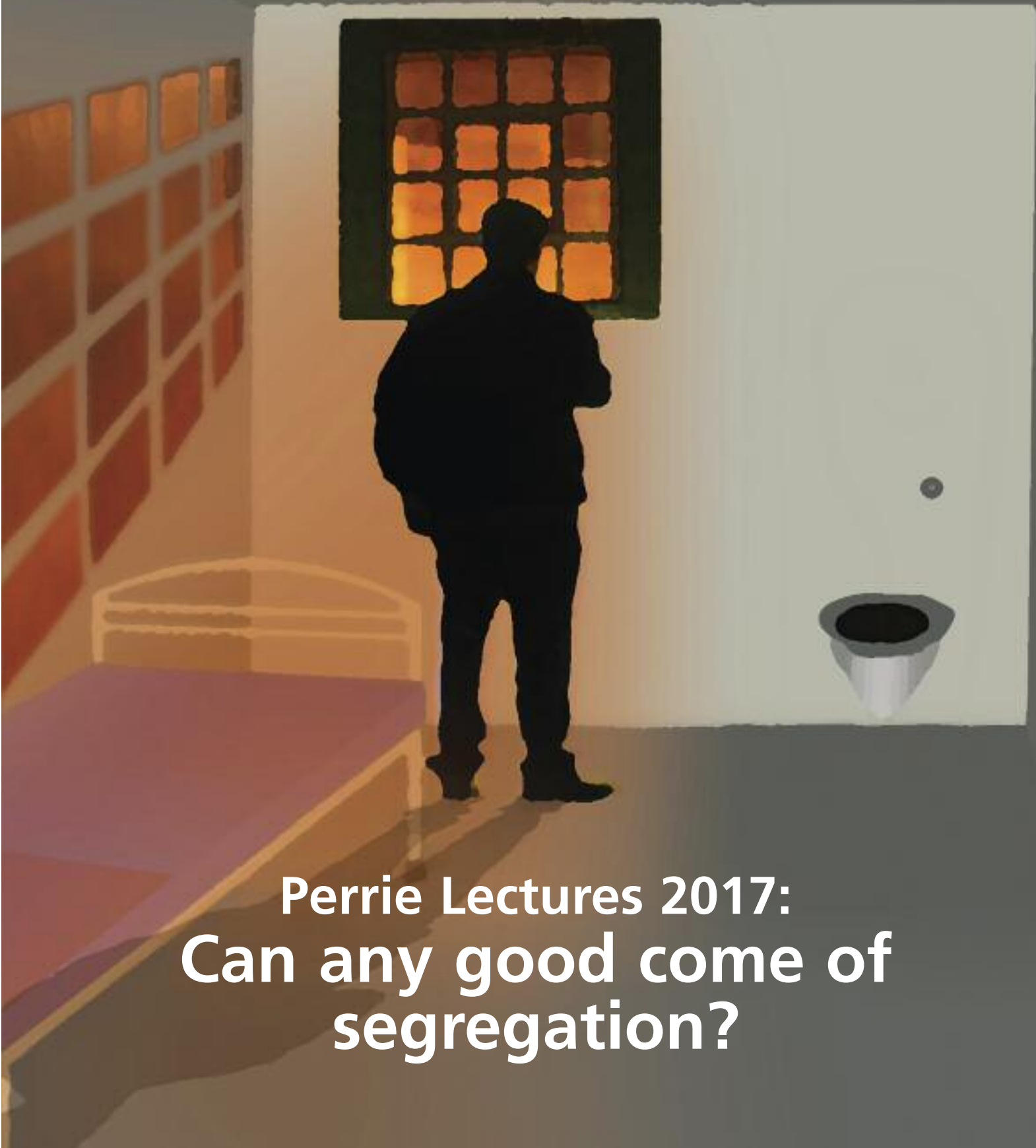


# PRISON SERVICE JOURNAL

March 2018 No 236



**Perrie Lectures 2017:  
Can any good come of  
segregation?**

# Can any good come out of isolation? Probably not

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**To get a quick insight into a prison, visit its segregation unit. More often than not, the segregation unit will reflect the true state of the prison: the state of prisoner-staff relationships, the state of safety and security and the extent of drug use. You will also learn about and bullying in the prison — as both the bullies and the bullied often end up in the unit, and about the levels and forms of violence prevalent in the prison and its perpetrators. You will also get some idea about the relationships between line staff and managers, and the leadership style in the prison: how and in what way are managers involved in the unit? Do Governors take a special interest in it? Do they know the prisoners there? Are units constantly full, do they house any long term prisoners, or are there effective safeguards and viable attempts to keep units small and empty?**

But segregation units do not just provide an insight into the state of individual prisons. They also provide an insight into the state of the prison system more generally. And the current state of our prison system, as you would know all too well, is not good. Furthermore, as Andrea Albutt, President of the Prison Governors' Association, recently wrote in an open letter to her members, *'this toxic mix does not have a quick fix and the future looks like more of the same'*.<sup>1</sup>

All this makes it a very good time to discuss segregation, for several reasons. Firstly, there is a real danger of external and internal pressures to expand the use of segregation for the purported purpose of managing this 'toxic mix' and crisis we currently face. Pressures can come from politicians wishing to demonstrate toughness, from unions seeking safety for their members, from ill informed members of the public, or indeed the media. Coupled with the shortage of staff, in particular experienced staff, and lack of resources to manage challenging prisoners in the more individualised, time and money invested ways which we know are required, such pressures to expand the use of segregation may intensify, even if there is no appetite for it within HMPPS — as I think (and hope) is the case.

An increased use of segregation is symptomatic of a system in crisis.

It is also a good time to discuss segregation because, at a time when our prisons are bursting at the seams, when New Psychoactive Substances (NPS) are blighting the lives of prisoners, when violence — towards others and towards one's self — is at an all time high, a time of low staff numbers and brutal budget cuts, segregation units may appear, to some, as islands of peace and quiet, as safe havens. The findings of mine and Kimmitt's Edgar's study of the use of segregation in England and Wales suggest that this is indeed the case: over a third of the prisoners whom we interviewed intentionally 'engineered' their way to the segregation unit by acting in ways which they knew would lead to their segregation.

That a sizeable number of prisoners are seeking-out segregation, with its austere conditions and impoverished regime, seems to me to be a clear marker of a system under pressure. It is not an argument for segregation as a force for good, nor does it suggest that segregation is harmless. To recognise that segregation is a place of refuge for some, must surely be an indictment of conditions in the general prison population. And when conditions on the wings are poor, and people try to work their way into the segregation unit, for whatever reasons, this may lead to pressures to make conditions in segregation even more austere — for example, to take away TVs, or take away prisoners' mattresses during the day, and other such measures. To be sure, we saw early signs of this in a number of the units we visited.

## The practice and effects of segregation

But let me first turn specifically to the question posed by the Perrie Lectures 2017: 'can any good come out of segregation'? It is, after all, a question which some reformers, policy makers and prison managers have, for the last two hundred years, answered with a resounding 'yes'.

1. A personal message from Andrea Albutt, President of the Prison Governors Association, to PGA members, 1 August 2017. Online at: <http://prison-governors-association.org.uk/wp-content/uploads/2017/08/Bulln724H.pdf> (Accessed 10 September 2017).

Back in the 19th century, large isolation prisons, known as the Separate penitentiaries, were built on both sides of the Atlantic, for the stated purpose of reforming convicts through a combination of isolation and firm, but fair, treatment, in a clean and orderly environment. Viewing crime as an infectious disease, it was believed that once alone in a cell, away from the corrupting influences of the outside world and of the prison society, with only their conscience and the Bible as company, prisoners will see the error of their ways, repent and becoming law abiding citizens. Things of course didn't quite work that way and it soon became clear that rather than being reformed many were losing their mind. The use of large scale long term solitary confinement, as a policy, was mostly abandoned though, interestingly, in some countries later than in others — Sweden, for example, only abandoned the 'Separate' prisons in 1946. Some of the prisons which were built in the 19th century to accommodate the long term isolation of prisoners (for example Pentonville, opened in 1842) are still in use today, and those of you who have worked in them would be aware of some of the challenges presented by their thick walls and inflexible design.<sup>2</sup>

I have described elsewhere the proliferation of the Separate penitentiaries as a 'first wave' of solitary confinement.<sup>3</sup> This was followed by a 'second wave' in the 1970's, manifested in behaviour modification and control units, where segregation was the precursor to various psychological programmes designed to modify the behaviour of those labelled as disruptive, violent or challenging. Fast forward to the 1990s and a 'third wave' of large scale solitary confinement, in the form of an explosion in the USA of super-maximum security, or 'supermax' prisons — newly designed and purposely built to house a large number of people, often over a thousand, in perpetual solitary confinement for long periods of time. Having mushroomed across the US throughout the 1990s early 2000s, by 2004 the Federal Government and most (44) States operated at least one such 'supermax', housing between 25,000-30,000 individuals in conditions of

physical and social deprivation, and subject to tight control, for many years — in some cases even decades.<sup>4</sup> Importantly, these prisons operate alongside, not instead, of 'regular' seg units, meaning that between 80 to 100 thousand people are segregated from others at any given time across the US.<sup>5</sup>

Supermaxes were built against a background of populist politics, with strong lobbying from the prison-industrial complex, at a time of an economic downturn which hit rural communities, where these prisons were being built, particularly severely. These were all important drivers, and you can read all about it in my book on supermax prisons, but it is worth mentioning one other important factor which contributed to the proliferation of supermax prisons at that time they did — the state of prisons. Overcrowding, worsening prison conditions, long lockdowns and rising levels of unrest, assaults and protest were prevalent in prisons across the US at the lead-up to their introduction. Sounds familiar?

Supermax prisons were proposed and promoted by prison managers, backed by the unions, as the solution for managing this volatile situation. The stated purpose of the new isolation prisons was to manage the 'worst of the worst' in the prison system, though the numbers of course don't add up and it is hard to imagine that 30,000 individuals can really be the 'worst of the worst'. Nonetheless, it was argued that by removing the most challenging prisoners from the general prison population, and 'concentrating' them in dedicated units, the wider prison will be able to function safely and these prisons will also act as a deterrent for misbehaviour on the wings. This policy was not new. What was new was the scale of these prisons, the length of time people could remain isolated in them, and the number of people they house in strict solitary confinement, devoid of human contact and human touch, which were designed out by prison architects using the latest technologies.

Again, things did not work quite as officially intended and it soon became clear that holding tens of

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2. More on the design and functions of the Separate penitentiaries in: Evans, R. (1982) *The Fabrication of Virtue: English prison Architecture 1750-1840*. Cambridge: Cambridge University Press.

3. Shalev, S. (2009) *Supermax: controlling risk through solitary confinement*. Devon: Willan publishing.

4. Ibid.

5. Beck, A.J. *Use Of Restrictive Housing In U.S. Prisons And Jails, 2011-12*. Bureau of Justice Statistics October 23, 2015 ; Baumgartel, S., Guilmette, C., Kalb, J. et al. *Time-In-Cell: The ASCA-Liman 2014 National Survey of Administrative Segregation in Prison* The Liman Program, Yale Law School and the Association of State Correctional Administrators, August 2015.

thousands of people in strict solitary confinement for years on end was a costly failure, and that supermax prisons were, to quote from my supermax study, 'expensive, ineffective and they drove people mad'. In the last few years, after what seemed like an unstoppable trend in the US, the Federal Government and a number of states have started to dramatically scale back on their use of supermax confinement. I shan't labour the parallels between the situation in the US in the late 1980s / early 1990s and the current state of our prisons, but I think these should be borne in mind by anyone considering an increase in the use of solitary confinement as an option.

But how do these two big and important movements in the history of the prison — the Separate penitentiaries of the 19th century and the supermaxes of the late 20th century — help answer the question which we have been set today, namely, if any good can come out of isolation? There are, I suspect, few advocates of the redemptive powers of isolation left in the 21st century. Perhaps that reflects, in part, a more secular western world, and a better understanding of prisoners' rights. But it also most certainly reflects an understanding of the disastrous consequences of solitary confinement. There is a very substantial body of literature and evidence from the 19th century to the present day that reinforces the physically and mentally damaging consequences of segregation on the human mind, and body. Adverse effects range from anger and depression, to hearing voices, self harm and suicide.<sup>6</sup> Difficulties sleeping, problems with concentration and anxiety are also commonly reported, including by participants in our segregation study.<sup>7</sup> This is not surprising. Social isolation, a key component of segregation, is now viewed as a major public health hazard, which, according to the author of a recent large-scale US

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based study could 'be a greater threat to public health than obesity'.<sup>8</sup> Coupled with the other aspects of solitary confinement — increased control of the prisoner and reduced sensory stimulation,<sup>9</sup> this makes for an extreme, and damaging practice. Its effects are such that prolonged solitary confinement, defined as one lasting longer than 15 days, is prohibited under international human rights law as it may amount to cruel, inhuman or degrading treatment.<sup>10</sup>

So my answer to the question 'can any good come out of isolation?', from the point of view of the individual prisoner, is a resounding 'no'. To the extent that it protects some individuals from assault by fellow prisoners, then of course they may be better off in segregation than not, but that seems to me to merely set segregation as a lesser of two evils, rather than suggest that it is a 'good.'

But what of the argument, exemplified by the American supermax phenomenon, which instead focuses on the effect of solitary confinement on prison violence more generally? Here, the statistics offer little support for the central argument — that general population prison violence would be reduced by removing the most dangerous and disruptive prisoners into long term segregation. In fact, a

number of studies suggest that levels of violence actually increase following supermax confinement, and that they negatively affect recidivism.<sup>11</sup> A 2015 study of the effects of disciplinary segregation on prisoners' behaviour, by the US based Robert Morris concluded that:

*Limitations notwithstanding, this study found that exposure to short-term solitary confinement, following an initial act of prison violence, did not tend to impact the likelihood of future violence and/or misbehavior among male inmates.*<sup>12</sup>

6. Shalev, S. 'Solitary confinement as a prison health issue' (2014). Pp 27-35 in: *WHO Guide to Prisons and Health*. Enggist, S., Moller, L., Galea, G. and Udesen, C. (Eds). Copenhagen: World Health Organization.
7. Shalev, S. and Edgar, K. *Deep custody: segregation units and close supervision centres in England and Wales*. (2015) London: Prison Reform Trust.
8. American Psychological Association: *So Lonely I Could Die: interview with Julianne Holt-Lunstad* ahead of her presentation at the American Psychological Association's annual meeting, 5 August 2017. Online at: <http://www.apa.org/news/press/releases/2017/08/lonely-die.aspx> (accessed 10 September 2017).
9. Shalev, S. (2007) A Sourcebook on Solitary Confinement. Mannheim Centre for Criminology, LSE: London. Online at: [www.solitaryconfinement.org/sourcebook](http://www.solitaryconfinement.org/sourcebook) (accessed 10 September 2017).
10. Rule 44 of the UN Standard Minimum Rules for the Treatment of Prisoners ('Nelson Mandela Rules'), 2015 Revision. Online at: [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf) (accessed 10 September 2017).
11. Mears, D.P., Cochran, J.C., Bales, W.D, and Bhati, A.S. Recidivism and Time Served in Prison, 106 *J. Crim. L. & Criminology* (2016). Online at: <http://scholarlycommons.law.northwestern.edu/jclc/vol106/iss1/5>
12. Morris, R. (2015). Exploring the Effect of Exposure to Short-Term Solitary Confinement Among Violent Prison Inmates. *Journal of Quantitative Criminology*. 32.



The evidence, then, does not support claims about the system-wide benefits of mass isolation of prisoners, or its benefits in terms of managing disruptive behaviour. And that is important, especially at this time. When I read that Mark Fairhurst, the national chairman of the Prison Officers Association has said that ‘the American experience is the only one left’,<sup>13</sup> I worry. The financial and, far more importantly, human cost of this has been enormous, the prison management benefits highly questionable, and the costs to wider society as yet unknown. So, finally, my answer to the question ‘can any good come out of isolation?’ is ‘no’.

That does not mean that I think that should never happen in any form. I accept that in some circumstances it is hard to see that there are better solutions, at least not without sweeping institutional changes, to, for example, programmes and means to protect vulnerable prisoners, or to manage the extremely small number of truly violent individuals, and then subject to strict safeguards. But that merely makes segregation a necessary evil. If, as I believe, no good can come out of it, then the imperative **must be** to ensure as little bad comes out of it as possible.

In 2014/15, Kimmett Edgar from the Prison Reform Trust and I embarked on a comprehensive study of prison segregation units and Close Supervision Centres across England and Wales. We enjoyed excellent cooperation from the National Offender Management Service — as it was then. As well as a survey of their use of segregation, which was sent to all prisons — though of course not all responded — we visited 15 segregation units and four Close Supervision Centres. We interviewed, in-depth, prison managers (25), segregation officers (49) and prisoners (67), and chatted to many more staff members. In concluding the study, which we titled ‘Deep Custody’, we identified four principles which should underpin the operation of segregation units. In what follows, I set out these principles, and how I think prisons in England and Wales measure up against them. To help put things in context, I also offer some comparisons with New Zealand, where I have recently completed a study on the use of seclusion and restraint in prisons and in other custodial settings.<sup>14</sup>

So, finally, my answer to the question ‘can any good come out of isolation?’ is ‘no’.

## The principles of segregation

So what are the principles that should guide the operation of segregation units? The first principle is that solitary confinement should only be used in very exceptional cases, as a last resort, and for a short a time as is absolutely necessary. It must not be prolonged or indefinite. These stipulations are strengthened by the UN Nelson Mandela Rules which set a time limit of 15 days after which segregation becomes prolonged and thus prohibited. How do various jurisdictions measure against this stipulation? Is solitary confinement only used in exceptional cases for a short a time as possible? Certainly in the US the answer is a resounding ‘no’. But in England and Wales, and in New Zealand too, solitary confinement is not always reserved as a tool of last resort, nor is it only used for ‘as short a time as possible’. There’s a degree of inertia around the use of segregation, by which I mean that it is sometimes used

simply because it is there and it’s always been used. In this regard, I’d like to recall what Peter Dawson, a former prison governor and now the Director of Prison Reform Trust, wrote for Open Democracy following the publication of our *Deep Custody* report:

*As a prison governor ... I signed countless documents giving authority for another human being to be kept apart from their peers in these units for most of the day, sometimes for weeks on end...*

*...And, truth be told, I did it all with a pretty clear conscience...*

*I remember nodding approvingly when I was told as a governor that all seg prisoners had had their ‘regime’ for the day. What that actually meant was a shower, 20 minutes walking round a yard (if it wasn’t raining), walking 10 yards to collect two meals, and making a phone call if they had any phone credit left (not likely when they had no means to earn it). It’s called ‘conditioning’ — coming to accept as normal something which really isn’t. And there were occasions when I was conditioned to stop seeing the damage that*

13. ‘Violent prisoners should be locked up for 23 hours a day’: Calls for US lockdown of UK jails By Tom Parry, The Mirror, By Tom Parry, The Mirror, 27 August 2017. Online at: <http://www.mirror.co.uk/news/uk-news/violent-prisoners-should-locked-up-11068061>

14. Shalev, S. (2017) *Thinking outside the box? A review of seclusion and restraint practices in New Zealand*. Auckland: New Zealand Human Rights Commission. Online at: <http://solitaryconfinement.org/new-zealand>

*life in an orderly, well regulated segregation unit still does to people...*

*...I was neither wicked nor negligent... But I was conditioned, and the message of this report is that I may not be alone in that.<sup>15</sup>*

I think that that analysis is correct, and looking at the number of people in segregation suggests that its use may be more commonplace than necessary. In England and Wales, in the first quarter of 2014 (January–March), when we conducted our study, there were 7889 instances of segregation. Almost 30 per cent of these lasted 15 days or longer, the length of time after which the segregation becomes ‘prolonged’ and therefore prohibited under international law, and when the potential for psychological damage from segregation increases. In New Zealand there were four times as many ‘segregation events’ relative to the size of the prison population, but only 8 per cent lasted longer than the 15 days, and very few stays were longer than 30 days.<sup>16</sup>

Now, while segregation may be necessary and even positive for a very short cooling-down period, beyond that it often becomes harmful and counter-productive. Duration is key. Even if one feels that the 15 day limit set by the Nelson Mandela Rules is unworkable, it gives us an idea of the sort of timeframe we should be looking at: certainly not the years, even decades, that individuals may spend in a US supermax, but also not the many weeks they can spend in segregation in England and Wales.

As one of the prisoners we interviewed for *Deep Custody* said:

*[It’s] alright for about a week, peaceful. But after that it just starts messing with your head.*

A mental health professional we spoke to agreed:

*Segregation does have a calming effect. But it [also] does have the isolation, which is the downside, especially if it goes on for months and months.*

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The second principle for the operation of segregation units is that segregated prisoners should be offered access to purposeful activities and have meaningful social interactions. Segregation must not be a ‘dead time’, but a time used to address some of the issues which lead prisoners to the unit in the first place. So how did England and Wales fare in this regard? Our study found a mixed picture.

In many of the units visited, the ‘regime’ consisted of no more than 20–30 minutes in a barren outdoor yard, a short telephone call and a shower, and these three activities were not always all provided on the same day. But while access to purposeful activity was poor, relationships were very good, and a key strength of many of the units we visited. The vast majority (89 per cent) of prisoners we interviewed said that there

were some officers with whom they got along well, and almost 60 per cent (57 per cent) of segregated prisoners felt that officers were supportive. One man said:

*They’re firm but fair. If I flooded my cell, they wouldn’t hold it against me. They’ve seen it all before, and it won’t make them do what I want. They deal with any situation.*

Often, all this required was simply for officers to interact with the prisoner as another human being. Asked if there were any officers he got on with at the seg unit, one man said:

*Mr. X is funny. We have a laugh. He’s fair. If he says he’ll do something, he’ll do it. He’s a straight talker... He talks to me, he’s helped me a lot.*

Speaking to segregation staff, it was clear that they knew the prisoners in the segregation unit, took pride in their relationship with them, and gave some thought to how best they could assist those under their charge. One officer recounted how:

*[One woman] attacked me a week ago. Next time I opened her door, I never mentioned it. I wanted her to think, ‘Okay, we’re moving on.’ Our job is to get her to move away from*

15. ‘Solitary confinement and avoidable harm’ by Peter Dawson in *Open Democracy*, 17 December 2015. Online at: <https://www.opendemocracy.net/shinealight/peter-dawson/solitary-confinement-and-avoidable-harm> (accessed 10 September 2017)  
16. *Deep Custody* pp 148–149 & *Thinking Outside the Box* pp 25–26 respectively.

*violence. You will never do that by giving her a week behind her door.*

I have to say that for me, the finding that there was little animosity between segregation staff and prisoners was one of the more surprising, and positive, findings of our study. That is perhaps partially a result of having spent many years studying the US Supermax prisons, where no relationships whatsoever exist, and in fact officers are sometimes specifically instructed not to interact with prisoners.

The third principle is that segregation units should place reintegration at the heart of their functions and improve 'exit' strategies. Segregation must not become a warehouse for people for whom there is no other institutional solution. Prisoners should know why they are segregated and how they can leave the segregation unit, and they need to be involved in decisions about what happens once they leave.

The fourth principle is that segregation must not to be imposed on vulnerable people, on those at risk of suicide or self-harm, or on anyone awaiting assessment for transfer to a secure hospital. Any such use must be limited to truly exceptional circumstances, and then only very briefly and under constant observation. I think that there is recognition in England and Wales — not just in Prison Service Orders 1700 (Segregation) and 2700 (Suicide and Self Harm), but also in practice, that segregation units are not suitable for people who are mentally unwell, though our study found that this problem had not been fully resolved.

In New Zealand they also have something called 'at Risk Units' which are essentially segregation units for all intents and purposes, only for vulnerable

prisoners at risk of self harm. This policy, which runs contrary to international human rights law and good practice, is currently under review. In England and Wales, and quite rightly so, the intention — if not always the practice — is to keep vulnerable people out of segregation altogether.

## Conclusion

So, in conclusion: Can any good come out of isolation? No.

Should we be, as the head of the Prison Officers Association recently suggested,

*putting all prisoners in bright orange overalls, shackling them.. keeping them behind sheets of glass when they receive a visitor and locking them up for 23 hours a day if they misbehave?*<sup>17</sup>

Absolutely not.

Rather than 'trying the American way', as he put it, we should learn from the dramatic — and extremely expensive — failure of the US Supermax prisons to deliver safety in the prison system and in the wider communities, and stay well away from the supermax model. Prolonged segregation does not reduce violence, but may contribute to it and it leads to poor mental and physical health.

Are the right steps being taken in prisons in England and Wales to minimise the harms of isolation? Yes and no.

Do we need to continue focussing our attention and shining a light on this deep and far end of the prison system? Absolutely.

17. 'Violent prisoners should be locked up for 23 hours a day': Calls for US lockdown of UK jails By Tom Parry, The Mirror, 27 August 2017. Online at: <http://www.mirror.co.uk/news/uk-news/violent-prisoners-should-locked-up-11068061>