the informal reward system; underenforcement and accommodation);
- 5 *expert* or '*professional*' power (expertise—e.g. in resolving conflicts, competence); and
- 6 *respect* or personal authority (officers' manner of working with prisoners, leadership skills).

Prisoners may be more likely to comply with or prefer some modes of power over others (Hepburn, 1985: 147–9; see also Sparks *et al.*, 1996). Deficiencies in some power bases lead to the establishment of others—so that insufficient coercive power may lead to the establishment of reciprocity or 'exchange' (accommodations). This move from a mainly exchange to a more coercive power base might be a helpful way of characterizing our case study prison's early history. In its opening years (1991–3), caught up in the ideals of 'liberal optimism', staff had been encouraged to (or in their view, had been abandoned to) negotiate with prisoners in the interests of order on the grounds that security was virtually guaranteed by modern design techniques and long-term prisoners required 'a liberal regime within a secure perimeter' (Advisory Council on the Penal System, 1968; see also Bottoms and Light, 1987; Liebling, 1997). Following a dramatic set of escapes in 1994 (see further below), as well as problems of disorder, negotiated 'appeasement' practices were out of favour. Prior to our research, which began in 1998, the prison had been reshaping the power base of staff over a number of years: from mainly 'exchange' power—the power of accommodation and negotiation (see Hepburn, 1985; also Sykes, 1958) to much more explicitly 'coercive' power—the increased use of segregation, transfer, privilege removal, disciplinary punishments and lock-downs. Thus a 'reward' power base (the granting of privileges) also became a 'coercive' power base (the removal of privileges); see Hepburn (1985). Interestingly, the other power bases Hepburn identifies: 'legitimate', 'expert/professional' and 'personal', did not decrease, and some evidence suggests they may have increased, as prisoners traded in relative freedom, fear and chaos for restraint, order and security and the knowledge that staff (and not other prisoners) were in control.<sup>10</sup> But this was a complex process. Prisoners also felt the 'depth' (Downes, 1988) and 'weight' (King and McDermott, 1995)

of long-term imprisonment as never before, and described the prison as 'safer, in a tense sort of way' (Liebling and Price, 1998). Staff were sometimes careless with their increased power and prisoners were aware that so-called relationships were there to oil the smooth flow of the prison: the higher the control quotient, the more 'oil' was needed. Relationships were—in this context—instruments of control as well as instruments of justice.<sup>11</sup> They were described as a sort of 'quiet power'.

On the other hand, staff–prisoner relationships at the establishment when we carried out our research were basically quite good, at least on the surface. For example, most prisoners felt that 90–95 percent of their interaction with staff was 'co-operative and civil'; that most of the time, relationships flowed smoothly. Relationships were often described as 'quite close' and they were generally good humoured:

There are members on the staff here that I really like. I'd be quite prepared to socialise with them on the outside. They're decent people and they remain decent people, they don't fuck you about. You can sit and have a nice, non-prison, interesting chat with them. And that's great to have that relationship with a staff member.

(Prisoner)

Relationships had improved dramatically over the years, as staff and prisoners had learned to communicate, and worked out who had what degree of influence:

Drastically, it's changed for the better. The relationships between staff and inmates has gone up tenfold, it really has increased. I think that's a lot down to the staff and the way they deal with people. They're more flexible now; their man-management skills are better. Instead of bolstering your way in and saying 'this is how it's gonna be', they'll go in there and work at it, work with the inmate, say, 'this is what we're after but let's try and deal with it'.

(Officer)

Staff seemed confident, decisive, sure-footed, capable and enthusiastic—a stark contrast with the picture painted by mainly staff and some prisoners of the establishment a few years before—with staff lacking confidence, keeping a distance and suffering from abuse and constant challenge by prisoners (see, for example, Home Office, 1995). Control clearly rested with staff, but there was in addition a noticeable information flow with prisoners—something which had been absent in the earlier era. Staff were physically present almost everywhere in the prison, but were relatively unobtrusive. They were often interested in group work, offending behaviour courses, and other 'constructive work' with prisoners, and prided themselves on creating a 'pleasant atmosphere on the wing'.

Relationships operated within fairly clear frameworks of expectation. Staff wanted compliance and acceptance of their authority. Prisoners wanted to experience themselves as agents, as individuals and to resist

'indifferent' forms of coercion. The flow of power was negotiated in this space. Prisoners preferred officers to be 'straight', even if they were giving unwelcome news or instructions. Officers who 'gave it the verbal', 'wound prisoners up' or over-reacted to provocation lost their authority and encountered disrespect. Prisoners felt entitled, by the fact of their imprisonment, to feel frustrated, disgruntled and aggressive. Prisoners assumed that staff should avoid becoming caught up in this transference, and should be capable of maintaining a professional 'distance' in the face of their frustration. Allowances for the facts and pains of imprisonment needed to be made.

We realized then, that there was an important distinction to be considered (as in families, in social work professions and in many other professional spheres) between 'good' and 'right' relationships and that the use of authority and boundaries as well as civility and individuality were important prerequisites for legitimate regimes. Right relationships were respectful, vigilant and boundaried. This vision (with all the tensions involved and with an explicit recognition of the flow of power) has not generally been acknowledged in recent attempts to measure and reflect upon staff-prisoner relationships (for example, Relationships Foundation, 1994, 1996; and on the broader topic of 'relational justice', see Schluter and Lee, 1993). Assumptions are made that such relationships should simply be 'good' and 'close'. In the prison setting, this position is untenable. The ability to *deploy* authority effectively (and not to abdicate in the interests of 'good relations') was a crucial skill for officers to possess, in the eyes of prisoners and staff. It was as dangerous, perhaps especially in a maximum security setting, to be *reluctant* to use power, as it was to be over-eager (see, for example, Gilbert, 1997). Those officers who were prepared to use it, rarely had to resort to coercive means.

### *Discretion, policing and peacekeeping in prison*

We learned two important lessons about the way prison officers do their work. First, that they used a lot of discretion. The 'discovery' of discretion in prisons research has been relatively slow, despite promising beginnings (for one excellent recent account, see Gilbert, 1997). Possible explanations for its relative neglect compared to policing research are problems of access, for example, to carry out participant observation in prison, and a greater emphasis on managerialist, policy-oriented work. Second, and linked in an important way to the use of discretion, the peacekeeping aspects of their work (a term we also borrowed from the policing literature, as indicated earlier) had been neglected. On discretion, like the police, we observed that prison officers enforce their authority rather than 'the rules'. They understand that 'the decent thing' is selectively to underenforce the law, in order that the smooth flow of prison can continue, as Sykes had argued in 1958. They make choices, use judgements, sometimes to achieve

justice, where the rules do not work, and sometimes to assert their authority (which might include the perceived need to take control, where the safety of the environment was threatened, but this could also mean to demand 'respect' for their authority where it was not shown). Like police officers, prison officers made efforts to provide security, stability and safety in prison (as in the community) through surveillance, the threat of sanctioning and the art of persuasion. Their role includes presence and patrol, the investigation of suspected 'threats to order' and the use of formal and informal sanctions (see above, and Reiner, 1997, for a comprehensive discussion of this aspect of policing). Their role is increasingly supported by technology.

Just as in policing, the translation of rules into action is an *interpretative* exercise, where the 'particular' situation cannot be appropriately addressed by 'the general' rule (see further Hawkins, 1992; Dixon, 1997). These interpretations are the key link to relationships and their central significance to all aspects of prison life. As in policing, officers are not choosing between 'arrest' and 'non-arrest' (formal disciplinary action or no formal disciplinary action) but between different typifications of the situation, of the 'situated identities' of those they monitor. They form judgements about demeanour, gestures, language and experience (see Piliavin and Briar, 1964; Sykes and Brent, 1983). Staff-prisoner relationships matter because every day decisions are embedded in knowledges staff and prisoners take for granted: 'practical consciousness', as Giddens would say (Giddens, 1984; Sparks *et al.*, 1996); or in 'common sense', as prison staff would put it. These knowledges are inseparable from relationships. There was—in a way which may be distinct from policing—an important link between relationships and rule enforcement.<sup>12</sup> The following is one 'common sense' example: an underenforcement for the sake of (both *as a result of*, and *in order to preserve*) the relationship:

[Qu: Has there been an occasion where you might have placed an inmate on report and you chose not to?] Yes. Instead, I put a SIR [Security Information Report] in and the security department said I should have put him on report, but in my opinion, I didn't think he warranted it. It was one of the orderlies . . . There are 2 of them, and one had just quit. The other asked who had applied for the job, and I said, no-one as yet. The inmate said that was good because he wanted to choose who worked down here, and that he wanted one of his mates. I said that wasn't appropriate, and he said that he didn't want no black people down there. He became—not aggressive—but intimidating. I put it on a SIR and they said I should have put him on report for racism, or for intimidating me. But because I work as a cleaning officer, I wanted to keep some kind of relationship. I'd already had a word with him, told him I wasn't happy with what he'd said, but I thought that if I'd put him on report for it, it would have broken the relationship, and it didn't warrant that. I'd spoken to him and told him that I didn't agree with racism

and with what he's said, and in the end he apologised and shook my hand, which I thought was a result really.

(Officer, emphasis added)

This apparently simple decision raises all the important questions about rule enforcement and relationships in prison.<sup>13</sup> What was the 'result' the officer achieved? By dealing with the relationship, the officer achieves compliance, and the maintenance of order. He deals with the prisoner in a legitimate manner—but not a rule-bound manner. He uses his judgement and his knowledge of the prisoner to achieve a 'result'.<sup>14</sup>

Likewise prisoners had the same vision—of rules as 'resources'. There were fairly clear feelings, shared among prisoners and staff, that the 'decent thing' was to be reasonably sparing with the rules unless there was a good reason not to be:

[Qu: Has there been an occasion recently where you were expecting to be placed on report and weren't?] Yeah—I've c---ted off a few screws and thought that I'd gone a bit far, but didn't get a nicking sheet that night. [Qu: How does something like that then change the relationship you have with that officer you swore at?] It actually improves your attitude to that officer. The screws can earn respect. If a screw comes in and finds booze and pours it down the toilet, they've got my instant respect, because I know they're told to nick us. I've lost, because I've lost the hooch. That's enough of a punishment for me. The officer's been sensible—if I had bucket after bucket, then fair enough, nick me. But a little bit, if they ran out and nicked me for it, no respect at all. They get instant respect, [if] they've behaved in a humane manner.

(Prisoner)<sup>15</sup>

Sykes argued that in prison, staff are reluctant (on a day-to-day basis) to enforce their total power, but instead make a series of accommodations to keep the flow of prison life going. In this sense, rules and relationships are both used as 'resources', which officers draw upon selectively, using their judgement, to achieve order rather than 'law enforcement'. The rules matter, in the sense that 'underlying all their tactics for peacekeeping is their bottom-line power to wield legal sanctions, ultimately the use of legitimate force' (Reiner, 1997: 1008). But the relationships matter too—sometimes more than the rules. Long-term imprisonment is not sustainable without a principle of individuality or flexibility at its core, as staff and prisoners told us:

I wouldn't say I turn a blind eye . . . At present, we've got a lot of inmates behind their doors due to no fault of their own. Unemployed inmates. And they're meant to be locked behind their doors when other inmates are at work. Now if an inmate wants to come out and clean his cell, go for a shower while these others are at work, I'm happy for that to happen. If they want to come out and help a cleaner, I'm happy for that. [. . .] They're not going to kill anybody.

(Officer)



The key issue in our account is that there are presently two competing models of prison officer work—the ‘rule following/compliance model’ favoured by risk-averse officials or those who make and manage policy [Model A]; and the ‘negotiation model’ actually delivered by most prison staff [Model B] (except in the very exceptional case of Special Security Units, where currently, operating standards and procedures are very comprehensively adhered to). There are dangers, of course, in both approaches. These models have rather different implications for our vision of how prisons work, how staff should be selected, trained and managed and how order and security are legitimately obtained. The models (ideal types as we express them here) can make competing claims for legitimacy.<sup>16</sup> Our observations suggest that while prisons are designed and managed, and prison policies conceived and evaluated, under the assumptions of Model A, in practice most of what goes on in prison goes on under Model B. No guidance or reflection takes place on how to bridge this gap, or (perhaps more important) how to live with it.

To pursue this issue further, we looked for role model staff as part of our research technique, asking staff, prisoners and senior managers who they would identify as an officer who ‘got it right’, and why. What ‘role model’ staff shared—among the several different styles we identified in our research—was precisely this ability to accept and use discretion wisely. This was by no means a special preserve of female officers. Role model staff were described as having known and consistently applied but justifiable boundaries; something which was referred to as ‘moral courage’ or ‘moral fibre’; sensitivity to the effects of their own power; and a sensitivity to individuals and contexts (precisely the virtue that a ‘feminine’ mode of evaluation is said to embody). The skill of *discernment* or the judicious use of exceptions (the good use of judgement) was a necessary part of being a good prison officer (see Harrison, 1992; Bottoms, 1998; Liebling and Price, 1999; see also Grimshaw and Jefferson, 1987, on policing). Sometimes there were genuine conflicts between the ‘order maintenance’ and ‘rule enforcement’ parts of the job. Staff needed access to a set of principles to place boundaries around or guide the discretion they used.<sup>17</sup> Having a clear vision was often linked to having (at least implicitly) a set of principles which guided decision making on the ground. Consistency of principle meant that judicious flexibility in the application of the rules was a possibility (Harrison, 1992). In the absence of any clearly articulated organizational principles, good staff developed or applied their own. It was interesting to note that in the apparently crucial area of staff–prisoner relationships, the criteria for success or failure were very unclear, and they were continually contested.

In general, prisoners preferred staff to have more coercive power than prisoners did, but only if they used it judiciously. This meant predictably—but flexibly. Consistently following the rules did not always deliver justice (as references to ‘by-the-book-Bloggins’, etc. indicated).<sup>18</sup> The *manner* of staff treatment of prisoners was as significant as their material well-being



(above a certain minimum threshold), as other research has suggested (Tyler, 1990; Ahmad, 1996; Sparks *et al.*, 1996; Bottoms and Rose, 1998).

Staff behaviour could make the difference between a survivable experience of imprisonment and a destructive one. In this sense, staff mattered more than they realized. They stood between prisoners and their needs, mediating access to desirable goods and services, contacts with families and opportunities to progress. They possessed the 'significant distributive power' identified by Mathiesen, embodying a prison's regime in their interactions—or transactions—with prisoners (Mathiesen, 1965; Bottoms and Rose, 1998). They also stood between humane and indifferent or brutal imprisonment at a psychological level, determining by their style of delivery what kind of experience imprisonment was. Their handling of their own power was a most important component of 'style'.

On peacemaking, we have argued elsewhere (Liebling *et al.*, 1999) that academic and reform-oriented commentators on the behaviour of law enforcement officials have tended (with some notable exceptions, especially Sykes, 1958) to concentrate on the over-use of power. *Underenforcement*, and the movement from tension to peace without incident, the use of language rather than action to avert the requirement for force, was far more common<sup>19</sup>:

I remember one in particular, one Monday on here that stands out, I'll never forget it as long as I live. It was just so frustrating, I was nearly in tears I was that angry. Things were going wrong and I was losing control of them, and it was my job to make sure that these things did not go wrong and eventually things came together but I had to work very hard to do it.

(Senior Officer)

This 'very hard work', required to re-establish order, to restore relationships and to keep communication flowing, is absent from most accounts of prison officer work. It was a major subject of commentary throughout our research. Countless examples were given of these 'best aspects of the job'. This arguably primary *peacekeeping* role of prison officers, achieved through talk, and prominent in the policing literature (see, for example, Bittner, 1967) has been largely overlooked in studies of the prison and its 'flow'. Prison officers underuse their power more often (and to better effect) than they over-use it. But there are important distinctions between *reluctance* to use power, reluctance to *acknowledge* its use and awareness of it, with judicious deployment. Prison officers could be described as 'specialists in mediation and arbitration'. What this means is that over-use of power, in prisoners' eyes, may simply mean the application of a rule which is normally overlooked. There is a gap here—in sociological research, in prison officers' self-concept and in managers' attempts to manage and reward professional conduct. There is also a gap between what might be called a post-Learmont view of a prison, where rules are there to be enforced, and the sociological reality, where rules are only resources.

## Conclusion: the implications for penology

The recent history of the Prison Service in England and Wales is marked by two watersheds: the 1990 disturbances, followed by the Woolf Report (Home Office, 1991); and the 1994 and 1995 escapes from maximum security prisons, followed by the rather different Woodcock and Learmont Reports (Home Office, 1994, 1995). The 1990 disturbances, and the Woolf Report which followed, could be crudely compared to the urban riots of the 1980s and the Scarman Report (see Scarman, 1981; Jefferson and Grimshaw, 1984; Benyon and Bourne, 1986). Lord Scarman argued that policing the community in a legitimate manner would secure greater levels of consent from the public, and enhanced professionalism for the police. Where law enforcement and public tranquillity were in conflict, the law should be underenforced (Reiner, 1997). Attention to the key issues of due process (a legal concern), fairness and accountability (political and social concerns) and effectiveness in policing (a managerial concern) were effectively synthesized (Reiner, 1997: 1000). Woolf made similar remarks for similar reasons: prisons should be 'policed' legitimately, in order to secure higher levels of justice and (therefore) order (see Sparks *et al.*, 1996). A new, albeit short-lived, era in penal history was born: the age of liberal optimism. Two years later, two spectacularly embarrassing sets of escapes, apparent growing lawlessness in prison and a political climate of populist punitiveness changed the penal mood (see Bottoms, 1994). Woodcock and Learmont linked the escapes to underenforcement of the rules, liberal regimes and the conditioning of undermanaged staff by sophisticated prisoners through close relationships. Two very different reports were written, compared to the liberal report written only a few years earlier by Lord Justice Woolf. Their 'deepening' and 'controlling' recommendations were swiftly implemented, and penal history changed once more. This time, penal austerity, and interestingly, an endeavour to 'discipline the prison' emerged.<sup>20</sup> What did this transformation in the modern penal project actually mean for prison life? In particular, how did it shape the apparently crucial relationship between staff and prisoners?<sup>21</sup> In a decade, staff-prisoner relationships have been conceived as a means to three different ends: order (via knowledge and contact), justice (via respect and due process) and security (via intelligence) (see Home Office, 1984, 1991, 1995 respectively).

What are the implications of our work for penology? We have argued that this exploratory approach constitutes (we believe) legitimate research. Our study took place in a single high-security prison. As we have already mentioned, this is a beginning. The sociology of prison life needs to turn its attention to these new forms of the penal enterprise, where self-regulation, and the emerging technologies of discipline are transforming Sykes' society of captives into a society of the closely regulated and resistant, and the often overlooked, selectively regulating: the staff. Strengthening the power of staff—in particular, strengthening their coercive power base—means

giving staff more rule-resources to make judgements about. While, as Garland argues, crime in the community has been in some ways 'defined down', in prison, non-compliance has been defined up. Prisoners are expected to comply, or perish on a basic, or 'sub-basic' regime (see Liebling *et al.*, 1999). The discretionary use of very high levels of power without recourse to a set of principles to guide its use leaves a wide legitimacy deficit of a fairly precise kind. In one sense, what staff can distribute now *is* legitimacy. As some officers argued, if you fit into the 'compliant' untroublesome category, then you deserve respect and civility; but if not, then you do not. Officers seemed to make choices about whether prisoners deserved what they sometimes called 'professional' treatment (what they are entitled to), or 'civil and professional' treatment (what they are entitled to, and the 'extra mile': effort, consideration, time). Where effort, time and civility were in short supply, staff said they ruled out prisoners who treated them disrespectfully, or abused their tolerance. They got 'what they were entitled to' and no more. It was as if Garland's 'criminology of the self, and criminology of the other' (Garland, 1996) was being worked out in prison. Staff could now distribute 'civility' in prison.

Prison staff need to be considered sociologically, and not as monoliths, representing the academic romantic's 'Other' (see Grimshaw and Jefferson, 1987). As Reiner has argued in relation to the police:

If police organisations did not operate mechanistically, automatically enforcing the rules laid down by legislatures and courts—if the 'law in action' deviated from the 'law in the books' . . . it became important to understand the operation of the law in practice. This could only be done by empirical research on the reality of police work.

(Reiner, 1997: 1009)

Lessons from the policing literature about the operation of the law in practice, and the risks of disparity and discrimination, should be considered. If discretion exists, its use must be monitored. It should also be explored sociologically—staff use discretion *for* legitimacy as well as against it.<sup>22</sup> There are dangers inherent in modern management styles, which seem to assume that discretion has little place in organizations. Jonathan Simon (Simon, 1999) has argued that increasingly, prisons are designed to be run without 'the social'. He argues (this issue, pp. 285–308) that DiIulio, who believes that prison governors do not need to govern through the social, but can govern around it (DiIulio, 1987: 173), is the 'Sykes of the 1990s'. A new 'asocial' set of strategies is employed in the late 1990s for governing prisons. The difficulty is, as we illustrate here, that there is a major gap between current managerialist practices, which emphasize process, compliance, audit and future performance, and the sociological realities of prison life and work which are characterized by tradition, experience, accommodation, short-time horizons and daily survival (as those who experiment with privatization discover; see Home Office, 1997; James *et al.*, 1997). Prisons may be designed to run without

the social, but our research suggests that it is precisely 'the social', that is, social relationships, notions of trust, respect, fairness and legitimacy, that enable the life of a prison to 'flow' at all. All of this goes on within a context—a legal, managerial, social, cultural and political context in which tradition and increasingly future-oriented strategies shape each prison's life (at an empirical level) uniquely. Individual agents—staff and prisoners—engage in embedded social practices in this complex framework.

Sociology in prisons in the classic tradition, Simon argues, has largely ceased; in other words, there is an absence of knowledge about the 'normal conditions of prison'. There has been a 20-year absence, during which time prison populations have quadrupled in size, new establishments have been built on new models and sociologists have found new objects of interest. We find this analysis persuasive, although we see emerging life and interest in the classic sociological tradition (see, for example, Owen, 1998). We hope to continue with our own interest in the microsociology of decision making and power in prison.<sup>23</sup> This remains linked to the macrosociological project of understanding the social practices of punishment and discipline. Exploring relationships between staff and prisoners raises questions about what people do with their power and how they react to their powerlessness; it raises issues about order, penalty, safety, justice, 'good governance' and leadership. All of these themes need to include gender as a category of analysis: what are the implications for the masculinist institution of a maximum security prison for men, of an occupational culture geared towards 'crime-fighting', or 'law-and-order-maintenance' whose social practices are actually largely preoccupied with conflict avoidance and social relationships? What is the place of boundary negotiations in any modern prison and how do these boundary conflicts impinge on our assumptions about the so-called 'masculinist fortress'? There are many leads we would like to follow—or encourage others to pursue—in the future.

## Notes

This article is a substantially extended version of a paper delivered at the American Society of Criminology Conference, Washington, by Alison Liebling in November 1998. The article could not have been written without the research and other assistance of David Price, and the advice of Professor Tony Bottoms. I would also like to thank the Governor, staff and prisoners at HMP Whitmoor for their generosity and trust. Grateful thanks are due to the Leverhulme Trust for a Special Research Fellowship which enabled me to carry out this work. I also thank Robert Reiner, Mary Bosworth and Tony Bottoms for encouraging and helpful comments on a draft of this article.

1. I do not claim to be an expert in the policing literature. On the contrary, my interest has been stimulated by the discovery of useful materials in a search to explain prison staff relations with prisoners. I argue here that

there seems to be considerable mileage in comparing the two literatures, a theme we began to explore in our review of the staff–prisoner relationships literature (Price and Liebling, 1998).

2. Interesting headway has been made in (especially recent feminist) studies of penalty in bringing together the realms of policing and punishment. Adrian Howe, for example, argues that the disciplining of women, their social and physical regulation, forms a crucial component of penalty. The task of policing as regulation, circumscription and discipline is very clear in her account (Howe, 1994). One could argue that the contemporary prison seeks the ‘docile body’ traditionally achieved among women via femininity and self-governance. The role of prison staff in policing behaviour may have been made more explicit in accounts of prison life for women (see, for example, Carlen, 1983; Dobash *et al.*, 1986; also Cain, 1989). These concepts—of discipline and regulation—have a major relevance for contemporary penalty, and, as I argue in this article, for exploring the role of prison staff in prisons for men and women. How these practices are mediated by gender as a category of analysis is a question of major significance (for example, is there a feminine/masculine attitude towards and approach to the use of power?) but is largely beyond the scope of this article.
3. These ideas may not be so new, but may imply a return to old ideas; see Sparks (1994).
4. We’ve been given power now as to what these lads can have. I mean we’ve never had it before. If a lad has got all these privileges the only way they could be removed was the governor. Now we can remove it, we’ve got the power, we can recommend that it’s removed and usually the PO [Principal Officer] will go with us.  
(Officer; cited in Liebling *et al.*, 1999)
5. The research found that IEP did not result in significant improvements to prisoner behaviour. Instead, it seemed to result (along with other policies introduced at the time) to losses in prisoners’ perceptions of the legitimacy of prison regimes, and in the quality of staff–prisoner relationships (which are, in turn, both related to the maintenance of order, IEP’s main aim; see Liebling *et al.*, 1999). A revised instruction, which addressed many of the process issues highlighted in the research was issued in 1999.
6. These relationships and the formal and informal sanctions in use, are also mediated by other institutional variance, including management expectations, the role of trade unions, prisoner expectations, policy and so on. These themes deserve further exploration, and we hope to do so at a later date.
7. The typical constraints of Home Office-funded research are legion. They include enforced speed, pressures to produce emerging findings, methodological constraints (generally, a preference for quantitative over qualitative data), objections to unwelcome results and delays in publication.



8. A computer-aided non-numeric data analysis tool designed to assist in the handling and analysis of qualitative data [Non-numerical Unstructured Data Indexing Searching and Theorizing].
9. The same can be argued in relation to research methods.
10. Hepburn argues that prisoners may be more likely to comply with some power bases, for example, legitimate and expert power. Our observations were that coercive power could also increase compliance, but not on its own (see Liebling and Price, 1998).
11. Relationships were also important for normative ('it is better'; 'it is right'; 'it makes the job more satisfying') as well as instrumental reasons: ('we need them'; 'they write our reports'; 'they get things done'; 'they help with order and control').
12. Although Nigel Fielding usefully argues that distinct practices of this kind exist between 'relief' or reactive police teams and 'community constables' who are more concerned with enduring relations (Fielding, 1994: 58–9).
13. It is also made more complex by the question of race and there may be some questions here about the way in which race impacts upon the use of 'rules', power and authority.
14. We are self-conscious about the use of the term 'he' throughout this article. The prison we worked in was an adult male maximum security prison. Inevitably, most of the officers we observed and spoke to were male. There were, however, significant numbers of women in key roles within the prison. The question of whether well-dispersed women prison officers adopt 'masculine occupational norms' or whether there is a distinct 'feminine' adaptation remains for us to consider. Carol Gilligan, for example, would presumably expect female officers to tend to form judgments and make decisions in a different way (Gilligan, 1986). An interesting dimension here might be the influence of cross-sex postings on strategies of control and occupational cultures.
15. Here, the prisoner is making a distinction between *force* and *authority*.
16. Again, Gilligan's work might suggest that the tension between rule-following (a 'masculine' vision of justice) and context and relations (more 'feminine' concerns) are inevitable and valuable. It is surprising that following her characterization, prison officers negotiating with contexts and relationships as described here would belong in the feminine portion of her analysis.
17. There are hints in this analysis of Kohlberg's stages of moral development: stage three values relationships or 'interpersonal concordance'; stage four values rules and stages five and six (moral maturity) value principles (Kohlberg, 1976). A feminist critique (and several other critiques) would argue that these values remain in tension (see Gilligan, 1986).
18. Some staff were very aware of this and some held the view that consistent rule-following was preferable to unpredictability. This was not a gender issue. Male and female staff were divided among themselves.
19. Interestingly, we note in Reiner's account that the interest in under-enforcement and peacekeeping has to some extent been overtaken by a

renewed emphasis on 'crime-fighting'. This movement towards more enforcement (particularly since 1994–5) is also true in the prisons context.

20. The term 'compliance' is now applied to prison staff and senior managers, as well as to prisoners.
21. See the Control Review Committee Report (Home Office, 1984):

At the end of the day, nothing else that we can say will be as important as the general proposition that relations between staff and prisoners are at the heart of the whole prison system and that control and security flow from getting that relationship right. Prisons cannot be run by coercion: they depend on staff having a firm, confident and humane approach that enables them to maintain close contact with prisoners without abrasive confrontation.

(Home Office, 1984: para. 16)

22. An interesting, as yet little explored dimension of this relationship might be the ways in which women (including, but not exclusively, prison staff) regulate women (including, but not exclusively, prisoners), the influence of cross-sex postings on strategies of control and occupational cultures and so on.
23. A broader research agenda into staff–prisoner relationships should include other types of establishments (young offenders institutions, female establishments, lower category establishments, etc., where power flows differently; in maximum security prisons, to some extent the use of power by staff is to some degree managed by resistance from prisoners). Empirical and analytic attention should also be given to senior managers and policy makers—legal and organizational structures often remaining invisible in traditional sociological accounts (see Grimshaw and Jefferson, 1987).

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ALISON LIEBLING is a Senior Research Associate at the Cambridge Institute of Criminology and the Director of the Prisons Research Centre. She has carried out research on young offender throughcare; suicides in prison; managing difficult prisoners; evaluating the UK's first private prison; measuring the quality of prison life; and exploring staff–prisoner relationships. She has recently been awarded a Leverhulme Special Research Fellowship to carry out a project titled, *Shaping Prison Life*. Her publications include *From Custody to Community: Throughcare for Young Offenders* (1992); *Suicides in Prison* (1992); three edited books on deaths in custody (1994, 1996 and 1998); *Privatising Prisons: Rhetoric and Reality* (1997); recent articles on vulnerability to suicide in prisons and the use of Appreciative Inquiry in the *British Journal of Criminology* and *Punishment and Society* respectively; and a review chapter on 'Prison Suicide and Prisoner Coping', in M. Tonry and J. Petersilia (Eds) *Crime and Justice: An Annual Review of Research*.

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