

**Procedural justice as a reward to the compliant: An ethnography of police-citizen interaction in police custody**

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### *Funding details*

This work was supported by the ESRC under grant ES/R011397/1

### *Disclosure statement*

No potential competing interest was reported by the authors.

### *Acknowledgements*

The authors would like to acknowledge the valuable discussions and contributions made by Matthew Muscat, Marcus Beale and Katherine Mycock in the development of ideas underpinning this work.

**Abstract:** This paper contributes to the literature on Procedural Justice Theory (PJT) by exploring its capacity to explain the dynamic interactions between police and citizens within the context of police detention. Analysis is based on observation and interviews in police custody suites (i.e., locations where arrested citizens are formally processed and held) within one of the larger metropolitan police forces in the UK. The qualitative thematic analysis highlights how, in order to adequately understand police-detainee interactions, it is critical that PJT properly recognises (a) the importance of context for framing 'procedurally fair' encounters, (b) the central role and consequences of categorisation, and (c) the role of power in shaping police-citizen encounters. The paper concludes by exploring the implications of this research for assumptions regarding the causal ordering often assumed in the PJT literature. Specifically, we suggest that procedural justice is more than merely a mechanistic route to achieving compliance but can also be conceptualised as a 'reward' by the powerful to those already willing to be subordinated and acquiescent.

Key words: procedural justice, legitimacy, custody, ethnography

## **Introduction**

From its initial conception onwards, Procedural Justice Theory (PJT: Tyler, 1990, 2006, 2009) has been used to help explain why people comply with laws (Tyler, 1990) and why people voluntarily cooperate with the police (e.g., Sunshine and Tyler, 2003). PJT suggests that in order to achieve these regulatory outcomes, police officers should adopt four key principles when dealing with members of the public. First, police officers should demonstrate to citizens a sufficient level of dignity and respect. Second, they should, through their actions, indicate that they hold benevolent, well-intentioned or 'trustworthy' motives. Third, officers should be 'neutral' arbitrators and come to decisions on the basis of the facts of a situation rather than personal 'biases' or stereotypes. Fourth, police officers should allow citizens to have a 'voice' in their decision-making. Research in the policing context has consistently shown that members of the public are particularly attuned to these four pillars of procedural fairness and that these judgements are key predictors of perceptions of police legitimacy, defined in Tyler's (1990) original study as an obligation to obey. In turn public perceptions of police legitimacy have been shown to be the key predictor of behavioural intentions to comply with the law and to cooperate with the police, over and above beliefs about risk of sanction (e.g., getting arrested) (Murphy, Bradford & Jackson, 2016).

Despite widespread empirical support (Jackson, 2018; Langley et al., 2020), as well as the substantial policy and practical impact of the approach (Bradford, 2020), there remain some important empirical challenges and opportunities for further theoretical development (Harkin, 2015; Radburn and Stott, 2019; Kyprianides et al. 2021). For example, whilst there have been randomised control trials (e.g., Mazerolle, Antrobus, Bennett, & Tyler, 2013) and experimental studies of PJT (e.g., Radburn, Stott,

Bradford & Robinson, 2018; Urbanska et al., 2019), it remains the case that the vast bulk of research evidence has been generated in the form of cross-sectional surveys of the general population (Barkworth & Murphy, 2015). This means that in particular there is a need to empirically substantiate the implied causal ordering of PJT – specifically that procedural fairness leads to behavioural ‘compliance’ (Nagin and Telep, 2017). Correspondingly, there is a danger of a mechanistic reading of PJT which assumes that the four pillars of PJT operate relatively independently (Jonathan-Zamir, Mastrofski & Moyal, 2015) and can be applied by the police independently of context to universally achieve perceptions of fairness among the public.

Additionally, there is a dearth of (qualitative) research that allows for an analysis of the dynamics of a person’s interaction(s) with the varied and longitudinal aspects of policing (i.e., beyond an initial dyadic contact with individual police officers). As such, there is a need to understand the processes involved in procedurally fair policing not just for those among the general population who have ‘one off’ contacts with the police (e.g., a traffic check) but also for those who subsequently get arrested, and therefore have perhaps already presented some credible notion of ‘non-compliance’. Research in the prison context has emphasised the importance of procedural fairness in maintaining order (Baker & Gau, 2018; Sparks, Bottoms & Hay, 1996; Liebling, 2004). However, despite Liebling’s having identified ‘entry into custody’ as one of the most important aspects of prison life from the perspective of prisoners (Liebling, Hulley and Crewe, 2012), little attention has been paid to the transitional periods from ‘freedom to detention’ in relation to procedural justice. Indeed, as Radburn et al. (2020, p. 15) argue, PJT work is

*...rarely focused on how the interaction continues (often with the involvement of multiple officers and/or criminal justice 'actors') if and when that 'citizen' who may be unwilling to comply with the law becomes a 'person in custody'.*

### ***Procedural fairness, legitimacy and social process***

Bottoms and Tankebe (2012) have argued that legitimacy is best conceptualised as an ongoing dialogue between powerholders and audiences with the former making claims and the latter responding, with powerholders then adjusting those claims, and so on. Via this continuous claim-response 'dialogic', powerholders and their audiences come to a shared understanding regarding the (il)legitimacy of the encounter, which can vary both according to different socio-political settings and over time (Bottoms and Tankebe, 2012, Tankebe, 2013; Harkin, 2015). This dialogic model accords with Terrill (2003) who argues that the relationship between police use of force and suspect resistance within police-citizen encounters is not unidimensional (i.e., that suspect resistance is always followed by police use of force). Instead, both the officer and suspect take cues from the actions of the other and respond accordingly – a kind of continuous behavioural dialogue (c.f., O'Neill, 2004).

When viewed as dynamic and dialogic interactions, it follows that an adequate theoretical account of the processes governing 'procedural fairness' must also take account of police subjectivity and social action as much as the psychology and experience of the 'policed'. Moreover, as Herbert (2006) argues, '*...the police see themselves as a distinct and powerful social group*' and consequently their interactions with members of the public are not merely interpersonal but also intergroup or inter-categorical in their nature (Radburn & Stott, 2019). As Radburn et al.'s (2020) analysis suggests, officers often hold complex internalised lay theories of their surrounding

social relations, differentially describing themselves as either distinct from or similar to certain local 'communities'. Their study shows how boundaries between 'us' and 'them' were rhetorically constructed along socio economic, geographical and, often implicitly, ethnic lines (c.f., Archer, 2000). Moreover, a key feature of that analysis was to demonstrate that police officers, like members of the public, do not go into such intergroup interactions with a psychological tabula rasa.

It follows then, and in accordance with the Bottoms-Tankebe (2012) dialogic approach, that in order to understand police-citizen encounters they must also be placed in a social context. Moreover, in the context of policing, a temporal dimension has profound implications, not least of all because it can sometimes involve the exercise of coercion, most notably in the form of an arrest. This is also important since police custody represents a '*qualitatively different police setting*' (Skinns, Rice, Sprawson, & Wooff, 2017a: 604) to more routine forms of 'day-to-day' encounter usually assumed and observed within the bulk of PJT research. Most obviously, custody subjects citizens to a loss of liberty, albeit often temporarily, as they remain isolated from others and await information regarding their release or continued detention within a complex and multifaceted space (Wooff & Skinns, 2018; Wooff, 2020). The right to liberty is a fundamental principle of the Universal Declaration of Human Rights (UDHR) and holding an individual in custody is an interference of that right, making it a significant function of policing.

An experience in custody has significant impacts upon detainees in terms of loss of liberty as well as personal treatment within that environment, especially for those considered vulnerable (Skinns, 2011). Part of that is defined by risk assessment. In England and Wales, custody officers are responsible for risk assessments of detainees that 'consider whether the detainee is likely to present specific risks to

custody staff any individual who may have contact with the detainee (e.g. legal advisers, medical staff) or themselves' (Home Office, 2018: 16). The assessed level of risk dictates subsequent safeguarding measures, such as how frequently detainees will be observed, ranging from hourly visits to continuous observation for highest risk detainees (Stoneman et. al., 2019). The experience of a detainee is therefore largely predicated on this judgement. Whilst there are formal risk assessment protocols within police forces, Stoneman et al. (2018; 2019) highlight the problematic role that intuition also plays in custody risk assessment, with personal experience and idiosyncratic judgement creating inconsistencies between and even within police forces regarding the categorisation of risk, particularly for those experiencing vulnerabilities related to drugs and alcohol. As such, the interactions between custody staff and detainees appear central to understanding experiences of fairness made within this context (Skinns, 2019).

Also relevant is the legislative context of custody. In England and Wales, police powers to hold an individual in custody are governed by the Police and Criminal Evidence Act (PACE, 1984) and PACE Code of Practice C. Created in a backdrop of social discontent and concern for the balance of police powers over individual rights (Dehaghani, 2017; Skinns, 2011), the purpose of PACE was to regulate police powers to ensure 'fairness, openness and workability' (Brown, 1997:1). The Act outlines powers, procedures and restrictions relating to the detention, treatment and questioning of persons by police officers, including the rights that must be communicated to the detainee and the requirement of the custody officer to establish sufficient grounds to detain. The critical impartiality that this is intended to offer has been questioned by research which has suggested that custody officers routinely authorise detention without adequate reason and assist arresting officers in finding



sufficient grounds for detention (Dehaghani, 2017; Pearson et. al., 2018). Pearson et al. (2018) also suggest that changes to PACE since its introduction in 1984 have created confusion for officers regarding what can be considered an (un)lawful arrest. Thus, there is a complexity to the custody context and prevailing legislation within it that introduces questions and concerns for the procedural fairness of interactions in custody. The perceived legality of both officers and detainees is likely to be salient within the context of police custody suites<sup>1</sup>, with the implementation of 'Code C' being a particularly relevant accountability issue for officers within this setting (Maguire, 1988). Indeed, research has demonstrated that perceived legality is a key component of public perceptions of police legitimacy (Tankebe, 2013; Tankebe, Reisig & Wang, 2016) and may well also contribute to a police officer's own sense of confidence in their authority and 'self-legitimacy' (Nix and Wolfe, 2017; Wolfe and Nix, 2017; Tankebe, 2019). Whilst uncommon, there is some observational research focused specifically addressing PJT within this idiosyncratic legal and accountability context. At the forefront in this regard, Skinns, Wooff, & Sprawson (2017b) found that custody staff were respectful of the aforementioned PACE rights in their communication with detainees, and that these notions of respect were evident regardless of otherwise poor custody conditions. However, Skinns et al. (2017a) also describe the use of the techniques of 'soft power', or non-coercive social influence, that staff utilised in order to achieve compliance from detainees, such as the humour used to develop rapport. In this sense, Skinns et al.'s (2017a) ethnographic research within a police custody

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<sup>1</sup> Brown (2020, p. 14) provides a useful description of the functions of custody suites within England and Wales: "*The police detain people in 'custody suites'. Most custody suites are situated within large police stations, but some are in dedicated purpose- built buildings. A typical custody suite will consist of several individual cells, separate interview rooms and facilities to 'book in' suspects and log relevant information about their arrest and detention*".

context documents the complex and often subtle micro-sociological processes within interactions between authorities and detainees. This, and other prison research, has challenged some of the assumptions usually applied within PJT research. In particular, in their research concerning prisons, Reisig and Mesko (2009) went as far as suggesting that 'procedural fairness' may be as much an outcome of compliance than simply a route to it, making clear that they

*...cannot rule out the possibility of a reciprocal relationship between procedural justice and inmate misconduct – prisoners who abide by prison rules are treated more respectfully by prison authorities, and inmates who receive favourable treatment abide by prison rules (p. 55).*

As such, prison and custody-based literatures have brought to light some of the complexities that relate to policing of people in custody and how this context poses challenges to PJT that are valuable to explore empirically.

### **Current study**

Taken together, the present study seeks to contribute to the literature on PJT in several ways. First, by undertaking ethnographic research in a police custody context we seek to inductively explore the causal ordering and explanatory power of PJT that relates to, but goes beyond, initial public contacts between the police and a 'citizen'. Whilst previous research has undertaken systematic social observations of police-citizen encounters (e.g., Jonathan-Zamir et al., 2015; Mastrofski, Jonathan-Zamir, Moyal & Willis, 2016), this work has been primarily concerned with developing and validating a means of quantifying 'objective' components of procedural justice within interactions on the streets. To compliment such studies, we employ a qualitative observational methodology in order to inductively examine and 'unpack' the complex and dynamic interactional processes *within* relationships between those who have

been arrested and the police (Radburn & Stott, 2019, Quinton, 2020; Radburn et al., 2020). In so doing we follow Quinton (2020: 14) in aiming to go beyond describing encounters in a '*...detached, abstract and static way*' and instead provide '*...a 'thick description' of what actually took place, at a micro level, as interaction ebbed and flowed*' (Geertz, 1973: 14). This is important when seeking to develop, rather than test existing conceptualisations of, PJT.

Second, we seek to engage with debates centred around the importance of context and categorisation in shaping interactions between police officers and the public (Bradford & Quinton, 2014; Radburn et al., 2020; Kyprianides et al., 2021). As Bradford, Murphy, and Jackson (2014, p. 527) argue, the criminal justice system is '*...an engine of identity production and influence*' and this is likely to be particularly acute in a police custody suite setting where members of the 'public' have already been categorised by officers as a 'suspect' and have transitioned through legislative frameworks and institutional processes into a 'person in custody' (PIC). Third, Radburn et al. (2020) recently highlighted that police officers hold complex internalised theories of social relations, yet their interview study was limited in that it focused exclusively on officer talk and therefore did not explore the dynamics of actual encounters. Consequently, they were not able to analyse the dynamic interactions between police officers and members of the public as they took place. The present study seeks to build on this work by exploring the patterns of police–'citizen' interaction *in situ* within the context of police custody suites. In doing so, we seek to take an inductive approach, building theory from our ethnographic data (Glaser & Strauss, 2017), in a way that contrasts with the vast bulk of the policing PJT literature which tends to take a firmer hypothetico-deductive approach to data collection and analysis (Harkin, 2015; Radburn & Stott, 2019).

## **Method**

### ***Data gathering***

The analysis presented here forms part of a wider ethnographic research project concerning the nature of police-citizen interaction within one of the larger metropolitan police forces in the United Kingdom. Data collection took place over a 12-month period between March 2019 and March 2020 following written consent being provided by the Chief Officer team of the force.

The primary data gathering method was in situ observation whereby a variety of different forms of data can be collected (Lofland & Lofland, 1995; Burgess, 1982; Stott, Hoggett & Pearson, 2012). The first author observed the work of various teams and police functions over several shift patterns, totalling more than 250 hours of observation. During this period, observations took place embedded within two custody suites (86 hours) and on patrol with response teams (72 hours) serving the geographical areas they serviced<sup>2</sup>. These geographical areas included a major urban city centre and its surrounding suburbs. Officers of ranks from constable to inspector who had provided informed consent were observed exercising their normal duties over the duration of each shift, alongside others working within custody such as detention officers, nurses, paramedics and liaison and diversion staff<sup>3</sup>. A semi-structured observation guide ensured noting of who was present, the surrounding context, and

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<sup>2</sup> Other police functions observed included neighbourhood policing and offender management.

<sup>3</sup> Liaison and Diversion (L&D) services identify people who have mental health, learning disability, substance misuse or other vulnerabilities when they first come into contact with the criminal justice system as suspects, defendants or offenders (NHS, 2021).

the nature of interactions, with a focus upon the four key pillars of PJT as outlined above, whilst also allowing for freedom around wider observation and understanding of the research context. Data were recorded as anonymised fieldnotes written up by the first author at the end of each shift.

During those observation periods, the first author also engaged those present in ad hoc unstructured interviews and conversations concerning the observations. These interviews took place with officers of various ranks and police functions but also with detention officers, nurses and liaison and diversion staff. The content of these interviews was also recorded as anonymised field notes immediately after the interaction, with as close to verbatim as could be achieved. We accept and have argued elsewhere that definitions of what constitutes 'procedural fairness' is context-sensitive and essentially a subjective and dynamic judgement (see Stott, Hoggett & Pearson, 2012), therefore our observations were based on theoretically and empirically derived definitions of key concepts (e.g., procedural justice) but our ethnographic approach allowed us to flexibly and inductively examine and 'unpack' the complex and dynamic interactional processes within and across police-public interactions.

### ***Analytic procedure***

At the conclusion of the fieldwork the notes were collated, shared and read jointly between the authors. The authors then met on several occasions to discuss the field notes and explore detailed in-depth recollections of the encounters with the first author. Since our approach sought to contextualise the observed encounters, we did

not exclude or separate interactions where other relevant stakeholders were present but explored them in depth as case study examples or episodes (Billig, 2019).

These team analysis sessions adopted a form of thematic analysis based on Glaser and Strauss (2017), utilising an informed, rather than a traditional, grounded theory approach (c.f. Thornberg, 2012). This analytical approach has been utilised in several observational field studies but this is the first time we have applied it to a custody context (Kyprianides et al, 2020, etc). Thus, the authors discussed the case study encounters and used them to generate and empirically substantiate a series of theoretically relevant themes. Those themes were guided by our general PJT oriented framework that grouped our data into wider and more parsimonious concepts that simplified the structure of the analysis but maximised the inclusion of the case studies in ways that were relevant to the research questions. Through this process, relevant data was organised for group discussion and the analytical structure developed over a period of group analysis sessions. The authors then returned to the original data set to confirm the suitability of the proposed thematic structure, to look for any data that contradicted the emerging framework and identify episodes within each case study to best exemplify the final analytical narrative. The examples that best represented the themes were identified and are presented in the below analysis. This process of team ethnography and investigator triangulation was utilised to develop a shared interpretation of the data, rather than merely as a confirmatory method (Archibald, 2016) through consideration of alternative perspectives that allowed the empirically grounded thematic consensus to emerge for the structure that is set out below (Denzin & Lincoln, 2008).

## **Analysis**

### ***The importance of context for framing 'procedurally fair' encounters***

Perhaps the first and most powerful theme that emerged from the data was the importance of context in determining the nature of encounters between police and 'citizens', or in this situation a person in custody (PIC). Our data suggests this was important because the context appeared to play a central role in framing, enabling and restricting the factors that are usually understood to govern the 'procedural fairness' of encounters with police (i.e. voice, neutrality, etc). In other words, enacting procedural fairness was not merely a matter of choice but was guided and constrained by the nature of the situation. One of the most obvious issues is that the custody suite is a context where encounters between 'citizens' and police are already embedded in a longitudinal sequence. Put most simply, detainees arrived and began interacting with custody officers following arrest by other officers. Thus, these interactions cannot be conceptualised as abstracted 'one off' encounters because in every case there was already an ongoing interaction. Moreover, these historical interactions had already involved, by definition, coercion in the form of an arrest.

Thus, the 'procedural fairness' of the encounter had already become longitudinal and already had involved the exercise of power, which does not sit easily with interpretations of how procedurally fair encounters with the police are exercised. Adding to the complexity, the interactions that took place within our custody suites were not simply between two actors (e.g., a police officer and citizen) but invariably involved a multitude of other stakeholders, between whom there were sometimes clear and obvious power differentials. For example, during our observations arresting officers were almost always of police constable rank. When they entered the suite

there was always a custody sergeant able to authorise the continued detention of the PIC. This is primarily because in relevant legislation dictates that *'no officer may be appointed a custody officer unless the officer is of at least the rank of sergeant'* (PACE, 1984, sec. 36, 3). Thus, the law frames the legal legitimacy of the interaction and creates a structure between those 'receiving' and those 'delivering' the detention. Custody sergeants frequently and openly described this relationship in terms of a hierarchy where *"power outweighs rank here [in custody]... only a superintendent can overrule the decisions we [custody sergeants] make."* (CS3, C1\_19/06).

Correspondingly, custody suites were configured architecturally in a way that fundamentally shaped the pattern of interactions that were possible within it. A height differential was designed to ensure physical safety, meaning that custody officers were always seated behind desks above but facing the reception area at ground level. When arresting officers entered the suite, they were required to stand side by side with the detainee, facing and looking up toward custody officers. Higher still, 'hub sergeants' sat at desks in ways that reflected their overall responsibility and accountability for the actions taking place within the suite. Markings on the floor indicated where the detainee must stand to ensure adequate physical distance from the custody officer and to be suitably positioned for camera-recorded coverage of their behaviour. Thus, the context appeared to not only structure and configure, but also symbolically embody the power relationships and legal legitimacy governing the interactions that took place within it.

Our observations suggest that this change in focus and complexity had implications for how legitimacy and fairness were negotiated in what was no longer merely a dyadic but now tri-partite interaction between custody officer, arresting officer and detainee. The police citizen encounters in the custody suite were never merely between one



police officer and a citizen and always involved others with differing roles and responsibilities. Moreover, in placing certain powers and obligations with the custody sergeant, Code C of PACE requires custody officers to assess the proportionality of detention. In so doing, custody sergeants hold the legal power to release detainees if certain requirements have not been met. Our interview and observational data emphasised the primacy custody officers gave to this responsibility to ensure the detention was lawful, for example one custody sergeant explained that “*a couple of times a shift pattern, we refuse it [detention]*” (CS1, C2\_17/06). What this suggests is that key to the sequential aspects of the transition into custody is a corresponding change in focus, toward ascertaining the legal legitimacy of the *arresting officer’s* actions and assumptions that detention in custody is necessary rather than merely an emphasis on the citizen’s transgressions. Whilst we did not observe such action directly, we did observe custody sergeants questioning the powers that had been used and ensuring that authorisation of detention was necessary.

For example, during the processing of a 17-year-old detainee, a custody sergeant asked an arresting officer if a parent or guardian had been informed of the arrest and detention, as is legally required. The arresting officer looking perplexed turned toward his accompanying officer and neither provided the required response to the sergeant. The sergeant then verbally reprimanded the arresting officer and asked whether force had been used during the arrest. The officer responded that no force had been used, but the detainee contested this stating “*yes it was, I was kicked in the back*” (PIC7, C1\_18/06). The sergeant then looked at the detainee, made eye contact with him, nodded affirmatively and changed the conversational tone toward him making a light-hearted comment. It was apparent the sergeant was now deliberately and symbolically excluding the arresting officer from the interaction, who as if

acknowledging his immediate disempowerment, even stood back to allow the interactions between the sergeant and detainee to continue. It was evident that in this interaction, where the legality (in relation to informing the parent/guardian of the young person's arrest) and hence legitimacy of the actions of arresting officers could not be easily ascertained, custody sergeants could actually give higher levels of scrutiny toward the actions of colleagues over and above the suspected criminal actions of the detainee.

While the transition into the custody context appeared to have implications for the capacities of police to enact procedural fairness, it also seemed to have implications for its foundational elements, for example in opportunities for 'voice'. During the early stages of all the interactions observed at the custody desks, outside of their opportunity to 'reply to caution', detainees were invariably reminded by custody officers of the audio and visual recording that was taking place. When a detainee was describing the actions that led to their arrest, one custody sergeant deliberately interrupted by stating "*everything's recorded, so don't say anything*" (CS4, C1\_17/06). During another encounter, a custody officer suggested to a detainee, "*don't talk about that, none of us will be interviewing you.*" (CS5, C1\_18/06). Thus, during our observations, opportunities for the detainees to have voice by articulating the circumstances surrounding arrest were rarely if ever encouraged. One of the above custody officers later explained that their interventions were made as a response to the detainees right to remain silent because they understood that the declarations being made by the detainee at the time could be used as evidence.<sup>4</sup> In this context,

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<sup>4</sup> Though it is important to acknowledge that the right to remain silent is not absolute. As the College of Policing outline (see: <https://www.app.college.police.uk/app-content/investigations/investigative-interviewing/>): "*Suspects have the right to remain*

'denying' voice, was something that ostensibly added to the procedural fairness of the encounter because it protected the integrity of the legal processes and reinforced the right to silence for the detainee. For some, as with other examples above, the detainee was given voice during part of the process and encouraged not to speak during others. Custody officers could simultaneously give detainees a voice but also take it away to preserve detainees' right to silence. Custody officers, however, also explained that they saw their role as one that was distinct to the investigation process. This denial of voice also limited the possibility of a significant remark being made, which the custody officer would be required to engage with in some way, whether inputting into the computer system or giving a witness statement. Discouraging detainee 'voice' therefore served to operate as a guide through which custody officers were seen to maximise their role as neutral arbiters of the law but were also able to restrict any subsequent work concerning the incident. In doing so, those protesting innocence were restricted in opportunities for 'voice' too, meaning that such a 'just' procedure was not neutral in who it was operating fairly for, and that custody officers remained powerful in offering or denying opportunities to voice.

### ***The importance and consequences of risk categorisation***

It was evident from our observations that another relevant aspect of the custody context was the priority given to safety and therefore the assessment of risk, emphasised through legislation such as PACE Code C that places a responsibility on

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*silent, but they are warned during the police caution or during special cautions of possible adverse inferences being drawn should they choose to exercise that right. These may be in terms of failure or refusal to account for objects, substances or marks (Criminal Justice and Public Order Act 1994 (CJPOA) section 36) or failure or refusal to account for presence at a particular place (CJPOA section 37)."*

the custody officer to assess the risk that detainees pose to staff (Home Office, 2018: 17). The centrality of risk and its management were a salient theme of our data and interwoven into almost every aspect of the interactions that took place. Once again this appears to have implications for theoretical understanding of the procedural fairness of police citizen encounters. Alongside data gathered from police systems, our observations indicated that nuanced information relating to the history of interaction between the detainee and police informed a process of risk assessment and formal categorisation. This historical information shaped all the encounters we observed. For example, it was invariably the case that a detainee handcuffed to the front of the body had greater freedom, flexibility and comfort in relation to their physical restraint. In contrast, those handcuffed to the rear were more restrained in the actions they could perform. Thus, it seems reasonable to infer that the form of handcuffing therefore embodies a level of trust and perception of risk that arresting officers have already afforded that detainee.

Moreover, during our observations, on entering custody a formal risk assessment process usually began with a custody officer asking the arresting officer(s) if they were aware of any warning markers, or simply 'markers', associated with the detainee. Responses given by the arresting officers were often in code and included "*Mike Hotel*" (PC4, C2\_24/06), indicating previous mental health concerns, and "*Victor Indigo*" (PC3, C1\_17/06), indicating a history of violence. This information was then used by custody officers to inform their risk assessments which in turn appeared to guide their interactions with detainees, as one custody sergeant stated after processing a detainee, "*I was far nicer to him than I wanted to be because of the markers that he can be violent to officers*" (CS3, C1\_17/06). Thus, the interactions with the custody

officer were not entirely 'neutral' because they were informed (at least in part) by these prior police-citizen interactions and judgments.

A key component of this process was a formal assessment of the physical, medical and mental health of the detainee. Our observations recorded that detainees verbally declaring recent suicidal thoughts or attempts to commit suicide were often assigned a 'level 3' risk status, requiring continuous camera watch of their cell. This differed to those categorised as 'lower risk' who received much lesser levels of subsequent surveillance.

A set of risk assessment questions relating to behaviour and the mental and physical health of the detainee were used to inform this routine assessment. However, during one particular observation a detainee presented at custody with physical injuries and loudly demanded to be taken to hospital. A nurse routinely situated within the custody suite entered the interaction and performed an assessment of the detainee. Although cooperating with the nurse, as the custody sergeant attempted to ascertain details, the detainee refused to cooperate and continued to assert that she should not be in custody. Even before the nurse's assessment was completed, the sergeant yielded and requested that an ambulance be called. Upon the detainee leaving for hospital, the custody sergeant explained to us that if he had not had concern for her physical or mental health then "*I wouldn't have been so patient. She would have gone straight to a cell to calm down*" (CS6, C2\_25/06). What such data affirms is that the interactions between custody officers and detainees were not only complex, involving multiple stakeholders some of whom were not even police officers, but were also heavily influenced by both formal and informal procedures. However, what appeared to be central was that these procedures enabled the custody officers to apply a formal categorisation to the detainee. It was evident that this process of categorisation then

legitimised different pathways for the detainee that fundamentally influenced the nature of subsequent interactions. Those interactions were not always 'natural' in nature, but offered some opportunity for faux fairness through interpersonal treatment that was deemed necessary to ensure a smooth interaction. Thus, our data suggest that in this context categorisation by power holders was a central factor governing the nature, legitimacy and even capacity of the police to continue the interaction in a 'procedurally fair' manner.

### ***Procedural fairness and the exercise of power***

During our observations, one of the primary ways these risk categorisations affected subsequent interactions was in the level of autonomy it subsequently appeared to offer the detainee. For those who remained compliant in custody and for whom a low level of risk had been assigned, additional privileges were usually offered. For example, they were able to place their own belongings on the custody desk or to take phone numbers from their mobile phones. A small number of detainees with extensive offending histories and experiences in custody asked for, or brought their own, books to read whilst in custody and were allowed to do so. One custody sergeant even asked the arresting officer to make a drink for the detainee, leaving the detainee alone at ground level. It was apparent in allowing a level of autonomy that the procedurally fair components of respect, trust and dignity were interlinked. In other words, by the custody officer indicating a level of trust in the detainee they also indicated they were respected enough not to endanger others with the gifted independence itself affording a level of dignity to the detainee, simultaneously offering multiple components of fairness according to the pillars of PJT.

Similarly, custody officers sometimes offered 'low risk' and compliant detainees the opportunity to maintain physical possession of their jewellery, rather than taking it away to be secured with their other loose belongings. During one observation, when nearing completion of the formal risk assessment of a detainee who had entered the suite cuffed to the front, and who had remained calm, compliant and polite, a custody sergeant pointed to the necklace worn by the detainee, which featured a Sikh symbol, and asked "*is that religious?*". The male nodded and looked at the floor. The sergeant added "*I'll let you keep that on if you need it?*" He looked up at the sergeant, smiled and thanked him. The sergeant continued by indicating the reciprocal nature of the symbolic gesture by saying "*I'll treat you with as much respect as you treat me*" (CS7, C2\_25.06). Respect was interlinked with notions of trust, and the custody sergeant in a position of power to offer or deny those aspects of fair treatment.

In other circumstances, detainees were informed of the custody officer's ability to retract such privileges should they fail to cooperate at any point. For instance, one detainee using a telephone situated at the DEO's desk began shouting aggressively at the recipient of the call. The DEO turned and asked him to calm down, to which the detainee aggressively replied, "*you have arrested me for nothing*" (PIC7, C1\_17/06). The DEO warned him that he would be taken back to his cell if he continued to act aggressively, to which the detainee complied by continuing his conversation with a more relaxed attitude. Thus, although often presented as a gift from the 'powerful' to the 'subordinated', actors within this context used them as a means of enforcing compliance; in effect, they also appeared to act as tools for instrumental punishment where acquiescence was lapsing.

Similarly, where detainees showed physical aggression or refused to cooperate, they were often taken directly to a cell and any opportunities for exercising trust, respect

and voice were entirely removed. For example, one female detainee arrived into custody shouting threats at officers and struggling to break free from the two officers holding onto her arms. Rather than entering into the formal risk assessment processes discussed above, she was taken straight to a cell where three police officers held and then strip-searched her. Interviews with custody officers also suggest that in circumstances where compliance was not easily achieved, while legality remained central to their interactions, fairness was less centrally evident. For example, in describing a male detainee who had arrived into the suite acting aggressively and had also been taken straight to a cell and strip-searched, a detention officer added that “*if someone isn't 'playing game' then they just get taken to their cell and we can get the Tough Cutters and cut their clothes off them*” (DO9, C2\_24/06). They went on to recount how the expensive branded tracksuit of this particular detainee was cut in half, with one stating “*you should have seen his face when he was released and we gave it back to him just cut all the way down the middle.*” (DO9, C2\_24/06). Thus, while legislation allowed and legitimised the use of coercive action, stripping away voice, respect and dignity from the detainee was itself sometimes embraced as a tool for reasserting power where voluntary compliance was absent.

## **Discussion**

The main empirical objective of this paper was to build on previous research by exploring the micro-sociological and contextual dynamics of police–‘citizen’ interactions *in situ*, within the context of police custody suites. By drawing on participant ethnographic data which included direct observations within two custody suites in one of the larger metropolitan police forces in the UK, as well as data gathered from ‘ride-alongs’ with the response teams in geographical locations covered by those



custody suites, we sought to explore the longitudinal dialogic between ‘power-holders’ and ‘audiences’ (Bottoms and Tankebe, 2012), particularly after the point at which ‘citizens’ became ‘people in custody’. In doing so, we aimed to inductively examine the causal ordering and explanatory power of PJT in a setting that relates to but also transcends the initial public contacts between the police and a ‘citizen’ that are usually the focus of academic study.

Drawing primarily from data gathered from observations within the custody suites, our analysis highlights how the context of police custody is qualitatively distinct from other domains of policing. In particular, interactions are by definition not ahistorical but the direct result of prior interactions with other police officers in a different location and underpinned by suspicion (or accusation) that the detainee has broken the law. We argue that the change in context is also related to a change in legislation of focus; when in custody (compared to other policing contexts), PACE Code C became paramount and created an evident change in the focus, responsibilities, accountability and complexity of the interactions as the detainee sequentially transitioned from one domain of policing to another – to one with a surveillance-focused and risk-centric architecture. In addition, this change in context added a complexity in interactions between those present in custody, including arresting officers, custody officers and detainees. Previous research has begun to highlight the complexity of the custody context, and although some work has found that ‘the police’ work together in this context, for example with custody officers supporting arresting officers in identifying grounds for detention (Dehaghani, 2017), our work suggests that this is not always the case. In custody, there is a myriad of relationships and interactions occurring simultaneously, with custody officers holding power to support or question others, including officers from other areas of police practice as well as detainees.

Furthermore, we highlighted how risk work is omnipresent within this police context. 'Risk' is conceived of and used as an actuarial concept, associated with a promise of certainty and calculability (Beck, 1994), and used as a means of citizen categorisation. However, communication of and response to that risk is not merely through formal police processes, rather, interaction and intuition play a key role (Zinn, 2008; Stoneman et al., 2019) and more nuanced information is used, such as the form of handcuffing that had been adopted. Our analysis suggests this categorisation is pivotal in guiding and shaping subsequent officer interactions with detainees. Indeed, detainees categorised as low risk and cooperating with police directives in custody appear to be offered greater opportunities for 'fair policing' in terms of trust, dignity and respect. Fair treatment was not merely used as a means of engendering compliance, but rather was also a 'gift' that flowed from existing compliance and cooperation. In other words, fairness was offered by a powerful group to those who demonstrated subordination. This conclusion resonates with Khan's (2020) finding from prisons that prisoners who were visibly compliant had a more positive experience of imprisonment. Our observations suggested that where a lack of cooperation was encountered, legislation can and was used to legitimise the use of coercion in order to force compliance or punish the non-compliant.

Furthermore, our analysis highlights the potential intersectionality between the 'four pillars' of PJT. In showing some form of trust in the detainee, officers simultaneously indicated a level of respect and offered a measure of dignity (c.f., Skinns, Sorsby & Rice, 2020). These displays of trust were provided at an individual level but often centred upon group memberships related to religion and ethnicity. Such actions were not indicative of 'neutrality' but instead brought differential treatment deliberately into interactions as a means through which the acquiescence of the detainees could be

rewarded. Moreover, 'neutrality' was often achieved but through placing restrictions upon giving detainees opportunities for 'voice'. Custody officers, despite the potential benefit of such evidence to colleagues involved in any subsequent criminal investigation, actively discouraged opportunities for voice as a means of giving control to the detainee who could inadvertently implicate themselves, or otherwise say the 'wrong thing'. Restrictions in voice meant that custody sergeants maintained a stance as neutral arbiters of the law. In this way, 'neutrality' could also be interpreted as a form of offering 'respect' for the detainee by actively reinforcing their right to remain silent despite the circumstances. As such, our study highlights how notions of trust, respect, neutrality and voice can overlap and have different meanings in context, rather than operating merely as 'stand-alone' rules to be applied robotically to achieve a procedurally fair interaction. This argument is substantiated by the fact that within the wider research literature the four 'pillars' or 'rules' of procedural justice are often highly correlated (see for example Hollander-Blumoff, 2017).

In light of these findings, our study has a number of important implications for PJT and attempts to theorise and influence police-'citizen' encounters. First, our work demonstrates the value of studying police actions in situ if we are to understand the dialogic and changing nature of relations between 'power-holders and audiences' (Bottoms & Tankebe, 2012). As Barkworth and Murphy (2015) have argued, PJT researchers tend to use cross-sectional survey data to explore relationships between a series of cognitive judgements that members of the public (or more rarely police officers themselves) hold about policing (e.g., procedural fairness, police legitimacy etc.) and therefore tend not to explore the dynamic social contexts within which such perceptions are formed and reformed. In so doing, the importance of subtle but highly meaningful interactional dynamics between officers and 'citizens' (e.g., whether or not

a detainee enters custody with their handcuffs to the front or the rear of their body), and other actors within the custody context, such as nurses, and citizens are lost. It follows then that if each interaction between a police officer and 'citizen' represents a 'teachable moment' about policing for all parties (Tyler, Fagan & Geller, 2014), then we must observe these encounters in situ in order to learn lessons of how police legitimacy and/or 'compliance' is (re)negotiated within specific contexts.

In line with previous ethnographic studies of police-initiated street stops (Quinton, 2020) and police custody (Skinns et al., 2017a), our analysis demonstrates the importance of Skinns et al.'s (2017a) notion of 'soft power'. This concept broadens our understanding of why 'subordinates' comply with authority demands beyond the 'four pillars' of procedurally just treatment (c.f., Trinkner, Jackson & Tyler, 2018). However, importantly we report examples of this subtle form of non-coercive social influence which also point to a bidirectional relationship between procedural justice and compliance (Reisig & Mesko, 2009). Our analysis highlighted that custody staff administered symbolic 'gifts' or inducements to detainees if they demonstrated the requisite level of behavioural compliance, turning the traditional causal ordering of PJT on its head, supporting arguments also made by Nagin and Telep (2020). Perhaps the best example of this is the fact that during our observations aggressive or otherwise non-compliant detainees were often taken, sometimes using force, straight to their cells to 'cool off'. In these situations, a detainee's ability to demonstrate willing compliance with custody staff is a precursor for them to receive anything that might normally be conceptualised as 'procedurally fair' police treatment (e.g., respect and dignity).

As well as these theoretical insights, our findings have practical implications in terms of instituting 'procedurally just' policing practices. For example, several police forces

are explicitly using the principles of PJT as the theoretical basis for officer training. Our work has made salient the requirement for such training materials not to rely on an overly mechanistic approach assuming that if officers use the 'four rules' of procedural justice then this will automatically lead to enhanced perceptions of police legitimacy in the eyes of the 'audience'. This is perhaps because in practice officers already know based upon 'craft knowledge' that something more complex is going on, that the pillars actually interact, and that instrumental power is an important tool. If we ignore this then there is a danger that attempts to engineer greater public legitimacy for police could be undermined and indeed further resisted by 'frontline' cops because they are seen as a 'top down' imposition by academically informed 'bosses' who don't understand the reality of day to day policing (Bradford et al., 2014).

Notwithstanding these implications, it is important to acknowledge the limitations of this study. Whilst we were able to inductively explore the causal relationships proposed by PJT via direct observations of interactions between police officers and detainees, of course our study cannot, nor does it seek to pretend to, definitively determine causal relationships in a way that experimental and quantitative modes of research can. Moreover, our finding of the potential bidirectional or reciprocal relationship between compliance and procedurally fair treatment may not extend beyond the custody setting. The extent to which this idea can be substantiated in 'everyday' public facing policing practices requires further study. Additionally, our work was restricted to two custody suites within one UK police force. Therefore, our data speak to the interactions observed in these settings and geographical locations, our conclusions may not necessarily translate beyond those which have been the focus of our study. Finally, whilst our study has included the perspectives and voices of both detainees and the police, it was somewhat imbalanced in that we were shadowing

police custody teams and therefore were situated primarily with 'the powerful'. It would have been very valuable indeed to interview those on the receiving end of these policing practices. Without such data we cannot be clear that the compliance we observed was not already itself a product of prior experiences of police fairness or existing perceptions of the legitimacy of the police. However, given the context of our study it was difficult to further amplify the voices of the detainees given their inevitably disempowered position and reluctance to speak with us as the researcher came into those interactions via the police. Future research would benefit from expanding to other force areas and collecting additional data from detainees themselves.

## **Conclusion**

Taken together, and bearing in mind these important limitations, this paper has highlighted that theory and research focusing merely on the dimensions of police-citizen encounters in an abstracted social vacuum is insufficient (Radburn & Stott, 2019; c.f., Tajfel, 1972). Thacher (2019) has recently argued that there is an inherent tension where PJT researchers suggest that there are general or universalist psychological principles or 'laws' to be outlined or 'discovered' (e.g., that people tend to value the quality or fairness of procedures over and above the substantive outcomes they receive) but then simultaneously assert that these principles also vary across cultures and different social contexts. We caution against an overly universalist approach. Instead, we demonstrate the value of using in situ observation to explore the minutiae of the particular micro-sociological dynamics of power and (il)legitimacy *within* police-public interactions (Skinns et al. 2017a; Quinton, 2020), whilst also recognising the profound impact of the precise structural, historical and cultural

contexts within which such dynamics play themselves out (Stott & Radburn, 2020). In so doing, our data suggest a complexity to and inter-relationship between the 'four pillars' considered necessary for the achievement of 'procedural justice' and adds further to the growing body of empirical evidence that the dimensions of 'procedurally fair' policing can be as much an outcome of compliant 'citizen' behaviour as a precursor to it.

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