

PEOPLE IN GLASS HOUSES SHOULDN'T THROW STONES

Reflections on Rule 43 and Vulnerable Prisoner Units

Pete Garrard,
Governor 4
Trainer, Prison Service
College.

*The author argues that we
too readily accept the need to
segregate vulnerable prisoners
and thereby collude with
bullying rather than challenge
the scapegoating which goes
on.*

It is now three years since the Working Party on The Management of Vulnerable Prisoners reported, and its recommendations were largely implemented in a Circular Instruction (C.I. 26/90). The working party conducted its deliberations against the background of a steady escalation in the numbers of prisoners segregated for their own protection, and a growing disquiet over the poor conditions and impoverished regimes to which many segregated prisoners were subjected.

It was hoped that a more stringent approach by staff towards those seeking segregation on Rule 43 (Own Protection), including a refusal to grant segregation unless there was clear evidence to suggest that they were at risk of physical violence, would stem the relentless rise in the Rule 43 population. This, combined with the development of more meaningful regimes and better physical conditions, would lead to more humane treatment and a more progressive approach to these prisoners.

Experience since then has been rather different. The Rule 43 population has continued to rise. The establishment of Vulnerable Prisoner Units, several of them in new prisons with excellent facilities, has improved conditions for some. But Local Prisons' Rule 43 units are still full. I recently visited HMP Leicester, where Rule 43s are accommodated three to a cell (with integral sanitation!). Despite the best efforts of staff and management to provide meaningful work and some sort of activities, and despite what appeared to be excellent relationships between staff and prisoners, few would argue that these conditions were a civilized or humane setting in which appropriate work could take place to reduce the risk of re-offending.

There are people who would argue that these basic conditions are appropriate. If you make life too comfortable for those who seek segregation, the argument goes,

then even more will seek protection. Life in a Rule 43 Unit or Vulnerable Prisoner Unit is less stressful, it is free of the most violent inmates and it has far less bullying. The argument is often extended to suggest that these conditions are an appropriate punishment for those who commit the most horrendous crimes - that they reflect the distaste which the public feels for sex offenders and others whose offences lead them to seek segregation.

This attitude needs firmly countering. Are we justified in treating some prisoners much worse than others, in terms of their physical conditions, the amount of association they get, and the general availability of work, education and training available, simply because it is convenient for us to manage prisons in this way? Who says that the offences which these prisoners have committed are worse than those of many prisoners on normal location? And do prison managers have a right to play god and prescribe different treatment for different prisoners? Of course we do not.

The most powerful argument against those who would defend poor conditions and regimes for segregated prisoners is simply that they do not work. They do not work in reducing the risk of re-offending, and they do not provide people who may be a danger to others with any means of becoming less dangerous.

While rejecting these reasons for impoverished regimes and conditions, prison managers have to accept that there is much truth in the assertion that comfortable Rule 43 and Vulnerable Prisoner Units will attract unnecessary requests for protection, despite the stigma which will still prevent the majority from applying. So how do we reconcile the need to provide adequate conditions and fulfilling activities for those who are under threat, with the need to keep segregation for those who cannot be looked

*"Who says that
the offences
which these
prisoners have
committed are
worse than
those of many
prisoners on
normal
location?"*

"The number of such attacks, as against hostility expressed or threats made, is very small, even where prisoners with known sex offences do take the risk of normal location."

"We won't stand by and see the strongest survive and the weakest go to the wall. Our job is to exercise control,...not to tolerate bullying."

after in any other way?

There are prisons which have achieved remarkably successful results in integrating different sorts of prisoners into a harmonious community. To my knowledge, Littlehey, Garth, Wakefield, Stocken, Risley, and of course Grendon, stand out for the work that staff have done to overturn traditional attitudes and promote a healthy and well-integrated prisoner's culture. I am sure there must be countless others, which in large and small ways, are moving in that direction. In some prisons 90 per cent of sex offenders are on Rule 43, in others it is as low as 30 per cent. Research has shown that nearly half of those who go on the rule subsequently come off it, often at the time of transfer (1988 Adult Offender Psychology Unit).

Many different prisoners end up 'on the rule', for a whole variety of reasons. The largest group apply because of their offences; they believe, rightly or wrongly, that they will be at serious risk of physical attack if they find themselves on normal location. In fact the number of such attacks, as against hostility expressed or threats made, is very small, even where prisoners with known sex offences do take the risk of normal location. Barristers, Solicitors, Probation Officers and Police can (and often do) influence prisoners to seek protection unnecessarily. Some seek protection because of real or perceived 'grassing' to the police or customs. Their partners in crime may seek to gain revenge. For many others, whether their offences are sensitive or not, seeking protection is a result of conflicts with other prisoners, or of 'getting into debt' within the prisoner economy (owing tobacco, drugs or some other commodity).

What are the management approaches which minimise the need to seek protection? An individualised approach to prisoners, with good sentence planning, clear goals for prisoners to achieve, and the chance of success and self-esteem. A good personal officer scheme, with sensitive handling by landing officers of difficult issues, is equally important. The most successful prisons in controlling and reducing the numbers who seek segregation are those which are prepared to remove the bullies and barons, and not their victims. As Margaret Middlemiss, Head of Residential at Stocken, commented on my recent visit: 'We won't stand by and see the strongest survive and the weakest go to the wall. Our job is to

exercise control, with sensitivity to the complicated human situations which occur in prisons, but certainly not to tolerate bullying, or prisoners ganging up against others.'

The same point was made by the Departmental Working Group about Littlehey: 'The most frequently mentioned foundation for success was the Governor's strictness in stamping out intimidation. Prisoners knew that if they caused trouble, they were likely to be moved from Littlehey.' (1989, Management of Vulnerable Prisoners).

There are many examples of good practice. There are also countless ways in which prison staff collude with and exacerbate the scapegoating and expressions of hostility towards Rule 43 or 'vulnerable' prisoners. The slightest hint that those who persecute others are tolerated by staff or management gives them legitimacy. At Northallerton YCC in 1987 a Senior Officer in charge of the Rule 46 Unit banned the use of words like 'beast' and 'nonce', which until then had been used unchallenged by staff as well as prisoners. The effects on staff professionalism, and inmate behaviour, were large. It is possible to influence the inmate culture, because prisoners have a well-developed sense of fairness, and an intuitive grasp of the notion that everyone deserves basic human respect; every prisoner has some awareness that persecution of Rule 43 prisoners is wrong.

At Garth in 1989, the prison opened with about 20 per cent of its population who might have had to seek Rule 43 in most other prisons in the North. Opening a new establishment creates a window of opportunity to achieve an integrated population, and it may be no coincidence that many of the establishments which get closest to this are relatively new ones. But not all new prisons succeed in this respect; good management and the right control exercised by landing and workplace staff are fundamentally important. At Garth, when pressure began to build up on an individual who was known as, or suspected of being, a sex offender, staff focused their attention on the persecutors, not on the individual under pressure. By a combination of challenging their attitudes, appealing to their sense of fair play, and threatening them (not their victim) with segregation, the situation was usually retrieved.

The processes of scapegoating, prejudice and persecution of minorities need

to be understood, if we are to formulate the right policies for the future. A common human reaction to unhappiness or misfortune is to displace the anger and hurt which is felt onto someone else. Hostility is much easier to express towards a relatively powerless group than a more powerful one. It is a caricature, but not a gross distortion of reality, to describe prisons in the past in the way a prisoner once did, in conversation with me: 'The Governor kicks the junior Governors, the junior Governors kick the more senior officers, the senior officers kick the basic grade officers, the officers kick us, and we kick the Rule 43's.' The social and psychological dynamics underlying the persecution of these prisoners are the same ones which underly racism, anti-semitism and all types of persecution of minority groups.

By dividing the prison population, and by creating groups which are identifiable and relatively powerless, we collude with and enable the process of scapegoating to take place. We stand by while hostility which might otherwise be directed towards prison management and staff is displaced onto the most vulnerable and powerless section of the prison population. I believe that the time has come for us to look long and hard at this process of segregation - and to assess whether we might be doing more harm than good.

That does not mean that we can instantly abandon protection and throw truly 'vulnerable' prisoners into situations where their lives may be at risk. Any prison is a finely balanced community, and change has to be gradual and progressive, planned and implemented by those who understand the delicate chemistry of a penal establishment - that finely balanced interaction of forces which can promote co-operation and harmony, or disorder and violence, dependent in large part on the abilities of managers, staff and prisoners to skilfully manage those forces.

What we can do is to progressively move towards integration, and to build up, first with staff and then with prisoners, a basic respect for all prisoners. This is not to condone in any way the appalling damage which has been done by many prisoners (Rule 43s and others), by the crimes that they have committed and the lives that they have lived. It is, however, to accept the person while firmly rejecting the behaviour. The acceptance that there might be good within a prisoner is the first step to enable

change to take place, change which might lead to a prisoner being released as a less dangerous person. To the extent that segregation, and the stigma which attaches to it, denies prisoners a minimum degree of respect, it retards any progress which could be made through counselling or therapy.

A change in approach by staff was envisaged in Circular Instruction 26/90, strengthened by advice in C.I.31/90. The legal liability (faced by any individual member of staff who makes decisions to grant, or to refuse, Rule 43) was greatly reduced at this time. However, there is little evidence to suggest that staff practice has changed very much. A defensive and over-cautious approach still characterizes most decision-making on segregation.

There is also little evidence to suggest that the unnecessary steering of prisoners towards Rule 43 by other practitioners in the Criminal Justice System (e.g. Barristers, Solicitors, some Probation Officers, Police) has been reduced. A programme of briefing and training is urgently needed, and this is one small matter to which the newly established Criminal Justice Councils might usefully turn their attention.

Prisons in the future will engender less hostility from the prisoners. There will be better conditions, involvement by prisoners in some decisions which affect them, inmate committees, personal officer schemes, more fulfilling activities - the trend will be towards prisons as much more co-operative communities. This can result in a reduction in the hostility felt towards staff, and thus (by displacement) towards Rule 43s. The lower levels of aggression in a more co-operative regime can make segregation less necessary, and if prison managers and staff take the opportunity to help build a just and caring community, then the move towards integration will be possible.

It is the isolation of 'vulnerable' prisoners which makes them 'vulnerable'. Staff report that if the population of sex offenders in a prison is more than about 10 per cent then the chances of their being attacked are much lower. Staff in prisons which tend towards integration say that once the vulnerable population approaches 15 per cent, the prison community comes into some sort of balance and persecution is markedly reduced. This balance is fundamentally important, in managing both an integrated prison and a prison with a

"We stand by while hostility which might otherwise be directed towards prison management and staff is displaced onto the most vulnerable and powerless section of the prison population."

"There is little evidence to suggest that staff practice has changed very much. A defensive and over-cautious approach still characterizes most decision-making on segregation."

Rule 43 Unit or V.P. Unit. At Whitemoor, a new dispersal prison, prisoners on the new Vulnerable Prisoner Unit argued strongly that, if 'the main' were going to work in the prison kitchen, then it was essential that the V.P.s could work in the prison laundry. 'The main will know that if they mess with our food, we can mess with their washing. It's the balance of power.'

I believe that the vast majority of prisoners currently on Rule 43 or 46 could survive and flourish in an integrated system which was properly staffed, managed and controlled. The time has come to open up this debate. Do we want a future with increasing numbers of prisoners segregated, and the processes of scapegoating, persecution, bullying and baroning largely left unchallenged? Or do we want a steady movement towards integrated prisons which offer decent conditions, worthwhile activities, human respect for each individual, and the opportunity for all prisoners to change their offending behaviour so that they might be released as less of a risk to the public? ■

Acknowledgements

May 1989, 'The Management of Vulnerable Prisoners - Report of a Prison Department Working Group.'
1990, Circular Instruction 26/1990, Removal From Association Under Prison Rule 43 and Young Offender Institution Rule 46 and Arrangements for the Management of Vulnerable Prisoners.
1990, Circular Instruction 31/1990.
June 1988, 'The Operation of Rule 43 in 1985', by the Adult Offender Psychology Unit.

Other Reading

'A Review of the Segregation of Prisoners under Rule 43', by HM Chief Inspector of Prisons (October 1986).
A Survey of Regimes for Rule 43 Prisoners (1987) by a Working Party of the Boards of Visitors Coordinating Committee.

Available From

All these documents are available from the Prison Service Library, Prison Service College, Love Lane, Wakefield, West Yorkshire WF2 9AQ (Tel 0924 371261). A loan service is available to prison staff and interested outsiders.

THE NOTTINGHAM TRENT UNIVERSITY MSc IN CRIMINAL JUSTICE MANAGEMENT

Commencing October 1993

The MSc in Criminal Justice Management is a modular part-time programme which is designed for professionals from a wide variety of criminal justice and related agencies. Participants undertake management and criminal justice modules balanced by the addition of workbased projects and elective modules, which enables students to focus the programme towards their specific interests.

For further details and an application form please contact:
Faculty Office, Faculty of Law
Economics and Social Sciences,
The Nottingham Trent University,
Burton Street,
Nottingham NG1 4BU.
Tel: (0602) 486807
Fax: (0602) 486808
(Please state where
you saw this
advertisement).

