

This is the first publication of the Adjudications Newsletter. It is aimed at staff who put prisoners on disciplinary reports. A newsletter will be produced each month in order to provide up to date information on adjudication issues. The objective is to raise awareness to reduce the level of adjudication dismissals. There appears to be a lack of understanding about what is required to bring a successful charge against a prisoner.

There are a number of fundamental issues to consider when bringing a report forward.

- 1) Has an offence been committed?
- 2) What is it?
- 3) Is the information about the prisoner accurately recorded on the forms?
- 4) Only include basic details of the charge at Section 3 of F256 and avoid including what is essentially evidence. Evidence should be written on F254.
- 5) Does the evidence put forward prove the charge?
  - a) Is the time, date and place accurate.
  - b) Does the information on the F1127 give the prisoner enough information about the offence for the prisoner to have an opportunity to form a defence.
  - c) Does the evidence provide enough information to leave no doubt as to guilt?
  - d) Does the evidence given on the F254 raise any questions?  
If it does then the evidence is questionable and needs to be reconsidered!
- 6) Were there any witnesses who can corroborate the charge?
  - a) If there were
    - (i) Have you got written statements from them in support?
    - (ii) Remember to refer to the statements in your evidence so that they can be presented to the Adjudicator when either you give your evidence or it is read in your absence.  
  
Remember the only evidence that the Adjudicator is permitted to consider is that which is produced in the prisoner's presence.
- 7) Do not speculate in your evidence about what you thought might have happened, confine your evidence to the relevant facts.
- 8) Do not refer to other offences or incidents, which are not directly relevant to the charge.

If you apply these principles, you will always bring successful prosecutions.

During March the following statistics apply.

	Not proceeded	Dismissed	Totals
HB 1	5	4	9
HB 2	5	3	8
HB 3	4	3	7
SEG	0	2	2
HCC	0	1	1

What follows is a breakdown of how the 'Not proceeded' and "Dismissed" came about during March. It is not intended to embarrass or criticise any individual and reporting officers are not identified neither is the area where the offence has been committed. The intention is to provide assistance and guidance for the future and not to apportion blame or criticism.

**Not Proceeded:** 14 in Total.

- 6 Released prior to adjudication.
- 2 Charge not laid within the statutory 48 hours. There was no option but to dismiss delays should be avoided.
- 1 Co-accused was transferred and it would have been unreasonably expensive to have him returned.
- 1 Insufficient evidence brought forward to find guilt.
- 1 Unsafe to proceed, because of lack of evidence.
- 2 This was a fight where the co-accused was released at court and in the absence the accused was given the benefit of doubt.
- 1 This prisoner was abusive to the officer and pleaded guilty to the charge but mitigated successfully. The facts were. He was attending the health care center for treatment to, what I saw as, horrendous and open sores on his legs. He had used abusive language to the officer who had insisted on rubbing down his legs after being asked to be careful of the injuries. It would have been possible to perform the search in a more sympathetic manner, looking and not touching and more appropriate in the circumstances. While the abuse was not appropriate, I considered that the provocation mitigated the offence, not sufficiently for me to dismiss but enough to simply not proceed.

**Dismissed. 13 in Total**

- 1 MDT with a negative confirmation test result.
- 4 Fights where one of the accused prisoners pleaded self defence successfully.
- 1 Medical evidence supported the prisoners' defence. Proper investigation by the reporting officer would have eliminated the need to bring this charge.
- 1 Video evidence was brought forward which was inconclusive and left a reasonable doubt. If reporting officers are relying on video evidence, they would be best advised to view it closely before bringing it forward. If the video evidence does not show what they say it shows in evidence, then the charge is fatally flawed.
- 1 This was an assault when the victim stated on adjudication that the charged man was not his assailant.
- 1 The charge and F1127 declared the prisoner to be in possession of "various canteen articles which do not belong to you". The articles were not identified individually in the charge. All prisoners are entitled to prepare a defence to any charge and in order to do so they must be allowed to know exactly what it is they are charged with. Moreover, the advice in the discipline manual is that where more than one item is alleged to be unauthorised, separate charges should be considered for each item.
- 1 This prisoner was charged with misusing his cell call light. There was no evidence brought forward by the reporting officer that any proper order had ever been given for the prisoner to stop using his cell call light. In any event I would find it difficult to find such a charge as this proved. A generalised order to a prisoner not to use his cell call light cannot be a proper order because he may subsequently have a proper need to use it. Giving an order about a particular use of the call light "do not use it to obtain a light for a cigarette" for example may be appropriate. This charge would have worked better if the evidence had been expanded during the hearing. After the charge had been dismissed and I was completing the paperwork I became aware of some additional evidence on a form Annex A. This form had been made out in support of the charge and may have allowed me to find the prisoner guilty if it had been produced as evidence during the hearing. The adjudicator can only consider what s/he hears during the adjudication and if reporting officers want other documentation to be considered they should present it as evidence. Where the reporting officer is not going to be present at the hearing, they should make reference to any additional documentation they wish considered in their report.
- 1 This is a particularly interesting one. The prisoner was charged with failing to produce a sample of urine. He stated that he had initially provided a sample of 32ml and two subsequent samples during confinement of 20ml and 10ml. The reporting officer confirmed this claim. The guidelines given to the MDT Team from headquarters is that a minimum of 45ml is required to split into two for satisfactory testing purposes. The prisoner argued that checklist note 7 in the "Chain of Custody Procedure" document states that when each urine sample is divided into two and placed into the bottles it should "Fill each above the 15ml line and below 30ml line." It is clear that his initial offering of 32ml could be split

in accordance with the rules but not in accordance with the guidance. When it comes to reports it is only the rules that count.

- 1 The prisoner pleaded guilty to the charge but was on an open F2052SH and evidence showed that immediately after the offence he attempted to self-harm. The Discipline manual states clearly that the proper response to self-harm should be one of care and that a punitive response is inappropriate. See 2.14 page 5 of the discipline manual.
- 1 Charged with having a tampered phone card. The card when produced in evidence was bent along its length. The prisoner admitted having the card and offered in explanation that it had become bent in his pocket. There was no evidence brought forward to negate that defence. (If the card was not signed a charge of unauthorised possession would have been more successful. All phone cards have to be signed by the holder to be authorised).

**Roger Outram**  
**Deputy Controller**