



Justice
Inspector of
Custodial Services

The management of radicalised inmates in NSW

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Foreword

On 7 April 2016, an inmate was allegedly assaulted at the Mid North Coast Correctional Centre. The circumstances of the alleged assault caused the Minister for Corrections to refer the issue of the management of radicalisation in prisons to the Inspector of Custodial Services under section 6 of the *Inspector of Custodial Services Act 2012*.¹ It was therefore determined that an inspection of the management of radicalisation in prisons should occur, and a Terms of Reference was issued on 22 April 2016.²

Although CSNSW has managed inmates convicted of terrorism-related offences in the past, the issue of radicalisation in prison is a relatively new phenomenon in NSW. Since the introduction of counter-terrorism laws aimed at preventing terrorist attacks in Australia, Corrective Services New South Wales (CSNSW) has managed an increasing number of inmates charged with or convicted of terrorism-related offences.

The challenge for correctional authorities globally is to have the tools and resources to manage inmates charged with or convicted of terrorism-related offences, identify others within the custodial environment who are willing to use or incite others to use violence in support of their radical or extreme views, and identify those who are vulnerable to violence or being radicalised to use violence.

It is therefore important that CSNSW has the capacity and capability to respond to the threat of violent extremism and radicalisation to violence within the custodial environment. Moreover, it is recognised that corrective services agencies have an important role to play in countering violent extremism.

During the course of this inspection, over 200 custodial staff and executive and specialist staff were consulted. It is clear that CSNSW and its staff are committed to increasing their expertise in this area.

The recommendations in this report, informed by the inspections, consultation with internal and external stakeholders, academic expertise, a comprehensive literature review, consultation with other jurisdictions and international guidance on best practice, are aimed at assisting CSNSW to manage the threat of violent extremism and radicalisation to violence in NSW prisons.

It is therefore significant that the NSW government announced in June 2017 \$47 million over three years in capital and recurrent funding for the purposes of countering terrorism and violent extremism in NSW prisons and to improve CSNSW's capacity to address radicalisation. This is an important commitment that will assist CSNSW to respond to the challenge of identifying and managing violent extremists and preventing radicalisation to violence through investment in infrastructure, programs and staff.

Fiona Rafter
Inspector of Custodial Services NSW
May 2018

1 Letter from the Hon. David Elliott MP, Minister for Corrections to the ICS, 14 April 2016.

2 Letter from the ICS to the Hon. David Elliott MP, Minister for Corrections; Inspector of Custodial Services (ICS), Terms of Reference, available <www.custodialinspector.justice.nsw.gov.au/Documents/Terms%20of%20reference%2022%20April%202016%201.pdf>.

Acknowledgements

The Inspector was assisted by senior inspection/research officers and research officers within the office of the Inspector of Custodial Services and two consultants, Dr M Nest and Dr Clarke Jones.

The Inspector acknowledges the contribution of staff at all centres inspected for the purposes of this report, particularly those at the High Risk Management Correctional Centre, Goulburn.

It is an important aspect of any inspection to meet with a variety of stakeholders. The Inspector is appreciative of the involvement of a range of government and non-government stakeholders we met with throughout the inspection, including: Corrective Services NSW; Justice Health and Forensic Mental Health Network; Juvenile Justice NSW; Department of Premier and Cabinet; the NSW Ombudsman; the NSW Police Force; the Australian Federal Police; the NSW State Parole Authority; Serious Offenders Review Council; Law Society of NSW; NSW Bar Association; and the Australian National Imams Council. The Inspector also wishes to acknowledge the assistance of Corrections Victoria and Her Majesty's Prison and Probation Service, United Kingdom.

The input of Official Visitors at the Metropolitan Remand and Reception Centre, High Risk Management Correctional Centre, Mid North Coast Correctional Centre, Lithgow Correctional Centre and the Goulburn Correctional Centre is also greatly appreciated.

The Inspector also values the contribution of inmates who volunteered to participate in interviews for this report.

Note This inspection considered sensitive intelligence and security information and methodologies. In accordance with section 15 of the *Inspector of Custodial Services Act 2012*, information that could reasonably be expected to prejudice national security, the security of a correctional centre, or identify or allow the identification of a correctional officer has not been disclosed in the public interest.

Acronyms

| | |
|---------|--|
| AFP | Australian Federal Police |
| AVL | audio-visual link |
| BMP | Behaviour Management Program |
| CC | correctional centre |
| CIG | Corrections Intelligence Group |
| CSNSW | Corrective Services New South Wales |
| CVE | countering violent extremism |
| EHRR | extreme high risk restricted |
| ETI | Extreme Threat Inmate |
| ETIMC | Extreme Threat Inmate Management Committee |
| HRMCC | High Risk Management Correctional Centre (Goulburn) |
| HSI | high-security inmate |
| HSIMC | High Security Inmate Management Committee |
| ICRC | International Committee of the Red Cross |
| ICS | Inspector of Custodial Services |
| IS | Islamic State |
| IVIU | Institutional Violence Intervention Unit |
| JCTT | Joint Counter Terrorism Team |
| JH&FMHN | Justice Health & Forensic Mental Health Network |
| JJNSW | Juvenile Justice NSW |
| MRRC | Metropolitan Remand and Reception Centre (Silverwater) |
| NSI | national security interest |
| OIMS | Offender Integrated Management System |
| PRISM | Proactive Integrated Support Model |
| REAP | Radicalisation Extremism Awareness Program |
| SPA | State Parole Authority |
| SORC | Serious Offenders Review Council |

Executive summary

Correctional authorities are responsible for managing national security and violent extremist inmates in a way that protects staff, other inmates, and the broader community from violent acts. They must also work to prevent radicalisation to violence of other inmates, and promote opportunities for disengagement from violent extremism. Although internationally management of radicalised prisoners is not a new issue, this remains a fast developing area of policy and practice.

To assess the extent of the issue of radicalisation to violence in NSW prisons and the current practices being employed by CSNSW to manage the risks posed by national security inmates and violent extremists in custody, a number of correctional centres were inspected: the Metropolitan Remand and Reception Centre, Silverwater (MRRC), where the majority of new admissions into custody are received and undergo initial screening; the Mid North Coast Correctional Centre (MNCCC), where the alleged 7 April 2016 assault occurred; the Lithgow and Goulburn Correctional Centres; and the High Risk Management Correctional Centre, Goulburn (HRMCC), where the majority of national security inmates are accommodated under a strict security regime.

CSNSW has been managing inmates charged with or convicted of national security offences since 2003. Although the total number in custody in NSW remains low it has been rising. At the time of referral, there were 29 adults charged with or convicted of national security offences in the NSW prison system; there are now over 35.³ Although this represents a small number of offenders within a prison population of approximately 13,000, it is a population that requires a strategic approach and specialist resources.⁴

Of the small number of violent extremist inmates in custody in NSW, CSNSW has determined few have become radicalised to violence while in custody; it appears that most violent extremist inmates enter custody with such views. Despite there being no evidence of widespread radicalisation to violence in prison in NSW, the risk remains and vigilance is required. Recent terrorist attacks in the United Kingdom, Europe and Australia have been committed by people who have spent time in custody.⁵

There are a number of key prison-management policies and protocols that have been identified as useful for the management of violent extremist offenders and the prevention of violent extremism in prisons.⁶ These include:

- overall prison conditions;
- effective assessment and classification systems;
- physical, procedural and dynamic security;
- professional prison-staff training;
- fair, humane and non-discriminatory treatment;
- disengagement interventions involving experts; and
- reintegration support.

3 Data provided by CSNSW.

4 NSW Bureau of Crime Statistics and Research published a figure of 12,989 for the end of December 2017. See, *New South Wales Custody Statistics, Quarterly update, December 2017*. Accessed 15 February 2018, <http://www.bocsar.nsw.gov.au/Documents/custody/NSW_Custody_Statistics_Dec2017.pdf>.

5 State Coroner of NSW, *Inquest in to the deaths arising from the Lindt Café siege*, May 2017, pp 17, 70. <<http://www.lindtinquest.justice.nsw.gov.au/Documents/findings-and-recommendations.pdf>>

6 See UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 1.

CSNSW has clear objectives to countering terrorism which includes preventing offenders in custody from planning, organising, directing or funding terrorism; preventing radicalisation in prison; and enhancing information sharing with other agencies. CSNSW has developed eleven strategies to achieve these objectives, which are endorsed by the Inspector and are consistent with the best practice prison-management policies and protocols.⁷

The inspection team found that a strategic approach to security and rehabilitation is needed to manage violent extremism and prevent radicalisation. In response to this, CSNSW is developing a new Counter Terrorism and Countering Violent Extremism Strategy to lead, advise and coordinate CSNSW activities related to countering violent extremism and preventing radicalisation in prison.⁸

Identification of radicalised inmates

CSNSW has information-sharing protocols in place for identifying and managing known extremists who enter custody. The challenge is identifying those who are not known to authorities to prevent them from harming staff or other inmates, networking with other violent extremists or radicalising vulnerable prisoners to violence. Equally challenging is being able to identify those who may be vulnerable to radicalisation. This can be difficult in an overcrowded system and relies heavily on having well-trained staff with the necessary information and resources at their disposal.

The inspection found front-line CSNSW staff are keen to build their knowledge in this area, as evidenced by the many correctional staff who have already undertaken training in the Radicalisation Extremism Awareness Program (REAP) offered by CSNSW.⁹ During the inspection many staff expressed a desire for more training and knowledge around prison radicalisation as well as general cultural training to assist staff to distinguish between conversion, radicalisation and violent extremism.

This presents an opportunity for CSNSW to invest further in its staff to assist in the identification of violent extremists and the signs of radicalisation to violence. CSNSW has responded by developing enhanced training to support correctional officers and community corrections officers in the identification and reporting of risk factors for radicalisation.¹⁰

Providing better tools and information to CSNSW staff will also assist in identifying radicalised inmates who may pose a threat to others or vulnerable inmates who may be at risk of harm. For example, following the alleged assault at Mid North Coast, CSNSW has commenced screening inmates for prior Australian Defence Force (ADF) service.¹¹

Although CSNSW has increased its intelligence capacity in recent years, the inspection found there is a need to further invest in intelligence capacity and capability and enhance information sharing in response to the threat of violent extremism and radicalisation to violence. CSNSW has responded by establishing a dedicated Counter-Terrorism Unit to identify, assess and monitor high-risk extremist offenders. CSNSW is also seeking to enhance information sharing arrangements, and broaden information-exchange channels with other agencies including the NSW Joint Counter Terrorism Team.¹²

7 United Nations Office on Drugs and Crime (UNODC) identifies four key principles for the management of violent extremist inmates and the prevention of radicalisation to violence in prisons. See UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, New York, 2016, p 135.

8 Letter from the Hon. David Elliott, MP Minister for Corrections to ICS, 23 November 2017.

9 At the time of writing this report, 2191 staff had enrolled to undertake REAP training (55 per cent of eligible staff) and 1608 had completed it (40 per cent); see Chapter 3 for further discussion on REAP training.

10 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

11 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

12 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

Classification placement and management of radicalised inmates

Like most jurisdictions, CSNSW applies a security-focused approach to the management of violent extremists and national security inmates to prevent the creation of extremist networks in prison; prevent the radicalisation or recruitment of other inmates to violent extremism; and prevent the co-ordination of terrorist acts from within prison. In practice this has resulted in the majority of inmates charged with or convicted of national security offences being placed in the High Risk Management Correctional Centre (HRMCC).

There has been much debate internationally about whether managing violent extremism and preventing radicalisation to violence in prisons is served best by accommodating extremist inmates separately from the general prison population (concentration) or dispersing extremist inmates across the prison system (dispersal).¹³ Although there is no consistent evidence to support either dispersal or concentration, the CSNSW approach to disrupting and isolating inmates assessed as high risk violent extremist influencers by placement at HRMCC is supported by international research and best practice.¹⁴

However, the inspection found that as the number of national security inmates has risen, CSNSW is managing an increasingly diverse group of inmates at HRMCC with various risks and needs. This includes high risk violent extremists, convicted terrorists, and unconvicted remand inmates charged with national security offences. Although CSNSW does not permit contact between unconvicted and convicted national security inmates, or between convicted national security inmates and other high risk inmates including extremists; some communication can and does occur.

The inspection team was impressed by the overall professionalism and dedication of custodial and other professional staff in the HRMCC, who work day to day managing national security inmates under strict security protocols. This requires specialised and highly trained staff capable of managing violent extremists and national security inmates fairly while maintaining strict security protocols. However, the high security environment of HRMCC creates challenges for staff and inmates to ensure that national security inmates are not managed in a way that reinforces radical ideologies or increases the risk of radicalisation to violence.

The review found the behaviour management regime applied to all inmates at HRMCC was not designed to manage violent extremists and could exacerbate radical tendencies and generate a group identity based on shared grievances. In response, CSNSW has committed to reviewing its existing decision-making and accountability arrangements for national security inmates and violent extremists to enhance the management of these offenders.

There is no doubt that a high-security facility is required for high risk violent extremist influencers who pose the greatest risk to the community. Such a facility works to prevent escape and prevent the risk of coordination of violent extremism from within custody. However, there is also a group of inmates at HRMCC who are either ready to disengage or capable of disengaging from extremism. The inspection found that the rehabilitation of these inmates was being hampered by the environment of the HRMCC and that participation in disengagement was being impacted by group pressure. Individual risk assessments should inform classification and placement decisions for these inmates and the development of individualised intervention plans.

13 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 139.

14 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 47.

However, it is acknowledged that risk assessment tools for terrorist offenders remains a challenging and contentious area of practice. CSNSW is to be commended for participating in international discussions with other jurisdictions managing violent extremists and convicted terrorists to keep informed of developing practice in this area.

The review also found the HRMCC was not designed to house large numbers of remand inmates and this was impacting visits with family members and legal representatives. Despite national security being a legitimate reason for encroaching on usual inmate entitlements, some security protocols were found to interfere with confidential legal communications, and the ability for unconvicted inmates to prepare for trial.

Accordingly, it is recommended that CSNSW reconsiders its approach to managing national security inmates and develops placement options for inmates charged with or convicted of national security offences to prevent the reinforcement of violent extremist views; prevent radicalisation to violence; allow unconvicted inmates to prepare for trial; and promote opportunities for disengagement from violent extremism and access to rehabilitation services. This does not mean that dispersal of extremist inmates throughout the correctional system in NSW is supported, given a range of factors specific to the NSW context.

CSNSW has announced it is expanding and strengthening capacity at the Goulburn Correctional Complex to increase the capacity of the HRMCC and create a step down unit for inmates who have demonstrated a commitment to disengage from radicalisation, as well as those who are vulnerable to the influence of highly radicalised inmates.¹⁵ This unit will maintain a high level of security while allowing for the delivery of interventions and programs to promote disengagement and rehabilitation to reduce their risk to the community upon release. CSNSW is also enhancing infrastructure to provide for greater differentiation in the way that unconvicted and convicted inmates are accommodated and managed.¹⁶

This will allow CSNSW to keep unconvicted inmates remanded in custody on national security offences separately from convicted terrorists and violent extremists; and allow rehabilitation and disengagement programs to be delivered to inmates.

Disengagement programs

As yet, there is no consensus on best practice in disengagement and deradicalisation and the efficacy of such programs is subject to ongoing debate. Nevertheless, disengagement is globally recognised as one of the key prison-management strategies for managing violent extremist offenders and preventing violent extremism in prisons.

CSNSW implemented the Proactive Integrated Support Model (PRISM) in September 2015 to encourage disengagement from violent extremism. This is an important step forward consistent with international best practice for inmate management. The inspection found that the objective of PRISM required clarification as to whether it was an early intervention program, pre-release program, or both. In response CSNSW has clarified the primary objective of PRISM is to assist inmates to abandon extremist behaviour and reintegrate back into society. CSNSW is committed to evaluating and enhancing PRISM through additional funding, and infrastructure enhancements at HRMCC and Goulburn.¹⁷

15 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

16 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

17 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

Other programs and services

Globally, violent extremism takes many forms. However, in NSW the majority of violent extremists in custody are Islamist extremists. The review found that Muslim chaplains perform a critical role in challenging distorted views and narratives of Islam promulgated by violent extremists to vulnerable inmates. Although CSNSW has created additional Muslim chaplain positions, consideration should be given to creating additional positions to ensure the religious needs of all Muslim inmates are being met.

Muslim inmates comprise approximately 10 per cent of the prison population in NSW and the review found inconsistencies in practice across correctional centres in the provision of religious and cultural services. It is important that these services are provided to Muslim inmates in an equitable and consistent manner. Otherwise, it risks becoming a point of grievance that can make some inmates vulnerable to radicalisation.

Recommendations

The recommendations in this report seek to enhance the effectiveness of the current strategies across the prison system in NSW. In summary, they are aimed at:

- establishing a dedicated unit to lead and advise on managing violent extremist inmates and the prevention of radicalisation to violence in NSW prisons;
- providing staff with additional tools and training to identify and manage violent extremists and those vulnerable to radicalisation;
- increasing intelligence capacity and capability and raising the professional status of intelligence officers;
- enhancing information sharing with other law enforcement and intelligence agencies;
- ensuring classification and placement decisions are informed by individual risk assessments;
- ensuring behaviour management and security regimes do not reinforce extremist views, prevent disengagement or impact on unconvicted inmates' ability to prepare for trial;
- providing rehabilitation services and disengagement programs; and
- enhancing religious and cultural services to Muslim inmates to reduce vulnerability to radicalisation.

Recommendations

Identification and risk assessments

1. The Inspector recommends that CSNSW considers the use of intake screening tools to identify extremist risks and vulnerabilities.
2. The Inspector recommends that CSNSW records an inmate's defence force service in the Offender Integrated Management System (OIMS).
3. The Inspector recommends that CSNSW collects information on an inmate's religious denomination on admission.
4. The Inspector recommends that CSNSW develops the capacity of all staff that have contact with inmates to identify extremist risks.
5. The Inspector recommends that Radicalisation Extremism Awareness Program (REAP) training is adapted to provide greater focus on the correctional context.
6. The Inspector recommends Justice Health & Forensic Mental Health Network develops the capacity of their staff to identify extremist risks.
7. The Inspector recommends that CSNSW provides staff training on understanding Islam and associated cultural practices.
8. The Inspector recommends that CSNSW increases the diversity of its staffing profile.
9. The Inspector recommends that CSNSW provides training and guidelines to staff on documenting and reporting on extremist threats.
10. The Inspector recommends that CSNSW and Juvenile Justice NSW review the 2006 Memorandum of Understanding to include information-sharing protocols.
11. The Inspector recommends that CSNSW becomes a member of the Joint Counter Terrorism Team.
12. The Inspector recommends that CSNSW undertakes a review of the intelligence needs across the system with a view to enhancing the capacity and capability of intelligence resources throughout the system.
13. The Inspector recommends that CSNSW ensures that the team within Corrections Intelligence Group, dedicated to countering violent extremism, includes culturally and linguistically diverse expertise, community knowledge and experience relevant to the extremism threat.
14. The Inspector recommends that CSNSW provides specialist intelligence training to all intelligence officers.
15. The Inspector recommends that CSNSW develops protocols for timely intelligence sharing on extremist threats between Corrections Intelligence Group and relevant centre management to ensure staff and inmate safety.
16. The Inspector recommends that CSNSW develops a structured risk assessment tool for assessing extremist risks.
17. The Inspector recommends that CSNSW undertakes on admission a comprehensive risk assessment for each inmate on national security charges, which is then used to develop individual placement and case plans.

Classification and designation

18. The Inspector recommends that the AA classification and EHRR and NSI designation should be applied according to an individual risk assessment.
19. The Inspector recommends that CSNSW considers developing its capacity to monitor and interpret languages other than English.
20. The Inspector recommends that CSNSW considers applying security controls relating to visits, English-language restrictions, and financial restrictions on the basis of an individual risk assessment.
21. The Inspector recommends that CSNSW streamlines legal visit approvals for AA, EHRR and NSI inmates to provide timely access for legal representatives.
22. The Inspector recommends an increase in the number of AVL suites at HRMCC to facilitate communication with legal representatives.
23. The Inspector recommends that CSNSW does not listen to or read confidential legal communications between inmates and their legal representatives.
24. The Inspector recommends that inmates on remand for national security offences have access to secure laptops and other legal resources necessary to prepare for trial.
25. The Inspector recommends that CSNSW considers removing the restriction on AA, EHRR and NSI inmates speaking with Official Visitors.
26. The Inspector recommends that CSNSW ensures that case plans include progression pathways and rehabilitation needs for national security inmates.
27. The Inspector recommends that CSNSW reviews the Extreme Threat Inmate framework.
28. The Inspector recommends that CSNSW develops individual management plans for Extreme Threat Inmates.

Placement

29. The Inspector recommends that CSNSW develops a number of placement options for violent extremists and inmates charged with or convicted of national security offences.
30. The Inspector recommends CSNSW undertakes a review of the Goulburn Correctional Centre yard placement system.
31. The Inspector recommends that CSNSW develops a strategic approach to placement to support risk management of violent extremism threats and vulnerabilities.
32. The Inspector recommends that cell placement is informed by a risk assessment.
33. The Inspector recommends that inmates charged with or convicted of national security offences are placed according to individual risks and needs.
34. The Inspector recommends that CSNSW develops placement options and progression pathways to support the disengagement and rehabilitation of violent extremists and national security inmates.
35. The Inspector recommends that inmates on remand for national security offences are accommodated in a facility, proximate to the courts and to their legal representatives, with regimes and conditions that allow preparation for trial.
36. The Inspector recommends that CSNSW includes radicalisation risk factors in determining associations and non-associations within the HRMCC.

Management regimes and conditions

37. The Inspector recommends that CSNSW conducts a review of the Behaviour Management framework to ensure the system has sufficient oversight.
38. The Inspector recommends that CSNSW should only use a Behaviour Management framework for those inmates assessed as institutionally violent.
39. The Inspector recommends that CSNSW provides education and activities for inmates within the HRMCC, including approved reading materials.
40. The Inspector recommends that CSNSW establishes a unit to lead and advise on managing and countering violent extremism in NSW prisons.
41. The Inspector recommends that CSNSW develops and delivers specialised training for staff managing violent extremists and inmates charged with or convicted of national security offences.

Offender programs and services

42. The Inspector recommends that CSNSW reviews its strategy for managing extremism in NSW prisons to focus on security, rehabilitation and prevention.
43. The Inspector recommends that CSNSW collaborates with other correctional systems and research institutions, both in Australia and internationally, to foster an evidence base to guide strategies for managing the radicalisation threat.
44. The Inspector recommends that CSNSW clarifies the objectives of the Proactive Integrated Support Model program.
45. The Inspector recommends an independent evaluation of the Proactive Integrated Support Model program.
46. The Inspector recommends that CSNSW develops and resources a disengagement and rehabilitation strategy for inmates identified as violent extremists.
47. The Inspector recommends that CSNSW considers expanding Muslim chaplaincy services across NSW prisons.
48. The Inspector recommends that CSNSW standardises its policy on communal prayer, including Friday prayer.
49. The Inspector recommends that CSNSW, in collaboration with community experts, develops a policy on the procurement and approval of religious texts for prison libraries and individual inmate property.
50. The Inspector recommends that CSNSW establishes a policy for cultural and religious events, including the provision of food and the role of external service providers, in consultation with religious and cultural experts.
51. The Inspector recommends the report be made public immediately.

1. Introduction

1.1 The Inspector of Custodial Services

The office of the Inspector of Custodial Services was established by the *Inspector of Custodial Services Act 2012* (the Act) in October 2013. The mandate of the office is to provide independent scrutiny of the conditions, treatment and outcomes for adults and young people in custody, and to promote excellence in staff professional practice.

The principal functions of the Inspector, as set out in section 6 of the Act, are as follows:

- To inspect each custodial centre (other than juvenile justice centres and juvenile correctional centres) at least once every 5 years.
- To inspect each juvenile justice centre and juvenile correctional centre at least once every 3 years.
- To examine and review any custodial service at any time.
- To report to Parliament on each such inspection, examination or review.
- To report to Parliament on any particular issue or general matter relating to the functions of the Inspector if, in the Inspector's opinion, it is in the interest of any person or in the public interest to do so.
- To report to Parliament on any particular issue or general matter relating to the functions of the Inspector if requested to do so by the Minister.
- To include in any report such advice or recommendations as the Inspector thinks appropriate (including advice or recommendations relating to the efficiency, economy and proper administration of custodial centres and custodial services).
- To oversee Official Visitor programs conducted under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*.
- To advise, train and assist Official Visitors in the exercise of the functions conferred or imposed on them under those Acts.
- Such other functions as may be conferred or imposed on the Inspector under this or any other Act.

In addition to the purpose and powers of the Inspector as detailed in the legislation, the Inspector also has a responsibility to ensure that ethical and professional practice is observed across the custodial environment in NSW.

1.2 Background to the inspection

On 7 April 2016, an alleged assault of an inmate by his cellmate occurred at Mid North Coast Correctional Centre (MNCCC). The incident triggered a strong response from the Minister for Corrections, who requested on 14 April 2016 that the Inspector of Custodial Services consider a review of the management of radicalised inmates in NSW.¹⁸

¹⁸ See Annex A – letter from the Hon. David Elliott MP, Minister for Corrections to the ICS, 14 April 2016.

The Inspector subsequently announced an inspection to examine the strategies, policies and procedures for the management of radicalised prisoners in NSW correctional centres, with particular reference to:

- a. existing legislative and policy frameworks, and procedural guidelines;
- b. identification and risk assessment;
- c. classification, designation and placement;
- d. management regimes and conditions;
- e. programs and services; and
- f. any other related matter.¹⁹

1.3 The report

The report considers what efforts have been made in NSW prisons to address the risks of violent extremism and how these efforts adhere to international standards and good prison practice.²⁰ The report also seeks to explore the challenges in safely and effectively managing inmates convicted and accused of terrorist offences. CSNSW considers the prevalence of prison radicalisation among inmates to be quite low. However, radicalisation is not confined to inmates charged with terror-related offences, and has the potential to develop among inmates who are incarcerated for other crimes.

The focus of this report is on adult male inmates. Conceptually, there are distinct cohorts of inmates of interest to this inspection:

- Inmates who are charged with national security offences and are in custody on remand.²¹
- Inmates who have been convicted of national security offences.
- Inmates in custody on charges unrelated to terrorism but who are demonstrating violent extremism behaviours while in custody.
- Inmates considered vulnerable to radicalisation.

The inspection team understands the key challenges for the corrections system in managing the threat posed by radicalisation as follows:

1. Reduce extremist inmates' threat to the corrections system and staff and inmate safety by reducing their influence, capability and intent.
2. Manage extremist inmates so they do not pose a risk to the safety of the community when they leave prison.
3. Manage the custodial environment to reduce the likelihood that vulnerable inmates will be radicalised to violence in prison.

19 ICS, 'Terms of Reference', available: <www.custodialinspector.justice.nsw.gov.au/Documents/Terms%20of%20reference%2022%20April%202016%201.pdf>.

20 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 2.

21 Alleged offenders on remand are held in custody before and during their trial by order of a court. Remandees are unconvicted and are innocent until proven guilty.

1.4 Methodology

In consultation with CSNSW, five maximum security centres were selected for inspection: Metropolitan Remand and Reception Centre, Mid North Coast Correctional Centre, Goulburn Correctional Centre, High Risk Management Correctional Centre and Lithgow Correctional Centre.

The centres were chosen based on their role in managing newly received inmates, those on national security offences, those identified by CSNSW as 'extremists' in custody, and the profile of inmates at the centres. While maximum security centres were prioritised over medium and minimum security centres due to time constraints, the management of radicalised prisoners is not necessarily an issue limited to maximum security centres.

Women's centres were not included in this inspection; however, the Inspector undertook a visit in October 2016 for the purpose of examining the treatment and conditions of one female inmate in custody in NSW on national security charges.

The inspection team included the Inspector, a senior inspection/research officer, a research assistant and an external consultant. The inspection team worked collaboratively with CSNSW executives and general managers of the selected centres throughout the inspection process. Data and document requests were made to CSNSW on an ongoing basis.

The inspection team was supported by Official Visitors of the selected correctional centres during the planning phases.

Dr Clarke Jones, an academic consultant from the Australian National University, was engaged for his expertise in prison radicalisation to produce a comparative overview of international practice and approaches to managing radicalisation and violent extremism in prisons. The report to the Inspector, 'Managing Terrorist Offenders: A comparative study of policy and practice' (unpublished), provided a literature review and summary of specific approaches undertaken in a range of jurisdictions.²²

The inspection team utilised a variety of methods to capture information to guide the inspections and inform this report. These are outlined briefly below.

- Desk-based research and data analysis of legislation, policy and procedural documents was undertaken. The inspection team examined policy and procedural documentation obtained from CSNSW, as well as individual offender case file documentation held in the CSNSW Offender Integrated Management System (OIMS). The inspection team also examined relevant complaints and enquiries made to the NSW Ombudsman and biannual reports of the Official Visitors.
- Consultation and briefing meetings were conducted in the design and planning phase with CSNSW executive and specialists from across security and intelligence, offender services and programs and custodial operations.
- Visits to comparative jurisdictions in Australia and the United Kingdom were conducted in May and June 2016 to gain insights into comparative strategies and approaches to offenders on national security charges and maximum security management practices. The Inspector visited HM Prison Barwon in Victoria, and HM Prison Wandsworth in London, England. These visits included discussions with Corrections Victoria; the Office of Correctional Services Review, Department of Justice and Regulation in Victoria; the National Offenders Management Service and Her Majesty's Inspectorate of Prisons for England and Wales.²³

²² Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

²³ The National Offender Management Service was renamed Her Majesty's Prison and Probation Service in 2017.

- Inspection team members attended the CSNSW Radicalisation Roundtable hosted by the Sydney Institute of Criminology at the University of Sydney in June 2016. This one-day event drew together international and Australian academics, and policymakers from across government agencies, to discuss key issues in the assessment, management and rehabilitation of violent extremists, and strategies for preventing radicalisation.
- Onsite inspections were undertaken at each of the selected centres from June 2016 to April 2017. Inspection plans detailed the schedule for three-day onsite visits at each centre.
 - Semi-structured interviews were held with regional and centre-level management at each centre. The inspection team conducted small group and one-on-one discussions and canvassed a range of topics at a management level.
 - Separate small group discussions were held with front-line staff from all areas of the centre, including custodial, intelligence, JH&FMHN and Offender Services and Programs (OS&P) staff and chaplains.
 - Semi-structured large group discussions were held with front-line staff at some centres from across custodial and offender services and programs sections.
 - Separate semi-structured interviews were held with key front-line staff at each centre. These were conducted in a one-on-one discussion with the inspection team.
 - Ad hoc discussions were conducted with staff as the inspection team walked around the centres. This method allowed for people to provide their opinions in a more informal manner.
 - Further information collection was conducted through meetings with CSNSW divisional managers and specialists from across security and intelligence and offender services and programs in order to corroborate evidence gathered or to fill identified gaps.

Across the inspection period, the team heard the views of over 200 CSNSW staff members.

- Separate semi-structured interviews were held with inmates at each centre, including remand and sentenced inmates on terrorist-related charges, inmates identified by CSNSW as extremists, inmate delegates, inmates with special management or placement considerations due to protection concerns, and young offenders (under 25). Inmates from a range of cultural backgrounds were selected by the inspection team for interview. Participation in these discussions was informed and voluntary. Discussions were held in a comfortable space without officers present. The inspection team spoke individually with 18 inmates at their respective centres.
- Consultation meetings were held with relevant government and non-government agencies throughout the inspection including the NSW Ombudsman, NSW Department of Premier and Cabinet, the NSW Police Force, Australian Federal Police (AFP), Juvenile Justice NSW, Justice Health & Forensic Mental Health Network, State Parole Authority, Serious Offenders Review Council, Law Society of NSW, the NSW Bar Association, and Australian National Imams Council.

Following the writing of the report, it was issued to CSNSW and JH&FMHN for their comment. In accordance with section 14 of the *Inspector of Custodial Services Act 2012*, the Inspector provided the Minister for Corrections with a draft report and the opportunity to make submissions in relation to the draft report.

1.4.1 Research limitations

The inspection encountered some limitations. The team mitigated resource constraints by identifying the most essential and relevant areas for inquiry and focusing on these for the purposes of this report.

Prison radicalisation is not limited to Muslim inmates; however, the inspection team's particular focus was on how CSNSW manages those inmates currently on terrorist-related charges, all of whom are Muslim.

The specific issue of women accused or convicted of committing a violent extremist offence is not dealt with in detail in this report, although the report recognises the difference in the management and regime of women offenders on terrorist-related offences.

The specific risks associated with managing offenders convicted or charged under the federal legislation that deals with foreign fighters have not been examined separately in this report.²⁴ The report does not survey the specific needs and rehabilitation interventions for returned foreign fighters. In NSW these young inmates are managed under the same regime as terrorist inmates and, as such, the report considers their management.

1.5 Key definitions and concepts

The concept of radicalisation is understood differently by various research, policy and practice circles across prison, community and foreign policy contexts.²⁵ Indeed, 'radicalisation', 'extremism', 'violent-extremism' and 'terrorism' are terms often used interchangeably.²⁶

There is no commonly accepted definition of 'radicalisation'. In 2011 the Australian government commissioned a review of existing literature on radicalisation and CVE, which concluded that key concepts are diversely understood and without clear definition.²⁷

Although there is no consensus on what is meant by radicalisation, there are some key points of agreement in the literature regarding definitions and differentiation between key concepts:

- radicalisation is a dynamic process – there are different pathways and stages of radicalisation;²⁸
- the reasons behind a radicalisation process can be ideological, political, religious, social, economic and/or personal;²⁹
- radicalism and extremism are relative concepts that depend on what society considers normative;³⁰
- radicalisation can involve supporting violent or non-violent means of change;³¹
- not all radicalisation is negative or a precursor to violent extremism;³²

24 *Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014 (Cth); Criminal Code Act 1995 (Cth)*, Schedule 1, Division 119.

25 Sedgwick (2010) in Ionescu et al., *R2PRIS Methodological Framework*, 2017.

26 See Striegher, J-L, 'Violent-extremism: An examination of a definitional dilemma', Edith Cowan University Research Online, Australian Security and Intelligence Conference, 2015, <ro.ecu.edu.au/cgi/viewcontent.cgi?article=1046&context=asi>.

27 Nasser-Eddine et al., *Countering Violent Extremism (CVE) Literature Review*, Counter Terrorism and Security Technology Centre, Defence Science and Technology Organisation, 2011, <file://parjpwfp04/UsersIP\$/jNicol0/My%20Documents/Downloads/ADA543686.pdf>.

28 Ionescu et al., *R2PRIS Methodological Framework*, 2017, p 1.

29 Nasser-Eddine et al., *Countering Violent Extremism (CVE) Literature Review*, Counter Terrorism and Security Technology Centre, Defence Science and Technology Organisation, 2011, <file://parjpwfp04/UsersIP\$/jNicol0/My%20Documents/Downloads/ADA543686.pdf>.

30 See Hannah et al., *Radicalization or Rehabilitation: Understanding the challenge of extremist and radicalized prisoners*, RAND Corporation, 2008, <www.rand.org/content/dam/rand/pubs/technical_reports/2008/RAND_TR571.pdf>.

31 Ionescu et al., *R2PRIS Methodological Framework*, 2017.

32 Ionescu et al., *R2PRIS Methodological Framework*, 2017.

- not all radicalised people are violent or advocate violence;³³
- a radical is not the same as a terrorist;³⁴
- religious conversion is not the same as radicalisation and conversion is not necessarily a precursor to extremism.³⁵

Research deduces that the process of radicalisation involves moving towards extremist views.³⁶ However, one can be an extremist without being violent or advocating violence. We cannot link certain behaviours and beliefs with a propensity to incite or commit violence.³⁷

While there is no universally accepted definition of extremism, some policy-makers define extremism as divergence from a society's mainstream democratic values, and others couch definitions in concepts of tolerance, pluralism and equality in society.³⁸

Recognising that thoughts and actions present different risks, and that only a small number of radicals actually become violent extremists, the United Nations (UN) in its first technical guidance on radicalisation in prison settings takes an explicit focus on 'radicalisation to violence' and 'violent extremism'.³⁹ It defines 'radicalisation to violence' as 'a process by which people acquire radical or extremist beliefs and attitudes that involves the use of violent measures to achieve objectives'.⁴⁰

This report understands 'radicalisation' as a process of modification of ideology towards wanting drastic change in society. A 'radical' is therefore an individual who has undergone a process of modification of ideology towards wanting drastic change in society. While this report notes that violence is not an inevitable outcome of radicalisation, it acknowledges that support of violence has been included in some definitions of radicalisation where the phenomenon is discussed in terms of a custodial context.⁴¹

CSNSW considers all inmates charged or convicted under terrorism laws as extremists. Inmates charged under legislation dealing with foreign incursions or foreign fighters are also considered extremists. Some inmates not held on terror-related offences may be categorised by CSNSW as suspected extremists or known extremists.⁴²

33 Ionescu et al., *R2PRIS Methodological Framework*, 2017.

34 Ionescu et al., *R2PRIS Methodological Framework*, 2017.

35 Neumann et al., *Prisons and Terrorism*, 2010.

36 The Radicalisation Prevention in Prisons project deduces from a review of the definitions of radicalisation, extremism and violent extremism that the process of radicalisation involves adopting extreme ideas. See Ionescu et al., *R2PRIS Methodological Framework*, 2017, p 12.

37 Ionescu et al., *R2PRIS Methodological Framework*, 2017.

38 Ian Acheson-led report, *Government Response to the Review of Islamist Extremism in Prisons, Probation and Youth Justice*, UK Ministry of Justice, 2016, <www.gov.uk/government/publications/islamist-extremism-in-prisons-probation-and-youth-justice/summary-of-the-main-findings-of-the-review-of-islamist-extremism-in-prisons-probation-and-youth-justice>, and the Australian Government publication *What is Violent Extremism?*, <www.livingsafetogether.gov.au/aboutus/Documents/what-is-violent-extremism.pdf>.

39 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 2.

40 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 142.

41 Neumann et al., *Prisons and Terrorism*, 2010; Penal Reform International, *International Experts Roundtable on Preventing Radicalisation in Prisons: Developing a coordinated and effective approach*, summary of proceedings, Amman, 2015, <rm.coe.int/16806f4ad3>; Rabasa et al., *Deradicalizing Islamist Extremists*, RAND Corporation, 2010, <www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG1053.sum.pdf>.

42 ICS interview with CSNSW staff, 2017.

When the report refers to an 'extremist', it is generally in terms of CSNSW's categorisation of individuals as outlined above. When this report refers to a 'violent extremist', it uses the UN definition of an individual who 'promotes, supports, facilitates or commits acts of violence to achieve ideological, religious, political goals or social change'.⁴³

'Deradicalisation' is a cognitive process resulting in a fundamental change in ideology and concomitant rejection of a radical worldview. 'Disengagement' is a change in behaviours resulting in a rejection of violent means, as distinct from a change in attitudes or ideas.⁴⁴

Where this report refers to 'terrorism' it is generally in terms of terror-related offences, or in terms of CSNSW policies. Where the terms are used beyond reference to legislation or policy, this report defers to the observation of Neumann et al. that 'the formula which many governments and international organisations have chosen to adopt describes terrorism as politically motivated violence that intentionally targets civilians and/or non-combatants'.⁴⁵

This report refers to 'national security offences' and 'national security inmates' in reference to those inmates charged under Australian counter-terrorism legislation.

43 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 143.

44 Correctional Service Canada, *Best Practices in the Assessment, Intervention and Management of Radicalized Offenders*, 2014.

45 Neumann et al., *Prisons and Terrorism*, 2010, p 12.

2. The NSW context

Australia has a small but growing number of inmates incarcerated for national security offences. As the number of terrorist offenders has increased, so has an interest in the role of prisons in responding to and preventing violent extremism.

In NSW there is a keen awareness among decision-makers of the need to develop an understanding of the risks associated with managing terrorist inmates. This interest is consistent with international discussions that recognise the limitations of current knowledge regarding prison radicalisation and the effectiveness of prison-management responses.

It is understood that prisons have an important role when it comes to tackling violent extremism, one that has progressively been recognised by the UN and the European community.⁴⁶ In recent years, international policy discussions have highlighted that prisons can present both 'risks and opportunities' with respect to countering violent extremism (CVE).⁴⁷ Ultimately, in contributing to public safety, prisons must keep those convicted or charged with terrorist offences securely while adopting policies that are fair and humane, and supportive of rehabilitation goals. Harsh treatment in detention facilities is considered to play a 'disconcertingly powerful role' in recruiting people into violent extremism.⁴⁸

In accordance with international best practice CSNSW must ensure that inmates are held securely, and reduce opportunities for escape, misconduct and inappropriate external communications.⁴⁹ Simultaneously, CSNSW is expected to work toward inmates' disengagement from violence and prepare inmates for their reintegration into the community.

CSNSW is also responsible for ensuring prisons do not become settings for radicalisation of inmates held on offences unrelated to violent extremism. Here, the importance of the prison context and conditions is considered fundamental to CVE. This includes considering relevant factors such as rising inmate numbers; prison infrastructure; staff capacity; and community concern about national security and the threat of terrorism.

46 A number of normative guidelines have been developed on the management of violent extremist prisoners and the prevention of radicalisation in prisons. Key documents include: United Nations General Assembly, *Plan of Action to Prevent Violent Extremism*, Report of the Secretary General, Global Counter-terrorism Strategy, A/70/674, 2015; UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, New York, 2016; Global Counterterrorism Forum (GCTF), *Rome Memorandum on Good Practices for the Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012; and Council of Europe, *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism*, Strasbourg, 2016.

47 Neumann highlighted the importance of prison environments in creating openings for changes in prisoners' thinking and behaviour. The study argued that security approaches to managing terrorist offenders should not undermine rehabilitation efforts. See Neumann et al., *Prisons and Terrorism: Radicalisation and de-radicalisation in 15 countries*, International Centre for the Study of Radicalisation and Political Violence (ICSR), 2010.

48 UN, *Plan of Action to Prevent Violent Extremism*, 2015, 8/22.

49 The UNODC nominates these elements as security functions in the management of violent extremists. See UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, p 6.

A particular challenge for the NSW corrections system is overcrowding, as reported in *Full House: The growth of the inmate population in NSW*.⁵⁰ Overcrowding is defined as ‘a situation where a centre is holding a number of inmates that exceeds the original capacity that the centre was designed to accommodate’. According to this definition, 21 of 44 correctional centres in NSW were overcrowded in 2015.⁵¹ This does not include the HRMCC. Overcrowding can impact placement as a key management tool to reduce threats and vulnerabilities of inmates. It can also compromise dynamic security and create conditions that are conducive to radicalisation occurring.⁵² This creates a difficult task for staff responsible for identifying radicalisation risks in the correctional system to ensure the safety of inmates and the community.

Violent extremism and radicalisation present new and different challenges to prison systems with respect to security measures, regimes and conditions, and rehabilitation needs. Correctional administrators are faced with answering whether and how terrorist inmates differ from mainstream inmates. CSNSW is tasked with developing approaches to the management of terrorist inmates, as well preventing and responding to radicalisation to violence among the general prison population.

2.1 Terrorist offenders in Australia

Australia has experienced the consequences of different acts and types of violent extremism with motivations in a range of agendas. Forms of radicalisation continue to evolve and recent history has shown that threats include smaller groups, cells and independent actors.

Currently, the threat of terrorism is rated ‘probable’ in Australia.⁵³ The Australian government’s 2015 Counter-Terrorism Strategy recognises that violent extremism has varied manifestations and varied ideological or political inspiration.⁵⁴ However, it nominates the current major threat to Australia to be violent extremism perpetrated or inspired by groups and individuals that claim to act in the name of Islam. The strategy notes:

Terrorism based on other ideological, religious or political beliefs – such as right wing or left wing extremism – is also of concern, though it does not represent the same magnitude of threat as that posed by violent extremists claiming to act in the name of Islam.⁵⁵

50 ICS, *Full House: The growth of the inmate population in NSW*, 2015, <www.custodialinspector.justice.nsw.gov.au/Documents/Full%20House%20-%20Final%20report%20April%202015.pdf>.

51 ICS, *Full House*, 2015, p 10.

52 Council of Europe, *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism*, 2016; UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 12.

53 The ‘probable’ rating is defined as ‘individuals or groups have developed both an intent and capability to conduct a terrorist attack in Australia’. In November 2015, the government introduced the National Terrorism Threat Advisory System to inform the public about the likelihood of an act of terrorism occurring in Australia. The system has five levels: certain (red), expected (orange), probable (yellow), possible (blue) and not expected (green). See National Terrorism Threat Advisory System, <www.nationalsecurity.gov.au/threatlevel#current>.

54 Council of Australian Governments, *Australia’s Counter-Terrorism Strategy: Strengthening our resilience*, 2015, p 7

55 Council of Australian Governments, *Australia’s Counter-Terrorism Strategy: Strengthening our resilience*, 2015, p v.

The Review of Australia's Counter-Terrorism Machinery, published in January 2015, recognises the importance of prisons in the fight against violent extremism, along with schools and community organisations.⁵⁶ Equally, however, it notes that 'terrorists involved in anti-Western attacks over the last decade are being released from prison, for the most part unreformed and un-rehabilitated'.⁵⁷ The CVE approach of the Commonwealth Attorney-General's Department includes funding state governments to support rehabilitation initiatives in prisons; however, their partnerships primarily target communities and schools. The NSW government announced \$47 million towards counter-terrorism in November 2015, with a focus on schools.⁵⁸ In June 2017 a further \$47 million was committed by the NSW government for the purposes of countering terrorism and violent extremism in NSW prisons.⁵⁹ Evidently, a commitment to CVE exists in NSW, and prisons are now recognised as an important contributor to CVE.

Australian correctional jurisdictions have only had a relatively brief history of managing terrorist offenders, although terrorism is not a new phenomenon, as is often reported. There are several examples in Sydney alone dating back to the 1970s and 1980s that do not involve Islamic extremists.⁶⁰ However, the practice of managing national security inmates did not begin until the arrest and prosecution of individuals involved in terrorist plots uncovered by Operation Pendennis in 2005 and Operation Neath in 2009.⁶¹

National security inmates remain a very small group within Australia's overall prison population. As of October 2016, 51 people had been charged as a result of 21 counter-terrorism operations in Australia. These figures include the first female charged with terrorism offences in NSW; the first individual 'right-wing extremist' charged with terrorism offences in Victoria; and a number of minors facing terrorism charges.⁶²

56 Department of the Prime Minister and Cabinet (DPMC), *Review of Australia's Counter-Terrorism Machinery*, Australian Government, 2015.

57 DPMC, *Review of Australia's Counter-Terrorism Machinery*, 2015, p 11.

58 Former NSW Premier Mike Baird MP, media release, 2 November 2015, <<https://www.nsw.gov.au/your-government/the-premier/media-releases-from-the-premier/countering-violent-extremism/>>.

59 NSW Premier Gladys Berejiklian MP, media release, 11 June 2017, <<https://www.nsw.gov.au/your-government/the-premier/media-releases-from-the-premier/nsw-budget-47-million-to-tackle-radicalisation-in-prisons/>>.

60 Lynch et al., *Inside Australia's Anti-terrorism Laws and Trials*, NewSouth Books, 2015, p 26.

61 Operation Pendennis commenced in 2004 was a joint operation between the NSW Police Force, Victoria Police, the Australian Federal Police and Australian Security Intelligence Organisation commencing in 2004. See Schuurman, B, Harris-Hogan, S, Zammit, A and Lentini, P, 'Operation Pendennis: A Case Study of an Australian Terrorist Plot', *Perspectives on Terrorism*, vol 8, no 4, 2014.

62 Minister for Justice the Hon Michael Keenan MP, 'The Evolving Terrorist Threat in Australia', speech, Lowy Institute, October 2016, transcript accessible: <www.lowyinstitute.org/publications/michael-keenan-evolving-terrorist-threat-australia>.

2.1.1 Counter-terrorism laws

In the aftermath of 9/11, the United Nations Security Council issued a resolution that member states shall take immediate action to prevent terrorist acts.⁶³ While terrorist acts that kill, maim and cause significant property damage are offences under the criminal law, in 2002 the Commonwealth Government expanded legislation to criminalise preparatory acts specifically in relation to terrorism.⁶⁴ These acts include providing or receiving training connected with terrorist acts;⁶⁵ possessing ‘things’ connected with terrorist acts;⁶⁶ collecting or making documents likely to facilitate terrorist acts;⁶⁷ and doing any ‘other acts’ in preparation for or planning terrorist acts.⁶⁸ The legislation also provides for arrest on the basis of attempting or conspiring to commit preparatory acts.⁶⁹

Following the 7 July 2005 London bombings, the legislation was augmented to include control orders and preventative detention.⁷⁰ If charges are not laid, individuals may still be subject to interim control orders ‘for the purpose of protecting the public from a terrorist act’.⁷¹ In total, the Commonwealth enacted 54 pieces of anti-terror legislation in the decade following 9/11.⁷² Evidently, the legislation has been effective in preventing attacks, with 12 successful disruption operations recorded since September 2014.⁷³

On 1 December 2016, the *Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016* was passed, enabling a continued detention regime for terrorist offenders after sentence expiry.⁷⁴ A number of practical considerations have been identified as key challenges in implementing a continued detention order regime for terrorist offenders, including valid risk assessment tools and associated rehabilitation measures. This legislative development will intensify the challenges of addressing security and rehabilitation approaches to these high-profile offenders.⁷⁵

63 See UN Security Council, *Resolution 1373*, S/RES/1373, 2001, <<https://www.un.org/sc/ctc/resources/databases/recommended-international-practices-codes-and-standards/united-nations-security-council-resolution-1373-2001/>>.

64 See Roach, K, *Global Anti-Terrorism Law and Policy*, (eds Ramraj et al.), second edition, Cambridge University Press, 2012.

65 *Criminal Code Act 1995* (Cth), section 101.2.

66 *Criminal Code Act 1995* (Cth), section 101.4.

67 *Criminal Code Act 1995* (Cth), section 101.5.

68 *Criminal Code Act 1995* (Cth), section 101.6.

69 *Criminal Code Act 1995* (Cth), section 11.5.

70 Roach, K, *The 9/11 Effect: Comparative counter-terrorism*, Cambridge University Press, 2011, p 309; *Criminal Code Act 1995* (Cth).

71 *Criminal Code Act 1995* (Cth), section 104.4.

72 Williams, G, ‘A Decade of Australian Anti-Terror Laws’, *Melbourne University Law Review*, no 35, 2011, p 1144.

73 Prime Minister the Hon Malcolm Turnbull MP, joint press conference with the Minister for Justice The Hon Michael Keenan MP and the Australian Federal Police Commissioner Andrew Colvin APM OAM, 23 December 2016, Sydney. Accessed from <<https://www.pm.gov.au/media/joint-press-conference-minister-justice-hon-michael-keenan-mp-and-australian-federal-police>>.

74 The *Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016* enables continued detention of terrorist offenders if a Supreme Court is satisfied to a high degree of probability, on the basis of admissible evidence, that the offender poses an unacceptable risk of committing a serious terrorism offence if released into the community. Accessed from <<https://www.legislation.gov.au/Details/C2016A00095>>.

75 See Smith, C and Nolan, M, ‘Post-sentence Continued Detention of High-risk Terrorist Offenders in Australia’, *Criminal Law Journal*, vol 40, no 163, 2016. Further, Moulds notes that the Parliamentary Joint Committee on Human Rights (PJCHR) raised concerns about the broad discretion around how safeguards designed to ensure that preventative detention is necessary and proportionate would work in practice; how civil standard of proof would be applied, appointment of relevant experts and validity of risk assessment tools to assess ‘unacceptable risk’; and availability of rehabilitation programs to people on the orders. See Moulds, S, ‘Committees in Dialogue: Parliamentary scrutiny of the High Risk Terrorist Offenders Bill’, *AUSPUBLAW*, 2017, <auspublaw.org/2017/01/committees-in-dialogue/>.

2.1.2 Prison radicalisation and institutional approaches

Concerns over prison radicalisation differ from country to country and depend on the societal and political context, previous experiences with terrorist attacks, the demographic and psychological make-up of the inmate population, and the institutional features of the prison system.⁷⁶ In terms of the threats posed by violent extremist inmates, there is no common agreement in the domestic and international literature about the precise risks posed to custodial systems. However, it is clear from the literature and other reviews that radicalisation has the potential to cause a range of problems within the corrections system.⁷⁷

Understanding radicalisation in prisons is essential because the potential impacts of 'getting it wrong' are significant. The International Committee of the Red Cross (ICRC) points out the significant challenges of this work in prisons and its importance for public safety:

... some measures can have perverse consequences not only for the detainees targeted, but for the general detained population, and society as a whole. These consequences risk contradicting the ultimate aim of the measures, which is to protect the public from acts of a violent nature.⁷⁸

It is difficult to establish a clear picture of the prison radicalisation threat. Empirical studies on the extent of prison-based radicalisation are very limited. Globally, there are no longitudinal studies about terrorist-inmate behaviour, nor are there reliable estimates of the number of terrorist offenders, prisoners who may have been radicalised while serving sentences, or the recidivism rates of released terrorist offenders and radicalised prisoners.⁷⁹

Further, analysing the extent and nature of prison radicalisation requires correctional authorities to go beyond a quantitative measure of the number of offenders on national security charges, and to assess the risks associated with these individuals, risks among other inmates, and risks inherent in the prison environment.⁸⁰ Several perceived risks include the:

- radicalisation of Muslim inmates;
- radicalisation of non-Muslim inmates;
- radicalisation of guards or prison staff;
- planning and directing of terrorist acts from inside prison; and
- intensification of extremist ideologies or the manipulation of young or vulnerable offenders who are sentenced to short terms of imprisonment or who are on remand in maximum security for lesser offences.⁸¹

76 See El-Said and Harrigan (2012) in Veldhuis, T and Kessels, E, *Thinking before Leaping: The need for more and structural data analysis in detention and rehabilitation of extremist offenders*, ICCT Research Paper, ICCT, The Hague, 2013.

77 See UK House of Commons Justice Committee, *Radicalisation in Prisons and Other Prison Matters*, HC417, 2016.

78 International Committee of the Red Cross (ICRC), *Radicalization in Detention – the ICRC's perspective*, Geneva, 2016, p 1.

79 Jones, C, 'Managing Terrorist Offenders: A comparative study of policy and practice', (unpublished; report for ICS), 2016.

80 *Radicalisation Prevention in Prisons*, a recent report produced as part of a European Commission funded project, concluded that prison radicalisation is likely to be influenced mainly by factors that are situated in three levels: individuals; among prisoners; and prison service/environment. The report argues that prison radicalisation can be better understood by assessing the risk associated with these factors and analysing the interaction between these factors. See Ionescu et al., R2PRIS Methodological Framework, R2PRIS Radicalisation Prevention in Prisons, 2017, <www.europris.org/wp-content/uploads/O1_Methodological_Framework_final_version_100117.pdf>.

81 Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

A number of terrorists have spent time in prison before committing or attempting to commit a terrorist attack. Recent terrorist attacks in London (March 2017), Paris (November 2015) and Australia (December 2014) involved individuals who had spent time in prison.⁸² Such high-profile cases have served to question the role of prison settings as potentially triggering or reinforcing radicalisation to violence.

Governments are commonly concerned that terrorist offenders may network in prison, gain access to and recruit other inmates, and coordinate violent extremist activity from within prison.⁸³ The notion that inmates on terrorist-related charges convey an increased risk, and that other inmates are vulnerable to their influence, has seen several jurisdictions, including NSW, respond to the potential threat of inmate radicalisation with a range of high-security approaches and measures to achieve control.⁸⁴

Internationally, there is no one-size-fits-all approach to managing violent extremist inmates in custody. Different countries have employed various responses to managing violent extremist inmates and radicalisation in prisons. Placement models and methods have considered whether these offenders should be housed separately from the general population in one place ('concentration'), or spread across the prison system ('dispersal'). A mix of approaches can be observed internationally.⁸⁵ In Australia, NSW has adopted a concentration and containment model, whereby the majority of inmates on national security charges and all those awaiting trial are housed at HRMCC. Victoria's approach has moved from a concentration model that managed national security offenders as a separate group, to a model whereby individuals are placed across the prison system according to their individual risk.⁸⁶

There are advantages and disadvantages with different management and placement strategies. Concentration models enable the control of risk factors, such as inmates radicalising others in the general prison population, and increase system capacity for monitoring and surveillance. On the other hand, concentration can generate risks, such as creating special status among inmates, fuelling grievances and notions of discrimination. Moreover, it can compound risk by reinforcing beliefs and facilitating relationships.

A number of international workshops on the management of terrorist offenders have discussed comparative experiences and approaches from countries around the world.⁸⁷ These forums have considered specific strategies to manage terrorist offenders to reduce the risk of further radicalisation, either among terrorist inmates, or among the general prison population. Broader prison reform strategies have also featured in these discussions as part of efforts to reduce the risk of inmates being vulnerable to radicalisation to violence.

82 State Coroner of NSW, *Inquest in to the deaths arising from the Lindt Café siege*, May 2017, pp 17, 70. <<http://www.lindtinquest.justice.nsw.gov.au/Documents/findings-and-recommendations.pdf>>; Robert Mendick, Khalid Masood: Everything we know about the London attacker, *The Telegraph*, 27 March 2017 <<http://www.telegraph.co.uk/news/2017/03/24/khalid-masood-everything-know-london-attacker/>>; Chine Labbé and Marie-Louise Gumuchian, Voice of Paris attacks; Did he have bigger role? *Reuters*, 28 November 2015 <<http://www.reuters.com/article/us-france-shooting-voice-insight/voice-of-paris-attacks-did-he-have-bigger-role-idUSKBN0TG26720151127>>, accessed on 27/09/2017.

83 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 107.

84 Neumann identifies factors specific to prison contexts, including that prisons can create 'unholy alliances', and suggests that prisons are inherently places of vulnerability for individuals that can affect openness to extremist messaging and influence. See Neumann et al., *Prisons and Terrorism*, 2010.

85 Neumann et al., *Prisons and Terrorism*, 2010.

86 ICS meeting with Corrections Victoria, 2016.

87 Jones discusses three workshops in his report: 'South-east Asian Prison Radicalisation' hosted by CSNSW at the Brush Farm Corrective Services Academy, 2013; 'Best Practices in the Assessment, Intervention and Management of Radicalized Offenders', international roundtable, Ottawa, 2014; and 'Preventing Radicalisation in Prisons: Developing a coordinated approach', international workshop, Amman, 2015; Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

Good practices and guidance on preventing and responding to prison radicalisation have developed from these workshops.⁸⁸ A number of key insights have emerged to underline that classification and placement strategies must be dynamic in nature and responsive to individual risk and rehabilitation needs.

2.2 CSNSW counter-terrorism approach

CSNSW defines three distinct cohorts of interest relevant to the radicalisation threat:

- inmates charged or convicted of national security offences;
- inmates not charged or convicted of national security offences but who are of national security interest;
- inmates who are not of national security interest, but who potentially hold extremist views.

The total number of extremist inmates in custody in NSW, including those convicted of national security and other offences, has followed an upward trend, but remains very low in a system that has over 13,000 inmates. In NSW, the majority of inmates in custody who have been identified to have extremist ideologies are considered to have been radicalised within the community and to have held those views when entering custody. CSNSW estimates that very few inmates have acquired extremist views while in custody.

CSNSW has been managing national security inmates since 2003. The key events that precipitated the arrest and entry into custody of extremist inmates in NSW were two joint police operations: Operation Pendennis in 2005 and Operation Appleby (with arrests between 2014 and 2016).

In April 2016, there were 21 inmates in custody on national security charges in NSW. As of February 2018, NSW held 37 inmates under laws relating to national security. Eighteen of these inmates are convicted and 19 are unconvicted and on remand in custody.⁸⁹ All of the inmates identify as Muslim and one is female. Many are 25 years or under, and therefore meet CSNSW's definition of a young adult offender.

CSNSW is therefore tasked with responding appropriately to an increasingly diverse custodial profile of convicted terrorists and unsentenced young men and women whose charges and associated risks and needs are varied. CSNSW has a security focus for this small but growing number of national security inmates. The majority of national security inmates are held at HRMCC at Goulburn. HRMCC is the most secure facility in NSW and was designed to accommodate extremely high risk inmates. It was not designed as a remand facility or as a facility where rehabilitation services are provided.

The CSNSW counter-terrorism approach has five objectives:

1. Understanding the counter-terrorism environment (locally, domestically and internationally) and the factors influencing this.
2. Understanding how these factors influence the management of offenders in custody and in the community.
3. Mitigating, disrupting and, if possible, preventing radicalisation of the offender population.
4. Enhancing existing relationships and information exchange with external agencies.
5. Preventing the involvement of offenders in custody from planning, organising, directing, funding, or being involved in acts of violent extremism or terrorism.

⁸⁸ GCTF, *Rome Memorandum on Good Practices for the Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012.

⁸⁹ Data provided by CSNSW.

This inspection shares some of these objectives, although (1) and (2) are beyond the scope of this report (but were an element of the background research). There is some overlap with objectives (3), (4) and (5):

3. Mitigating, disrupting and, if possible, preventing radicalisation of the offender population –

This report considers CSNSW's management strategies, including inmate placement, behavioural controls and the availability of programs and services, and how these are likely to affect inmate radicalisation.

4. Enhancing existing relationships and information exchange with external agencies –

This report considers how information and intelligence exchange can be enhanced within the corrections system, in addition to information exchange with external agencies.

5. Preventing the involvement of offenders in custody from planning, organising, directing, funding, or being involved in acts of violent extremism or terrorism –

This report considers the controls applied to inmates charged or convicted with national security offences; however, the inspection's approach to prevention focuses beyond security measures, to the impact of the overall control environment on inmates' willingness and interest in disengagement.

To achieve these objectives, CSNSW has developed eleven strategies. Many of these are focused on the fundamental elements of a counter-terrorism management strategy. The strategies are:

1. Engagement with other agencies on terrorism issues.
2. Reporting issues 'related to the counter-terrorism environment' to key stakeholders within CSNSW to facilitate the development of informed policy and procedures.
3. Developing policies and procedures to manage the risk of transitioning NSI offenders and other extremists through the classification system.
4. Using the classification and security designation systems to disrupt extremist offenders' dissemination of their ideology to other inmates.
5. Engagement and information sharing with external agencies about known and potential extremists in custody and the community.
6. Enhancing and developing collaborative arrangements to facilitate assessments of suspected extremists or inmates at risk of radicalisation.
7. Enhancing engagement with the Department of Juvenile Justice to identify young extremist offenders who may enter the adult custodial system.
8. Using programs to limit the risk of re-offending by extremist offenders when released into the community.
9. Enhancing engagement with the community, community representatives and families to assist disengagement of offenders and their reintegration into the community.
10. Engaging in research to create an evidence base for action.
11. Training and educating staff to identify indicators of radicalisation and how to report observations.⁹⁰

The inspection team endorses these strategies and makes recommendations aimed at enhancing the implementation of these strategies across the NSW prison system.

90 CSNSW, 'Counter-Terrorism Approach', (internal use), 2016.

3. Identification and risk assessment

Identification and risk assessments are undertaken when an inmate either enters custody for the first time or returns to custody. The inspection team chose to focus on these activities because of their importance in managing the radicalisation threat. Good identification and risk assessment protocols are necessary to determine which inmates are extremists and what risk they pose.

The inspection team was concerned with establishing the following:

- on admission to prison, what methods and tools are used for identifying inmates who are extremists, violent extremists or at risk of radicalising other inmates;
- how extremists, violent extremists or those at risk of radicalising other inmates are detected during their time in prison;
- what risk assessments are used to interpret risks associated with violent extremism and radicalisation, and how adequate these assessments are.

3.1 Admission and intake

CSNSW has established information-sharing protocols for identifying known extremists upon entry to custody. Identifying people entering custody who are not known to authorities or at risk of being radicalised is very challenging. Indeed, there is no clear template for the factors that might lead to radicalisation and no profile for someone vulnerable to radicalisation.⁹¹ While a number of vulnerability factors have been commonly identified in CVE research, many of these factors, in particular grievances and ideals, are often common to inmates in a prison environment.⁹²

When an individual is first brought from a court cell to a NSW correctional centre, they will be taken to the reception or intake unit of a prison. New admissions are assessed by the intake officer for the security risks they pose to the prison system, to other inmates and to themselves. This information is used to guide wing and cell placement, as well as referrals to specialist psychologist, mental health or welfare services.

On reception into a prison, inmate assessment is largely based on information volunteered. An intake screening questionnaire is used. The inmate is asked a series of questions by intake and reception staff from CSNSW and JH&FMHN relating to:

- physical and mental health, including medications;
- welfare issues, including family contact details;
- associations or membership to organised crime gangs;
- other factors that will have a bearing on their wing and cell placement within the corrections system (see 'Placement').

91 Skillicorna et al. found that the differences among radicalised offenders are as large as those among other offender types; therefore, it was not possible to use similarities to identify those at risk of radicalisation. See Skillicorna et al. (2015) in Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

92 Vulnerability factors include the need for identity, meaning and belonging, a desire for status, feelings of grievance and injustice, a desire for excitement and adventure, a significant life event, a desire for political or moral change and mental health issues. Empirical research has emphatically and repeatedly concluded that there is no single profile and no easily identifiable hallmarks of violent extremism. See Neumann et al., *Prisons and Terrorism*, 2010, p 26; Hannah et al., *Radicalization or Rehabilitation*, 2008, p 50; Home Office, *Prevent Strategy*, HM Government, United Kingdom, 2011, p 87.

The inspection team was told that if JH&FMHN staff detect a mental health issue upon intake, the inmate in question would be referred to a mental health professional, who would use standard clinical tools for triage and assessment. If certain themes emerged of delusions or concerning attitudes, the inmate would be reported via the JH&FMHN reporting structure to the local prison intelligence officer. At MRRC, if the mental health professional was uncertain of risks posed by an inmate, he or she would recommend holding the inmate in an assessment area until a psychiatrist was available to perform a fuller psychiatric assessment. However, health screening is not designed to detect radicalisation, nor could it practically be used for this purpose.

The United Kingdom use screening tools to assist in identification of violent extremists upon admission to custody.⁹³ The Inspector believes CSNSW should consider this approach.

CSNSW currently has mechanisms in place that screen for different vulnerabilities on admission to ensure inmates are appropriately placed in accommodation for their protection, the protection of others and the good order of a centre. Staff commonly understand vulnerability as those factors that require specific placement options for an inmate, including:

- physical or mental health issues requiring single or shared cell arrangements;
- associations (criminal, family or community) that could place the inmate or other inmates at risk if co-located with particular cohorts or individuals;
- offence-based vulnerabilities (for example, sex offences);
- high public profile, informants, or inmates who were previously engaged in law enforcement.

Identification and risk assessment protocols often rely on inmates to self-declare their associations or safety concerns that could require protective measures in custody. For example, members of organised crime gangs who may pose a threat to the system have an incentive to self-declare associations to ensure that they are housed in areas where they will be protected from rival gangs or individuals.

Upon intake, some people may be identified as vulnerable due to their offences or their former occupation. At the time of the inspection, personnel of the Australian Defence Force (ADF) were not flagged as potentially vulnerable in the prison system. The inspection team was of the view that CSNSW should consider identifying inmates on reception who have served in the ADF and note this in OIMS for placement consideration. This now occurs.

The inspection team observed that, on intake, Christians are asked which denomination they belong to but Muslims are not. Intake officers and staff generally do not ask about the denomination or religiosity of Muslim inmates, for example, whether an inmate is a practising Muslim, a Sunni or a Shia, what school of Islam is followed, or what this might mean for placement. Considering diversity among Muslim inmates in prisons could enhance existing intake processes to inform security and placement decisions.⁹⁴ However, the Inspector cautions against assumptions which may conflate religiosity and extremism.

93 ICS meeting with HM Prison Service staff, 2016.

94 A 2010 UK review of the treatment of Muslim inmates recommended custodial staff consider diversity among Muslim inmates' religiosity, ethnic groups and nationalities. See HM Chief Inspector of Prisons, *Muslim prisoners' experiences: A thematic review*, June 2010, <<http://www.ohrn.nhs.uk/resource/policy/MuslimPrisonersThematic.pdf>>.

1. The Inspector recommends that CSNSW considers the use of intake screening tools to identify extremist risks and vulnerabilities.
2. The Inspector recommends that CSNSW records an inmate's defence force service in the Offender Integrated Management System (OIMS).
3. The Inspector recommends that CSNSW collects information on an inmate's religious denomination on admission.

3.2 Detecting radicalisation in custody

Security in prisons is ensured by physical means, such as walls and bars, and procedural means, such as cell searches and dynamic means. Dynamic security is about knowing what is going on in a prison. It involves gathering information from inmates, careful observation and monitoring of inmates, and the analysis of that information. It requires staff to be alert, interact with inmates in a constructive manner, familiarise themselves with inmates' personalities, identify concerns, and engage inmates in productive activities. This helps staff to anticipate and prevent problems before they arise.⁹⁵ A fundamental aspect of dynamic security is that it feeds the prison intelligence system.

The inspection team found that CSNSW staff have different perspectives on whether radicalisation in prison is a threat and how to identify it. The fact that there are differences in opinion has contributed to staff expressing a need for information and training that would make them feel that everyone was 'on the same page' in detecting radicalisation.

3.2.1 Detecting and acting on signs of radicalisation

The inspection team heard a range of comments made by centre staff on the ability to detect radicalisation in prison.⁹⁶ When it comes to signalling or identifying risk behaviours, in most cases it will be front-line staff that pick up signs of concerning behaviour. Staff had different views about whether something signified an extremist tendency or not. When asked what radicalisation in prison looked like, staff provided indicators such as growing beards, sexist comments, references to beheading and violence overseas, extremist graffiti or paraphernalia found in cells, praying in common or public areas, and individual associations with particular Muslim inmates.⁹⁷

The inspection team found that some staff were of the view that following Islam is, in and of itself, a precursor to extremism. Staff concerns around conversions to Islam often drew on experiences managing security threats of inmates of Middle Eastern backgrounds. Across all centres, the inspection team heard from a number of staff who viewed all Muslims as radicals. On the other hand, many staff acknowledged the importance of not confusing people who are Muslim, or who may have rediscovered their faith in Islam in prison, or who demonstrate their religious identity, with people who have developed radical views.

95 UNODC, *Handbook on Dynamic Security and Prison Intelligence*, New York, 2015, pp 29–38, <www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_on_Dynamic_Security_and_Prison_Intelligence.pdf>.

96 The inspection team met with front-line prison staff at the centres inspected including different ranks of custodial officers, intelligence officers, classification staff, psychologists, chaplains, education staff and senior managers.

97 ICS interview with CSNSW staff, 2016.

Assessing risks associated with extremist attitudes is particularly difficult. A member of staff observed 'the risks of radicalisation are often internal [to the inmate] and take place over a period of time, but it is only if behaviour starts to interrupt the routine of a gaol that the inmate gets attention.'⁹⁸ Some staff expressed the view that adopting radical attitudes and beliefs could be different to supporting violence, and that having extreme beliefs does not necessarily predict violent behaviour.⁹⁹

3.2.2 Understanding Muslim culture

Understanding the difference between cultural and religious-based expressions and extremist expressions was identified by some staff as a challenge. The inspection team heard examples of Muslim inmates offering to explain an aspect of Islam or offering food to staff, with both gestures being interpreted as a possible attempt by the inmate to convert the officer. Examples of inmates accused of trying to 'recruit' or convert other inmates because they provided assistance with completing forms or sharing food also featured in interviews with inmates. It is important that basic gestures rooted in one's identity or cultural practices are not confused with coercion or conversion.

Across all centres, staff and inmates alike highlighted to the inspection team that staff were not always confident in dealing with the cultural and religious practices of Muslims. Inmates noted that some prisons have limited cultural, linguistic or religious diversity in the officer workforce and that staff members have limited exposure or understanding of diverse cultural practices or norms. Muslim inmates' perceptions varied across centres. Some Muslim inmates expressed concern that they were viewed with suspicion by some staff. At other centres staff were accustomed to religious practice and had a better understanding of diverse cultural practices.¹⁰⁰

It has been noted that prisons should seek to understand the prisoners they hold, especially in the case of cultural difference between prisoners and authorities keeping them.¹⁰¹ Further, the European Committee on Crime Problems recognises that 'Islamophobia and other forms of discrimination generate resentment and provide ground for radicalising narratives to take root'.¹⁰² It is therefore important that staff are able to distinguish signs of radicalisation from other gestures and ordinary cultural practice. The Inspector believes increasing diversity in the staffing profile at all centres will enhance staff understanding of diverse cultural practices.

3.2.3 Distinguishing between religious conversion and radicalisation

Internationally, there is a very small number of high-profile terrorists who converted to Islam in prison, including the United Kingdom's Richard Reid (the 'Shoe Bomber'), and the United States' Kevin James and Levar Washington (who planned terrorist attacks in California) and José Padilla (who was convicted of supporting overseas terrorism).¹⁰³ Conversion to Islam was frequently raised in discussions with staff at centres.¹⁰⁴

98 ICS interview with CSNSW staff, 2016.

99 ICS interview with CSNSW staff, 2016.

100 ICS interview with inmates, 2016.

101 Hannah et al., *Radicalisation or Rehabilitation*, 2008, p 50.

102 Council of Europe, *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism*, 2016. Note also the comment: 'Sensitivity and understanding of other cultural and religious norms, values and expressions has become increasingly important for the building of good staff-offender relationships' in RAN P&P, *Dealing with Radicalisation in a Prison and Probation Context*, 2015, p 3, <ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-news/docs/ran_p_and_p_practitioners_working_paper_en.pdf>.

103 See Brandon, J, 'The Danger of Prison Radicalization in the West', *CTC Sentinel*, vol 2, no 12, 2009; and Cuthbertson, IM, 'Prisons and the Education of Terrorists', *World Policy Journal*, vol 21, no 3, 2004.

104 ICS interview with CSNSW staff, 2016.

Conversion of inmates to Islam is a sensitive topic within the corrections system because it is perceived to involve unwilling converts; cause inmates, especially Indigenous inmates, to abandon their culture; and be the harbinger of spreading extremist sentiment.¹⁰⁵ While ‘conversion’ and ‘radicalisation’ are often used interchangeably, a convert is not the same as a radical and vice versa.¹⁰⁶

In NSW, CSNSW staff often observe conversions or become aware of an intention to convert when an inmate requests ‘religious-friendly’ meals, which caters for halal requirements. At some centres, when an inmate signals that they have converted to Islam, they will be interviewed by the visiting imam. The inmate will be asked, among other questions, why they converted, what they understand about Islam and what they understand to be their obligation as a Muslim. When an inmate requests and is authorised to change their diet for religious purposes, it is reflected in OIMS. Local-level intelligence initiatives involve screening inmates who have shown interest in converting to Islam for their motives. Such interviews and checks are not done for any other religious conversion and could be viewed as prejudiced.

The inspection team found the response to conversion varies from prison to prison. Some staff understood the radicalisation threat as synonymous with conversions to Islam. Others referred to conversion as ‘recruitment’ and considered religious affiliation to be similar to gang affiliation and borne out of a need to connect to other people for protection, material benefit or to be part of a group.¹⁰⁷ However, many staff acknowledged the importance of not confusing people who convert or rediscovered their faith in Islam in prison with people who have developed radical views. Other staff recognised that some converts choose Islam because of a genuine interest in religion. It is recognised that prisons generate anxieties and inmates may look to religion as a coping mechanism and a way of expressing identity in prison.¹⁰⁸

Like many forms of social activity, practising religion can facilitate admission into a group that can bring benefits.¹⁰⁹ Group formation is characteristic of the prison experience; in NSW, religious affiliation with Muslims can provide material benefits, such as items from buy-ups, and protection networks.

105 See Paget, J, ‘Aboriginal Conversions to Islam in Prison: A substantial security threat or another moral panic?’, *Muslim Identity Formation in Religiously Diverse Societies*, (eds Iner and Yucel), Newcastle upon Tyne, Cambridge Scholars Publishing, 2016, pp 290–307.

106 Spearlt emphasises that while conversion is used interchangeably with radicalisation, one does not imply the other; in fact, ‘sometimes the two point in opposite directions since converts who have started a serious quest to find peace are less vulnerable to extremist ideologies, radicalisation, and terrorist recruitment’. See Spearlt in Jones, ‘Managing Terrorist Offenders’, 2016, (unpublished; report for ICS), p 10.

107 ICS interview with CSNSW staff, 2016.

108 The Home Office counter-violent extremism *Prevent Strategy* (2011, p 87) notes: ‘The experience of a criminal conviction and spending time in prison can lead some people to take a closer interest in religion than they had before.’ A 2007 study for the US National Institute of Justice entitled *Prisoner Radicalization: Assessing the threat in US correctional institutions* concluded that only a very small number of converts turn radical beliefs into violent action and, in most cases, the conversion experience makes a meaningful contribution to prisoner rehabilitation; see Hamm in Jones, ‘Managing Terrorist Offenders’, (unpublished; report for ICS), 2016.

109 In a 2011 report published by the UK Ministry of Justice, the authors determined that the main motivations for turning to faith were: sense-making, searching for meaning, identity and structure; dealing with the pains of long-term imprisonment; seeking ‘brotherhood’, family, or ‘anchored relations’; seeking care and protection, gang membership; rebellion: Islam as ‘the new underdog religion’; and coercion. See Liebling et al., *An Exploration of Staff–Prisoner Relationships at HMP Whitemoor: 12 years on*, revised final report, Cambridge Institute of Criminology Prisons Research Centre, 2011, <www.prc.crim.cam.ac.uk/publications/whitemoor-report>.

These dynamics highlight that sophisticated risk analysis cannot be drawn from quantitative measures of conversions in prison. Statistics on conversions cannot offer insights into the intent or attitude of the converter or the converted. This is supported by a recent initiative between CIG and Macquarie University's Department of Security Studies and Criminology, which analysed religious conversions data across the prison estate.¹¹⁰ The initiative acknowledged that conversion statistics cannot be used as a proxy indicator for radicalisation.

It is important for staff to understand what radicalisation means and why people may be drawn to extremism; they also need to understand what kind of extremist behaviours CSNSW is interested in detecting. Extremist inmates pose a genuine threat to good order in the corrections system, and it is essential that staff can differentiate between those individuals and other Muslim inmates. It is for this very reason that CSNSW has a responsibility to equip its staff with the necessary skills to understand the difference between conversion and radicalisation.

3.3 Radicalisation Extremism Awareness Program (REAP)

Since 2015, CSNSW's dedicated tool for developing general staff expertise in identifying extremist threats is the Radicalisation Extremism Awareness Program (REAP). REAP is a national product and was not designed specifically for the custodial environment. Staff who are eligible for the online training course are those who have direct contact with inmates, of which there are approximately 4000. At the time of inspection, 2191 staff had enrolled to undertake REAP training (55 per cent of eligible staff) and 1608 had completed it (40 per cent); JH&FMHN staff operating in prison environments did not have access to REAP training.¹¹¹

The inspection team heard that staff who had completed REAP training considered it worthwhile and learned valuable information. Although, some staff considered the content to be too in-depth, or more suitable for the community rather than the custodial environment. Some also appreciated that access to the training was easy because the training was online. However, several staff who had completed the training suggested face-to-face training would provide more opportunity to ask questions or seek further information. Notwithstanding positive comments about REAP, there are challenges around the delivery of REAP training. Despite multiple online broadcasts encouraging staff to undertake REAP, the inspection team found custodial staff who were unaware of REAP training. Other staff told the inspection team that, while they appreciate REAP is important, it is not compulsory or they were simply too busy.¹¹²

It was, however, clear from discussions that there is an appetite for more staff training on radicalisation, especially interactive training where staff can ask questions. Because of the way the current training is delivered, this demand is not being met.

One member of staff commented, 'We do compulsory baton training once a year, but there is no comprehensive training available to staff on managing the dynamic security threat posed by radicalisation beyond the online course.'¹¹³

110 Macquarie University's Department of Security Studies and Criminology was formerly the Department of Policing, Intelligence and Counter Terrorism.

111 Data provided by CSNSW, 2016.

112 ICS interview with CSNSW staff, 2016.

113 ICS interview with CSNSW staff, 2016.

Some staff also expressed interest in having general cultural and language training about Muslim communities and Islam. Some centre staff had benefited from local initiatives, such as sessions run by Muslim chaplains on understanding Muslims and Islam. These sessions were generally considered relevant and useful by staff. However, some staff were less enthusiastic about such sessions. The different views expressed by staff are equally important for understanding the ease with which staff operate in a multicultural environment.

A select number of staff had attended a course on Islamic awareness at the Brush Farm Corrective Services Academy in Eastwood, NSW, run by external education providers, the Islamic Sciences and Research Academy of Australia. The course involved a site visit to a Sydney mosque. The staff who participated emphasised that such opportunities were impactful and useful. Since 2012, seven courses have been run with full capacity; however, the inspection team notes that this course was not offered in 2016 or 2017.

At the time of inspection, 75 per cent of the HRMCC inmate population was Muslim, however, the inspection team found there was no specific training or professional development opportunities provided to staff at HRMCC on general cultural or language training about Muslim communities and Islam.

Access to knowledge can only increase staff expertise in accurately identifying signs of radicalisation and differentiating these signs from cultural or religious practice. International conversations on how to improve prison capacity to manage radicalised offenders are unanimous on the importance of training staff to differentiate religious, cultural and extremist behaviours.¹¹⁴ The benefit of quality targeted training is twofold: staff will be able to accurately observe signs of radicalisation; and less likely to put potentially misleading or unimportant information in OIMS, or refer such information to senior staff.

4. The Inspector recommends that CSNSW develops the capacity of all staff that have contact with inmates to identify extremist risks.
5. The Inspector recommends that Radicalisation Extremism Awareness Program (REAP) training is adapted to provide a greater focus on the custodial context.
6. The Inspector recommends Justice Health & Forensic Mental Health Network develops the capacity of their staff to identify extremist risks.
7. The Inspector recommends that CSNSW provides staff training on understanding Islam and associated cultural practices.
8. The Inspector recommends that CSNSW increases the diversity in its staffing profile.

114 The *Government Response to the Review of Islamist Extremism in Prisons, Probation and Youth Justice* (2016) recommended 'suitable training provided for staff, with particular emphasis on distinguishing religious from cultural traditions'. Accessed 24 November 2016: <www.gov.uk/government/publications/islamist-extremism-in-prisons-probation-and-youth-justice/summary-of-the-main-findings-of-the-review-of-islamist-extremism-in-prisons-probation-and-youth-justice>. The Council of Europe's *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism* (2016) recommended that funds be allocated such that recruitment and training of prison staff reached the highest standards. HM Chief Inspector of Prisons' *Muslim Prisoners' Experiences: A thematic review* (2010) included a recommendation for 'staff training that enhances understanding of the main concerns of Muslim prisoners and a greater recognition of their religious diversity and the way that this interacts with cultural and racial identities'. See also Neumann et al., who acknowledge that while 'it would be unrealistic to expect prison guards to become experts in Islamic theology', nonetheless assert 'training for prison staff can go some way towards making basic differences and subtleties understood', *Prisons and Terrorism*, 2010, p 36; and RAN P&P, *Dealing with Radicalisation in a Prison and Probation Context*, 2015, p 4.

3.4 Managing information

The previous section discussed the importance of the provision of training to all staff. Developing an understanding of what radicalisation is, and how to identify it, should go hand in hand with clear staff responsibilities in terms of reporting.

CSNSW's OIMS is fundamental to the management of inmates and all threats to the corrections system. The completeness of inmate profiles on OIMS, in terms of being accurate, up-to-date and comprehensive, is essential. Every inmate has an entry in OIMS that includes: personal identifying information; offence and sentence information; case notes about behaviour and incidents; alerts (such as for acts of violence); associations (such as gang membership); non-associations (for example, the need to keep the inmate physically separated from certain individuals); and previous centres in which the inmate has been held. This information allows CSNSW to track an inmate's location and behaviour over time and assess it for any patterns of concern.

An 'alert' screen on OIMS is designed to communicate any risks or management problems to all staff that have responsibility for, or significant interactions with, an inmate. Alert categories pertain to issues of self-harm, violent behaviour, physical health, mental health and/or disability, placement or association problems, and security problems. In practice, staff review alerts relating to an offender prior to making management decisions, for example around prison, wing and cell placement.

For inmates who are not new to the system but have been transferred from one prison to another, reception officers receive a 'synopsis' containing details of the inmate's name and Master Index Number, as well as any alerts or notable associations of which the receiving centre should be aware. The synopsis is sent to the prison a day prior to the inmate's transfer to give the prison staff time to consider and prepare for their arrival.

Reception officers prioritise the checking of alerts and associations that are flagged for arriving inmates. If an inmate is, for example, violent, the inmate's case manager will analyse information holdings in OIMS to form an opinion as to how the inmate should be managed. Management considerations include segregation, wing and cell placement.

The value of establishing information sharing protocols with external agencies is self-evident. This includes obtaining relevant information in relation to young offenders who have previously been held in JJNSW custody.

3.4.1 Case notes

Case notes contain basic observations about inmates, which are important to detect patterns over time that might indicate threats, changing risks and vulnerabilities. Case notes might include observations about suspicious behaviour or comments, or a description of an interaction with an officer.

The inspection team was told of four issues relating to the use of case notes in OIMS for managing inmates:

- **Responsibility** – writing case notes is a common responsibility among all centre staff. As there are no individual accountabilities for case notes, staff are not required to write them.
- **Reliability** – information in case notes was perceived as unverified and staff were cautious about relying on the information.
- **Training** – there is no training provided on how to write case notes. The inspection team also viewed examples of case notes that were unprofessional and formed the view that the quality of case notes could be improved with training.

- **Confidentiality** – inmates are sometimes shown case notes. Staff said that this discourages them from creating case notes, because they do not want inmates to know what has been written about them. Inmates complained to the inspection team that when they have seen case notes, the information is sometimes incorrect.¹¹⁵

Case notes are used as supporting evidence for classification, designation and placement decisions. It enables information to be shared in an operational environment that involves shift work and inmates transferring between prisons. Case notes can also record positive behaviours such as normal religious practices, observance and worship; however, it is important for case notes to distinguish between legitimate practices and risk behaviours. Improving the quality of case note observations on extremist behaviours will therefore assist management decisions.

9. The Inspector recommends that CSNSW provides training and guidelines to staff on documenting and reporting on extremist threats.

10. The Inspector recommends that CSNSW and Juvenile Justice NSW review the 2006 Memorandum of Understanding to include information-sharing protocols.

3.5 Intelligence functions within CSNSW

CSNSW intelligence staff is divided into two categories: custodial officers, who work in intelligence functions in the prisons; and Corrections Intelligence Group (CIG) staff, who collate information from prisons and carry out assessments of that information.

Intelligence staff service the prisons by analysing and disseminating information on incidents and individuals. This process relies on local prison intelligence officers knowing what to report and how to report it. Any assessment process that concludes an inmate is a suspected extremist should guide operational staff to decide whether to intensify intelligence-collection efforts, or recommend further assessment to determine whether a specific intervention or set of actions is required. On any given day, CIG staff are dedicated to receiving, collating and evaluating intelligence across the prison system. CIG then co-ordinates the release of information as required to centre management to ensure staff and inmate safety. It is important that this information is conveyed in a timely manner.

Like local prison intelligence staff, many CIG staff have a custodial officer background. Internationally, working principles around the management of radicalised inmates place an emphasis on the value of multidisciplinary teams in assessing the risk cohort.¹¹⁶ While recognising that CSNSW has invested in general awareness staff training on the threat of inmate radicalisation through REAP, there is equally a need to invest in specific training and skills development for specialist intelligence staff at the prison and system level. Skills in operational intelligence, evaluating information, profiling, briefing, managing sources and records are developed on the job. Although training and development is currently provided to all intelligence staff, the inspection team thought this could be examined and expanded.

115 ICS interview with CSNSW staff, 2016.

116 Council of Europe, *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism*, 2016.

Joint Counter Terrorism Teams (JCTTs) are located in each jurisdiction of Australia, and conduct investigations to prevent, respond to, and investigate terrorist threats and attacks in Australia. The NSW JCTT comprises NSW Police Force, the Australian Federal Police, the Australian Security Intelligence Organisation, and the NSW Crime Commission.¹¹⁷ The Inspector believes that CSNSW's intelligence function would be further optimised by CSNSW becoming a member of the JCTT.

CSNSW has increased its intelligence capacity in recent years in response to the threat of violent extremism. Despite this, the inspection team found variations in the intelligence staffing establishment for centres, including differences between maximum security centres. The Inspector believes that CSNSW should conduct a review of the intelligence needs across the system with a view to enhancing the capacity and capability of intelligence throughout the system in response to the risk of violent extremism and radicalisation to violence.

11. The Inspector recommends that CSNSW becomes a member of the Joint Counter Terrorism Team.
12. The Inspector recommends that CSNSW undertakes a review of the intelligence needs across the system with a view to enhancing the capacity and capability of intelligence resources throughout the system.
13. The Inspector recommends that CSNSW ensures that the team within the Corrections Intelligence Group, dedicated to countering violent extremism, includes culturally and linguistically diverse expertise, community knowledge and experience relevant to the extremism threat.
14. The Inspector recommends that CSNSW provides specialist intelligence training to all intelligence officers.
15. The Inspector recommends that CSNSW develops protocols for timely intelligence sharing on extremist threats between Corrections Intelligence Group and relevant centre management to ensure staff and inmate safety.

3.6 Assessment of inmates on national security charges

When a national security inmate is transferred to HRMCC, the inmate is kept separate from other inmates. This is the period when a comprehensive psychological assessment is to take place with a senior psychologist. Inmates are also expected to participate with a multidisciplinary team comprised of a psychologist, education officer and counsellors. However, the inspection team found there were challenges with conducting meaningful assessments at HRMCC. For example, the inspection team was told unconvicted national security inmates are often unwilling to participate in psychological assessments for legal reasons.¹¹⁸

Although new inmates are held separately during assessment, the physical environment of HRMCC and group dynamics, even when inmates are not in direct physical contact with each other, can also influence and guide inmate knowledge and attitudes. The inspection team formed the view that the securitised environment and regime, and peer pressure at HRMCC creates low levels of trust between inmates and staff, and can quickly result in reluctance to engage with staff.

117 Australian Federal Police, press release, 7 April 2017, <<https://www.afp.gov.au/news-media/media-releases/joint-counter-terrorism-team-investigate-queanbeyan-murder>>.

118 ICS interview with CSNSW staff, 2016.

The difficulty in obtaining inmates' cooperation during the assessment process in the high-security environment of HRMCC has meant that CSNSW has little or no baseline or dynamic assessment data to measure changes in risk over time. If available, this information could play a role in key decision-making about the sentence management of convicted extremist inmates, such as initial security classification, re-classification, the best intervention approach for each inmate, and suitability for release on parole.

At a policy level, the six-week induction phase for all new arrivals to custody is informed by comprehensive risk assessment and analysis to develop appropriate management strategies to address problem behaviours.¹¹⁹ However, the inspection found there are no risk assessments undertaken with the inmate, nor are there risk assessment tools or guidance for staff engaged in this process at HRMCC.

This is because, unlike for violent or sex offenders, there are no terrorism-specific risk assessment tools that have been validated globally.¹²⁰ CSNSW is clear that pre-existing risk assessment tools such as those applied to violent offenders cannot be used on terrorist offenders. The structured tools or empirically derived factors used to inform initial risk assessment of terrorist offenders for classification and placement decisions have not been defined.

Internationally, specialist methods for assessing extremist offenders have been developed. These tools are specifically designed to assess risk factors deemed relevant to terrorist offending. The inspection team notes that these tools have not been validated in terms of reliability for assessing the risk of reoffending and are not employed by CSNSW.¹²¹ In 2016, CSNSW introduced RADAR, a structured risk assessment tool that is used to assess inmates nearing their earliest possible release date. However, this tool has not been used to assess initial risk on admission.

Risk assessment tools for terrorist offenders remain a challenging and contentious area of practice. Conducting individualised intake and risk assessment that sets out clear and specific risk criteria to inform initial classification and placement decisions has nonetheless been identified as best practice.¹²²

16. The Inspector recommends that CSNSW develops a structured risk assessment tool for assessing extremist risks.
17. The Inspector recommends that CSNSW undertakes on admission a comprehensive risk assessment for each inmate on national security charges, which is then used to develop individual placement and case plans.

119 CSNSW, *Operations Procedures Manual*, v 1.0, 2015.

120 For a summary of approaches and challenges to risk assessment of terrorist offenders, see Smith and Nolan, *Post-sentence Continued Detention of High-risk Terrorist Offenders in Australia*, 2016.

121 Two risk assessment tools used in Europe for extremist prisoners were discussed by the inspection team: the Extremist Risk Guidance 22+ (ERG22+) developed by the British National Offender Management Service, which assesses offenders on 22 cognitive and behavioural factors theoretically associated with extremism; and the Violent Extremism Risk Assessment protocol (VERA 2) developed by E Pressman and J Flockton, a senior psychologist at the HRMCC, for use with prisoners convicted of extremist violence or terrorist offences. See Pressman, E and Flockton, J, 'Violent Extremist Risk Assessment: Development of the VERA-2 and applications in the high security correctional setting', *Prisons, Terrorism and Extremism: Critical issues in management, radicalisation and reform*, (ed Andrew Silke), London, Routledge, 2014.

122 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 45.

4. Classification and designation

4.1 Classification

Classification systems are an integral part of the risk management of correctional systems, and provide support across a range of issues in correctional management practices.¹²³ From a security perspective, classification systems aim to minimise the risk of inmate escape, violence and other institutional misconduct. From a rehabilitation perspective, the classification system, together with placement arrangements, assists in ensuring the sequencing and timely completion of programs to meet the expectations of releasing authorities, and minimise the risk to the community upon an inmate's release.

An effective classification system contributes to inmate behaviour management by providing incentives to promote appropriate behaviour and performance and, hence, a benign institutional climate. When incentives are absent, staff may be at risk from inmates who cannot see any meaningful future.¹²⁴

The aim of the classification system is to assign inmates with the lowest security classification necessary to accommodate their level of risk.¹²⁵ Hand in hand is the notion that inmates can progress through security classifications in custody if there is a reduction in the security risk posed by the inmate.

Effective assessment and classification systems have been identified as necessary for the management of violent extremists and prevention of radicalisation.¹²⁶ CSNSW considers classification and designation as a central strategy in its counter-terrorism approach. Therefore, the inspection team decided to examine how these systems are used to manage offenders on national security charges and otherwise identified as extremist.

Classification is the principal factor used to determine an inmate's placement and type of custodial facility in which an inmate should be housed; that is, maximum, medium or minimum security. How an inmate is classified guides the accommodation, management and security regime to which he or she is subject.

123 ICS, *Lifers*, 2015, p 11.

124 ICS, *Lifers*, 2015, p 11.

125 See, for example, UNODC, 'Rule 36', *UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, 2015.

126 See UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 1.

Table 1: Male and female classification categories used by CSNSW

| Classification | Male | Classification | Female |
|----------------|-------------------------------------|----------------|-------------------------------------|
| AA | Maximum | 5 | Maximum |
| A1 | Maximum | 4 | Maximum |
| A2 | Maximum | 3 | Medium |
| B | Medium | 2 | Minimum |
| C1 | Minimum | 1 | Minimum |
| C2 | Minimum | | |
| C3 | Minimum | | |
| E1 | Maximum: previous escape/attempt | E1 | Maximum: previous escape/attempt |
| E2 | Medium: previous escape/attempt | E2 | Medium: previous escape/attempt |

Source: *Crimes (Administration of Sentences) Regulation 2014, Division 1.*

Every inmate must have a classification, and inmates who present special risks may also have a designation. The criteria for classifying and designating inmates, and a description of the type of custodial facility in which inmates of different classifications are required to be confined, is set out in the *Crimes (Administration of Sentences) Regulation 2014* ('the Regulation').

There are four factors taken into account in determining classification:

- seriousness of the inmate's offence(s);
- inmate's previous criminal history;
- inmate's behaviour in custody;
- advice received from NSW Police or another public authority.¹²⁷

A factor in classifying inmates in NSW is offence seriousness, which is determined by the length of an inmate's sentence, or the maximum sentence applicable to the offence with which the inmate has been charged. In determining an appropriate security classification for an inmate, consideration is also given to advice received from law enforcement or security agencies.

It is a fundamental principle of good prison management that inmates should be subject to the least restrictive environment necessary for the protection of the public, staff and other inmates.¹²⁸ An inmate should be classified according to the information gained through a risk and needs assessment. International good practice emphasises that legal status, age and vulnerabilities are further factors that should be considered in such determinations.¹²⁹ As risks and needs are diverse, assessments should be conducted by appropriately trained staff with different specialisations.¹³⁰

¹²⁷ *Crimes (Administration of Sentences) Regulation 2014, Division 1, clause 19.*

¹²⁸ See, for example, UNODC, 'Rule 36', *UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, 2015; Council of Europe, 'Rules 3 and 18.10', *European Prison Rules*, 2006; Committee of Ministers of the Council of Europe, *Dangerous Offenders – Recommendation CM/Rec (2014)3 and explanatory memorandum*, 2014, paragraph 4.

¹²⁹ UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, pp 42–46.

¹³⁰ See 'Good Practice Number 3' in GCTF, *Rome Memorandum on Good Practices for the Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012.

The inspection team was told the guiding principles for classifying inmates on remand are the length of sentence their charges would likely attract, if convicted, and their escape risk. However, the objective security rating tool that is required to be completed in classifying inmates uses a range of factors to determine classification, in addition to offence severity, sentence length and prior history in line with accepted good practice.¹³¹

4.1.1 National security classification

In NSW, male and female inmates who represent a 'special risk to national security', including those charged or convicted of terrorism offences, have a dedicated maximum security classification: AA for male inmates and Category 5 for female inmates.

The AA and Category 5 classification provides for:

... the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities) and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment.¹³²

The AA classification was introduced in 2004 in response to NSW receiving the first inmates charged with national security offences ('national security inmates'). Although not mandatory, in practice, all inmates charged with or convicted of national security offences are classified AA or Category 5 upon reception. When male inmates are on remand and awaiting trial, the AA classification code is followed by the letter 'U'.

There is no substantive difference between the special category AA and the A1 maximum security classification for management purposes; especially given that designations are used to manage special risks.¹³³ The AA classification, like A1, brings with it certain requirements regarding the 'special facilities' in which AA inmates must be held. According to the Regulation, national security inmates should 'at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment'.¹³⁴ In NSW, several facilities fit this description, but, in practice, national security inmates are placed at HRMCC.

In response to the threat of terrorism, inmates have been detained at HRMCC on a broader range of terrorism-related offences and for extremist behaviour in custody.¹³⁵ National security inmates held at HRMCC include inmates who have been convicted of 'conspiring to do an act in preparation for a terrorist act' and sentenced to between 23 and 28 years; an inmate convicted of non-national security charges sentenced to six months; inmates charged with conspiring to do an act in preparation for a terrorist act; and an inmate charged with breaching a control order.¹³⁶

131 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.8, 2015.

132 *Crimes (Administration of Sentences) Regulation 2014*, clause 12.

133 The A1 maximum security classification provides for 'the category of inmates, who, in the opinion of the Commissioner, represent a special risk to good order and security and should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment'; *Crimes (Administration of Sentences) Regulation 2014*, clause 12.

134 *Crimes (Administration of Sentences) Regulation 2014*, clause 12.

135 Data provided by CSNSW.

136 Lynch et al., *Inside Australia's Anti-terrorism Laws and Trials*, 2015; Data provided by CSNSW.

This has led to a situation where alleged offenders and convicted terrorists are placed at HRMCC. Although unsentenced and sentenced offenders subject to terrorism charges are not allowed to mix, limited communication is still able to occur. This creates a risk that some inmates will become radicalised to violence within prison. This is the risk that the national security classifications were first introduced to prevent; that is, 'a perceived risk that [inmates] may engage in, or incite other persons to engage in, terrorist activities'.¹³⁷ The current application of the classification also subjects remand inmates to the most restrictive regime in the system before the court has determined their guilt.

The Inspector believes that the AA or AAU classification should only be applied to those inmates who, based on an individual risk assessment, may engage in, or incite other persons to engage in, violent extremism.

4.2 Designation

A designation is distinct from a classification and provides for additional security measures to be applied to inmates who pose a particular threat that is unable to be managed through usual prison regimes and monitoring. Designations require extra security measures which restrict usual inmate entitlements.

An inmate may receive a 'high security', 'extreme high security', 'extreme high risk restricted' and 'national security interest' designation.¹³⁸ CSNSW uses the two latter designations to manage the threat specifically posed by extremist inmates, defined in the Regulation.¹³⁹

Extreme high risk restricted (EHRR) inmates present 'an extreme danger to other people; or an extreme threat to good order and security; and there is a risk that the inmate may engage in, or incite other persons to engage in, activities that constitute a serious threat to the peace, order or good government of the State or any other place'.¹⁴⁰

National security interest (NSI) inmates present a risk that they may 'engage in, or incite other persons to engage in, activities that constitute a serious threat to the peace, order or good government of the State or any other place'.¹⁴¹

4.2.1 Extreme high risk restricted (EHRR) designation

The procedure for the designation of inmates in NSW is to conduct an individual risk-based assessment of an inmate's threat to the system, and designate accordingly. However, the inspection team was told, in practice, all national security inmates are designated EHRR and placed at HRMCC.¹⁴²

The EHRR designation imposes the most restrictive security regime in the NSW correctional system. It is designed to control and monitor all forms of contact, communication and financial transactions between inmates and external associates to prevent the coordination of serious criminal activities from inside prison. It permits only one non-contact visit (or 'box visit') per week; requires visitor vetting and approval by the Commissioner; and requires visitors and inmates to communicate exclusively in English. It also requires a correspondence register to be kept; written communication to be in English; and for mail to be monitored and copied. Commissioner approval is required for phone contacts; phone calls must be conducted in English and are monitored in real time by correctional officers. EHRR inmates are not to receive money in their inmate trust accounts unless approved by the Commissioner. Official Visitors may not speak with or hear complaints from EHRR inmates.

137 *Crimes (Administration of Sentences) Regulation 2014*, clause 12.

138 *Crimes (Administration of Sentences) Regulation 2014*, clause 15.

139 *Crimes (Administration of Sentences) Regulation 2014*, clause 15.

140 *Crimes (Administration of Sentences) Regulation 2014*, clause 15.

141 *Crimes (Administration of Sentences) Regulation 2014*, clause 15.

142 ICS interviews with CSNSW staff, 2016 and 2017.

The EHRR designation was enacted through regulation in 2009 in response to the particular threat posed by an individual inmate suspected of subversive or illegal behaviour in custody.¹⁴³ It is of note that the inmate was not charged or convicted of terrorism-related offences, and that the EHRR designation was not introduced to respond to a national security threat. Between 2009 and 2015 only one inmate was designated EHRR. However, the inspection team was advised by CSNSW that an increase in the national terrorism threat level in September 2014 precipitated a decision to conduct a risk assessment of all national security inmates at HRMCC. The result was that all 13 national security inmates housed at HRMCC were designated EHRR in March 2015.

It was evident to the inspection team that concerns about terrorist threats and communications from prison were factors that resulted in the EHRR designation of all the inmates. The Commissioner's statement at the time emphasised language controls as necessary to safeguard the community.¹⁴⁴ The inspection team formed the view that CSNSW was only able to monitor the communications of national security inmates by designating them EHRR, which requires inmates to communicate in English during visits, phone calls and by mail. As the EHRR designation also restricts inmates to one visit per week, at the Commissioner's discretion, the number of visits to be monitored by CSNSW staff decreased. The designation of national security inmates as EHRR therefore increased CSNSW's capacity to monitor external communications of national security inmates held at HRMCC.

For some inmates, who had been housed at HRMCC for over a decade without the application of extra security controls, the imposition of non-contact visits and other controls were seen as unfair. Following complaints from affected inmates in April 2015, the NSW Ombudsman enquired into the process through which the EHRR designations were imposed and was satisfied that due consideration was given to each individual case.

The UN cautions that fair and humane prison practice should be upheld in managing violent extremist prisoners, and to do otherwise risks fuelling grievances among violent extremists, radicalising others to violence and impeding disengagement and rehabilitation.¹⁴⁵ Designations present a challenge to balancing the requirements of security and implementing positive and constructive regimes to promote disengagement and rehabilitation. The Inspector believes that individual risk assessments about the security requirements of individual inmates should inform the application of designations. Such assessments should be based on multiple sources of information to increase reliability.¹⁴⁶

4.2.2 National security interest (NSI) designation

The national security interest (NSI) designation was introduced in October 2015 specifically to enable CSNSW to monitor any inmate considered to pose a risk to national security.¹⁴⁷ The NSI designation enables increased monitoring and surveillance of inmate communications with external contacts.

143 *Crimes (Administration of Sentences) Amendment Regulation 2009*.

144 Statement by CSNSW Commissioner Peter Severin on changed arrangements for extreme high risk restricted AA inmates, 11 March 2015, <www.justice.nsw.gov.au/Pages/media-news/media-statements/2015/commissioner_statement_changedarrangements-inmates.aspx>.

145 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 111.

146 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 43.

147 *Crimes (Administration of Sentences) Regulation 2014*, clause 15.

Table 2: Security controls specified for EHRR and NSI designations

| Security controls | EHRR | NSI |
|--|------|-----|
| Permitted one visit per week only <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 76</i> | ✓ | |
| Visitor vetting and approval by Commissioner <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 94</i> | ✓ | ✓ |
| Box visits (Commissioner approval only for contact visits) <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 100(4)</i> | ✓ | ✓ |
| English language requirement for visits <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 101</i> | ✓ | |
| Mail monitoring and copying <i>NSW Crimes (Administration of Sentences) Regulation, clause 115</i> | ✓ | ✓ |
| English language requirement for mail <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 116</i> | ✓ | ✓ |
| Correspondence register kept <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 117</i> | ✓ | ✓ |
| Commissioner approval of contact phone numbers <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 16(c)</i> | ✓ | ✓ |
| English language requirement for phone calls <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 119</i> | ✓ | ✓ |
| Monitoring of phone calls <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 119(4)</i> | ✓ | ✓ |
| Not to receive money unless approved by the Commissioner <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 125</i> | ✓ | |
| Not entitled to speak with or make complaints to Official Visitors <i>NSW Crimes (Administration of Sentences) Regulation 2014, clause 169(5)</i> | ✓ | ✓ |
| Permitted to work subject to approval CSNSW OPM, section 17 | | ✓ |

Table 2 illustrates that the main difference between EHRR and NSI security controls is that the NSI designation does not limit visits to one per week, and inmates may converse with their visitors in languages other than English. In addition, the special restrictions on money received in prison do not apply to NSI inmates.

The inspection team was advised that an NSI designation differs from an EHRR designation and that they serve different purposes. Unlike an EHRR designation, which results in the inmate's placement at HRMCC, an NSI designation does not restrict placement options for inmates. An NSI designation is a flag of current or past concern that follows an inmate across security classification. Inmates designated as NSI can be housed at any correctional centre commensurate with their classification. In other words, the NSI designation can be assigned to an inmate from the time they enter custody, and remain in place as the inmate progresses through the system.¹⁴⁸ The NSI designation, therefore, facilitates participation in rehabilitation and disengagement initiatives, and educational, vocational and employment opportunities.

148 ICS interviews with CSNSW staff, 2016 and 2017.

The restriction on visits being limited to one per week, and for all communication during visits to be conducted in English for inmates with an EHRR designation, is at the Commissioner's discretion.¹⁴⁹ However, in practice, the EHRR controls apply as a full suite to each inmate. The inspection team was concerned at the time of the inspection there was a high number of unconvicted national security inmates with an EHRR designation who were only being allowed one visit per week. It is noteworthy that unconvicted inmates are otherwise generally permitted at least twice weekly visits as well as legal visits.¹⁵⁰ This recognises the particular needs of unconvicted prisoners to maintain family connections and have access to their legal representatives as they prepare for trial.

The inspection team also noted that some inmates were designated NSI and EHRR. The Inspector believes the security measures that apply to inmates on national security charges should be based on an individual risk assessment.

4.3 Impact of EHRR and NSI designations on inmates

The inspection team acknowledges that national security is a legitimate reason for encroaching on usual inmate entitlements. However, striking the right balance between maintaining security and being fair and humane is crucial.¹⁵¹

The EHRR and NSI designations impact on an inmate's access to independent complaint mechanisms, family and legal visits, confidential legal communications, legal professional privilege; preparation for trial and the right to use one's own language.

As highlighted in the table above, EHRR and NSI designations provide for many of the same security measures. However, the designation of EHRR imposes additional security measures for controlling and monitoring inmates at HRMCC, including the restriction on the number of visits; the requirement to speak English during those visits; and the requirement of the Commissioner to approve a sum of money before it is deposited in an inmate's trust account.

The following section outlines the impact of designations on what are otherwise usual inmate entitlements recognised in the *Crimes (Administration of Sentences) Regulation 2014* NSW, which reflect Australian and international standards.

4.3.1 Family visits

The security restrictions imposed by the EHRR designation involve controls on the number of visits, contact during visits, and language restrictions. Inmates are entitled to one box visit per week, which does not permit physical contact between the inmate and their family members.

At the time of inspection at HRMCC there were eight time slots per week available for family visits, and one non-contact box for more than 30 inmates. In practice, this means that inmates are not able to see their families on a regular basis. International and Australian standards recognise inmate contact with family members should be an entitlement rather than a privilege.¹⁵² The Inspector is concerned that the current limitation on the number and quality of family visits undermines this principle and contradicts CSNSW's own accepted good practice.

149 *Crimes (Administration of Sentences) Regulation 2014*, clause 76(3) and 101(1).

150 *Crimes (Administration of Sentences) Regulation 2014*, clause 76(1) and 86(1).

151 Von Doussa, J, 'Reconciling Human Rights and Counter-Terrorism: A crucial challenge', *James Cook University Law Review*, vol 13, 2006, p 104.

152 'Rule 106', *UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, 2015.

The inspection found that separation from supportive contacts, such as family and friends, was a significant grievance of inmates. The restrictions around family contact undermine the practice of using family visits as a stabilising factor in an inmate's behaviour and a motivation for positive change. Maintaining family contact is in the best interests of both the inmate and the inmate's family.¹⁵³ The United Nations Office on Drugs and Crime identifies that families are often vital partners in the disengagement and reintegration process, while acknowledging that some families may be part of the problem and hinder disengagement.¹⁵⁴ PRISM, the disengagement program being offered by CSNSW, also recognises the importance of family support in disengagement.

The inspection team was advised that CSNSW is investing \$3.3 million on new infrastructure for non-contact visits at HRMCC. This is an important initiative, however, the Inspector believes an individual risk assessment of the need for a non-contact visit should also occur. It is acknowledged that the Commissioner has exercised his discretion and exemptions have been made for some inmates to have contact visits based on individual risk assessments. The Inspector commends the exercise of discretion as good practice.

A final consideration around visits noted by the inspection team is that national security inmates at HRMCC are required to wear orange jumpsuits during box visits with their families and their legal representatives, despite the fact that inmates do not leave the confines of HRMCC and visits are non-contact. The inspection team notes that white overalls are used as a security protocol for contact visits for all maximum security inmates. Orange jumpsuits were introduced as an important security measure at HRMCC for maximum visibility to prevent and respond to escape risks during external movements.

However, non-contact visits are an enhanced security protocol in themselves, as non-contact visits eliminate the risk that contraband may be secreted, or the need for inmates to be differentiated from visitors in a shared space. The inspection team heard from both staff and inmates that the use of orange jumpsuits contributed to notoriety and status around HRMCC inmates, to the point where some younger offenders aspired to be placed at HRMCC.¹⁵⁵ The Inspector believes requiring inmates to wear orange jumpsuits within the confines of HRMCC for non-contact visits should be subject to individual risk assessment.

4.3.2 Language requirements

The inspection team heard the requirement for visits, phone calls and letters to be in English has had an impact on the families of some inmates. For example, the inspection team was made aware of several family members who had little or no English, but were required to communicate in English, or not speak during visits. Requiring family members to communicate in English may also make them feel as though they are viewed as a security risk. The Inspector encourages CSNSW to consider the impact of such controls on families and the broader community from a CVE perspective.

153 'Rule 58', *UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, 2015.

154 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 140.

155 ICS interviews with CSNSW staff and inmates, 2016.

The Commissioner has discretion to provide exemptions to the English language restriction and the inspection team heard that Commissioner's discretion has been exercised for mail contact for one individual. The Inspector commends this approach to managing the risk posed by EHRR inmates. However, the current practice is for inmates to apply for an exemption rather than be individually risk assessed. The Inspector believes English-language restrictions should apply on the basis of an individual risk assessment. As required, CSNSW should draw on language and interpretation services and develop capacity to monitor and interpret languages other than English. Capacity for linguistic diversity among corrections staff is recommended in international guidance on managing extremists in prisons.¹⁵⁶

Additionally, the inspection team was told there were inconsistencies in approvals for non-contact visits and phone calls. Some family members were approved for phone calls but not for non-contact visits. Applications for non-contact visits or phone calls should be determined in a consistent and timely fashion.

4.3.3 Financial restrictions

The EHRR designation was introduced to address the risks posed by a particular offender not convicted of national security offences, as it was found that access to inmate trust accounts presented a unique security risk for this particular inmate. It is unlawful for an EHRR inmate to acquire or retain possession of money, including any money paid or proposed to be paid into the inmate's account.¹⁵⁷

At the time of inspection, the Commissioner had used his discretionary power to permit AA inmates designated as EHRR inmates to receive a maximum of \$75 per week, which is half of the standard weekly inmate entitlement of \$150. In 2017, the NSW Ombudsman made a recommendation to the Commissioner that the maximum weekly inmate entitlement for EHRR inmates be reviewed to bring it in line with the rest of the system. The Commissioner supported the recommendation and EHRR inmates are now eligible to receive the standard weekly entitlement of \$150.¹⁵⁸

18. The Inspector recommends that the AA classification, EHRR and NSI designation should be applied according to an individual risk assessment.
19. The Inspector recommends that CSNSW considers developing its capacity to monitor and interpret languages other than English.
20. The Inspector recommends that CSNSW considers applying security controls relating to visits, English-language restrictions and financial restrictions on the basis of an individual risk assessment.

4.3.4 Legal visits, phone calls and correspondence

The inspection team was told there were issues with visits and phone calls from legal representatives.¹⁵⁹ All inmates are entitled to visits from their legal practitioner, in addition to any other visits.¹⁶⁰ However, all visitors to EHRR or NSI inmates must be approved by the Commissioner.¹⁶¹ At the time of the inspection, legal representatives were also subject to a separate approval process for each inmate they requested to visit at HRMCC, and for each visit.

156 'As much as possible, staff should be recruited with relevant linguistic abilities and cultural sensitivity': Council of Europe, *Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism*, 2016.

157 *Crimes (Administration of Sentences) Regulation 2014*, clause 125(1).

158 NSW Ombudsman, *Annual Report 2016-17*, <https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0007/49498/NSW-Ombudsman-Annual-Report-2016-17.pdf>.

159 ICS interviews with NSW Ombudsman, 2016 and 2017; ICS interview with Law Society NSW, 2017.

160 *Crimes (Administration of Sentences) Regulation 2014*, clause 82.

161 *Crimes (Administration of Sentences) Regulation 2014*, clause 94.

The inspection team heard of inconsistencies in the approval process for legal representatives to conduct phone calls and visits. There have been occasions when legal representatives, who have already attained clearance for phone calls, have experienced delays attaining clearance for non-contact visits.

While recognising the need for strict security checks for all visitors to HRMCC, the Inspector believes that security checks for legal representatives should be streamlined to facilitate legal visits. CSNSW advises that significant work is underway to streamline legal visit processes without compromising security or legal professional privilege.

Audio-visual link (AVL) visits are essential at HRMCC to enable legal representatives to communicate with inmates from a distance. AVL is an alternative means of contact when visits to HRMCC have not yet been approved, or access is uncertain. However, the inspection team heard that AVL visits are impacted by staff availability, as officers are required to escort inmates to the AVL suite and stay for the duration of the visit. Additionally, the inspection team heard that inmates who do not have matters before the court are not entitled to use AVL visits to speak with their legal representatives. This local restriction impacts on inmate access to legal representation.

At the time of the inspection, access to AVL suites was also limited as the HRMCC facility was not originally designed for remand inmates. The inspection team was advised that CSNSW is investing in new infrastructure at HRMCC which will include additional AVL suites. This is necessary and important given the number of remand inmates held at HRMCC.

International law recognises a client's right to confidential communications with a lawyer. The United Nations Basic Principles on the Role of Lawyers calls on governments to respect the confidentiality of 'all communications and consultations between lawyers and their clients'.¹⁶²

The EHRR designation also requires communications during a visit to be conducted in English unless another language has been approved by the Commissioner.¹⁶³ The inspection team found that this requirement was being applied to confidential legal visits. Confidential legal communications were being monitored to ensure English was being spoken. Legal communications are confidential and subject to legal professional privilege, and should not be monitored.

The EHRR and NSI designations also provide for monitoring of inmate phone calls.¹⁶⁴ The inspection team asked staff whether phone calls between inmates and their legal representatives were monitored. It was clear that staff, at the very least, intermittently listened to phone calls to establish that the person called was still the person on the line, and that English was being spoken. Staff were adamant that legal calls were not recorded but were 'clip on and off' monitored. CSNSW has subsequently clarified that inmate telephone calls to a legal representative may be monitored to establish it is a legal call at the commencement of the call. Monitoring must cease after it is established it is a legal call.¹⁶⁵

162 OHCHR, *Basic Principles on the Role of Lawyers*, 1990.

163 *Crimes (Administration of Sentences) Regulation 2014*, clause 101.

164 *Crimes (Administration of Sentences) Regulation 2014*, clause 16(c).

165 Section 8.2 of the COPP now reflects this legislative requirement.

The right to privileged written communications between EHRR and NSI inmates and their legal representatives is recognised in the *Crimes (Administration of Sentences) Regulation 2014*. Correspondence between inmates and ‘an exempt body or exempt person’ is privileged and letters and parcels must not be opened, inspected or read.¹⁶⁶ However, there are special conditions that must be met in order for this to apply to EHRR and NSI inmates.¹⁶⁷

The inspection team heard that during legal visits privileged legal documents are required to be passed between legal representatives and inmates via a staff member to ensure the documents are in English and refer to legal matters. The team was told that this is conducted in accordance with the Regulation, which permits an authorised officer to inspect or examine but not read any document taken into a centre for the purpose of transacting legal business.¹⁶⁸

CSNSW maintains that the requirement for legal correspondence to be in English is in clause 116(1) of the Regulation. Clause 116(1) requires all correspondence from an EHRR or NSI inmate to any person, other than an exempt body, to be in English.¹⁶⁹ As legal practitioners are exempt persons, not exempt bodies, CSNSW requires legal correspondence to be in English.

The Inspector understands the difficult balance between security and confidentiality. However, confidentiality of legal communications and legal professional privilege should be respected. Written or verbal communications between inmates and their legal representatives should not be listened to or read by CSNSW staff.

21. The Inspector recommends that CSNSW streamlines legal visit approvals for AA, EHRR and NSI inmates to provide timely access for legal representatives.
22. The Inspector recommends an increase in the number of AVL suites at HRMCC to facilitate communication with legal representatives.
23. The Inspector recommends that CSNSW does not listen to or read confidential legal communications between inmates and their legal representatives.

4.3.5 Access to legal resources

In addition to the difficulty in receiving visits from legal representatives because of the approval processes and the distance required for legal representatives to travel to HRMCC in Goulburn, the inspection team heard that inmates have difficulty accessing legal material and briefs of evidence to enable preparation for trial.

At the time of inspection, inmates did not have sufficient access to secure laptops for accessing legal briefs. The Inspector acknowledges that the number of inmates on remand housed at HRMCC has increased since 2014 and that CSNSW has trialled the use of secure laptops at the facility. However, the Inspector is concerned that this situation has continued for a prolonged period. The Inspector believes CSNSW should ensure that there is adequate access to secure laptops and AVL, to enable inmates to prepare for trial.

24. The Inspector recommends that inmates on remand for national security offences have access to secure laptops and other legal resources necessary to prepare for trial.

166 *Crimes (Administration of Sentences) Regulation 2014*, clause 113.

167 *Crimes (Administration of Sentences) Regulation 2014*, clause 115(4) contains provisions concerning legal correspondence.

168 *Crimes (Administration of Sentences) Regulation 2014*, clause 103.

169 *Crimes (Administration of Sentences) Regulation 2014*, clause 116(1).

4.3.6 Complaint mechanisms

The EHRR and NSI inmates at HRMCC and the Category 5 inmate are permitted to speak and make complaints to the NSW Ombudsman. This is an essential accountability safeguard that is regularly used to deal with individual complaints about treatment and conditions. The NSW Ombudsman reported that it received 172 contacts from inmates at HRMCC for the period July 2016 – June 2017.¹⁷⁰ This is a high volume of contacts for a small number of inmates.

AA, EHRR and NSI inmates at HRMCC are restricted from speaking or complaining to Official Visitors about their treatment and conditions.¹⁷¹ Official Visitors are otherwise permitted to visit HRMCC and speak to and receive complaints from other inmates. This is important as the HRMCC is the most secure centre in NSW and has limited scrutiny from external visitors.

Official Visitors play a vital role in maintaining accountability in the prison system. As independent monitors, they regularly attend correctional centres to ensure the fair treatment of inmates and humane conditions. The removal of inmates' rights to make complaints to Official Visitors about their treatment in custody has seen the removal of an important protection in the custodial system and the ability to resolve issues quickly at the local level. Allowing Official Visitors to speak with national security inmates may also prevent radical tendencies being generated as a result of shared grievances.

The Inspector found that the Category 5 female inmate is, in practice, permitted to speak with an Official Visitor.¹⁷² The Inspector commends this practice as decent in the circumstances and believes that all national security inmates should have access to Official Visitors. It is acknowledged that Official Visitors will have to be carefully selected and trained to work with extremist offenders.

25. The Inspector recommends that CSNSW considers removing the restriction on AA, EHRR and NSI inmates speaking with Official Visitors.

4.4 Classification and designation review process

Classification is essential in determining an inmate's placement in a suitable prison or unit within a prison. It also provides the basis for the development of an individualised case plan for an inmate's time in custody.

Review and reassessment are important features of any classification system that seeks to balance security and rehabilitation. Such reviews should be conducted with reasonable frequency, and be responsive to an individual's risk and needs.

The general pathway for an inmate is to have their classification gradually reduced so they 'step through' the system. For example, an inmate might start at a maximum security prison as an A classification, then be reclassified B and moved to a medium security prison, then be reclassified C1 and moved to a minimum security prison before being released into the community.

The decision to reclassify an inmate is based on information contained in OIMS and any intelligence holdings. Other factors to consider are the inmate's risk/need assessment results; the nature of the offence and the nature of the inmate's criminal record; previous criminal history; age; whether or not further charges are pending; escape history; apparent stability; and institutional behaviour, that is, punishments or segregation.¹⁷³

170 NSW Ombudsman, *Annual Report 2016-17*, <https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0007/49498/NSW-Ombudsman-Annual-Report-2016-17.pdf>.

171 *Crimes (Administration of Sentences) Regulation 2014*, clause 169(5).

172 ICS interview with staff and inmates, 2016.

173 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.8, 2015.

There is a structured governance framework for recommending classification review decisions to the Commissioner that involves staff at the centre level; executive staff at the centre and regional level; and, for the case of serious offenders, a committee panel with external judicial and community members.

The Commissioner makes an initial classification and designation decision for EHRR and NSI inmates. Thereafter, upon review, the Commissioner must consider the recommendations of the Serious Offenders Review Committee (SORC) or its subcommittee, the High Security Inmate Management Committee (HSIMC), before making a decision to remove or vary a designation or change the classification of a serious offender.¹⁷⁴

The various staff and committees must form an opinion of an appropriate classification level under the terms of the Regulation.¹⁷⁵ Committees bear in mind any advice received from law enforcement and security agencies. The outcome of an individual classification review is ultimately at the Commissioner's discretion (on the advice and recommendations of specialist management committees). CSNSW is required to review an inmate's classification, placement and case plan at least once every 12 months.¹⁷⁶ National security inmates, like other inmates, are reviewed at yearly intervals. Designations are reviewed every six months. Reviews of classification may occur at a shorter interval than 12 months.¹⁷⁷

CSNSW policy provides for inmates to be involved in the decision-making process. Inmates have the opportunity to respond to or put forward a case for an alternative placement or classification. An inmate has the right to appeal his or her classification within 14 days of being notified of a decision if new or relevant information is available that was not taken into account during the initial review process that may have had an impact on the classification decision.¹⁷⁸

Adherence to and progress against inmate case plans inform classification and designation reviews. An inmate's case plan is designed to address individual and identified needs in response to the offence committed for which the offender has been sentenced.¹⁷⁹ An initial case plan is developed based on the results of an actuarial assessment tool, Level of Service Inventory – Revised (LSI–R), for all sentenced inmates with more than six months to serve from the date of sentencing.¹⁸⁰

174 *Crimes (Administration of Sentences) Regulation 2014*, clause 17. EHRR and NSI inmates are both considered serious offenders. CSNSW defines serious offenders based on length of sentence; a sentence for murder; a decision by the Commissioner or SPA, and a number of other factors. See CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.8, 2015, pp 4–5.

175 *Crimes (Administration of Sentences) Regulation 2014*, clause 12(1), 13 and 14.

176 *Crimes (Administration of Sentences) Regulation 2014*, clause 32.

177 *Crimes (Administration of Sentences) Regulation 2014*, clause 11(2).

178 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.4, 2016.

179 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.4, 2016.

180 Level of Service Inventory–Revised (LSI–R) is a quantitative survey of offender attributes and situations to identify the offender's risks and needs regarding recidivism. Risk scales include criminal history, education/employment, financial, family/marital, accommodation, leisure/recreation, companions, alcohol/drug problems and emotional/personal issues. Scores help predict criminogenic needs, parole outcome, success in correctional halfway houses, institutional misconducts and reoffending. CSNSW introduced LSI–R in 2002 as the initial step in developing case plans and prioritising interventions for offenders.

There are a number of challenges in relation to case planning for national security inmates at HRMCC. The inspection team was informed that the LSI-R tool is not applicable for inmates held on national security offences as it cannot predict criminogenic needs for this cohort.¹⁸¹ Also, inmates at HRMCC do not have access to services beyond health, psychological or counselling services, or access to programs or work, and, since 2016, there has been interrupted access to education. Additionally, inmates at HRMCC do not have the opportunity to participate in the formulation of their case plan. It was highlighted to the inspection team that there is no OIMS terminal in the secure interview space, where staff speak with inmates. The team heard from staff and inmates alike that case plans are not meaningful, although they are drawn on for classification reviews.¹⁸²

Many of the factors under consideration for classification and designation review are static, such as an inmate's offence and sentence, or associations, which typically relate to family. Dynamic risk factors are usually measured by progress against an inmate's case plan, and would include participation in programs, education and work, or other meaningful pro-social engagement. However, the maximum security environment at HRMCC does not provide for these conditions or opportunities. Evaluations based on static factors are unable to measure changes in risk levels, and the baseline knowledge of dynamic risk factors is limited in a highly controlled environment.

The inspection team was made aware of two individuals, originally classified as national security inmates and placed at HRMCC, who had successfully progressed through the system to medium or minimum security classifications. The progression of these inmates took place prior to all national security inmates being designated as EHRR. The decision to progress those inmates from HRMCC was based on their compliance with the HRMCC management regime, known as the Behaviour Management Program (BMP).¹⁸³ However, compliance with the BMP is no longer a pathway for progression out of HRMCC for national security inmates. The inspection team notes that the BMP does not measure extremist violence risk, attitudes or behaviour change and is not a reliable measurement of dynamic risk.

The majority of inmates with EHRR designation at HRMCC are long-term placements. The inspection team formed the view that it is unlikely that SORC will recommend reclassification or change a designation unless there is a progression pathway and placement option for an inmate from HRMCC.

The inspection found a need for case plans to provide progression pathways and placement options for inmates. This will enable reclassification of inmates who have demonstrated they are ready to participate in rehabilitation and disengagement programs.

26. The Inspector recommends that CSNSW ensures that case plans include progression pathways and rehabilitation needs for national security inmates.

181 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, v 1.4, 2016.

182 ICS interview with CSNSW staff and inmates, 2016.

183 ICS interview with CSNSW staff, 2016.

4.5 Extreme Threat Inmate (ETI) framework

Central to the extremist threat in the NSW corrections system are inmates who may demonstrate violent extremist beliefs or behaviours but are not on national security offence charges. In addition to classification and designation systems, CSNSW uses the Extreme Threat Inmate (ETI) policy framework, introduced in January 2016, to manage inmates who present a security threat in prison. Prior to the establishment of the ETI framework, CSNSW employed three high-security/behaviour management programs.¹⁸⁴ The ETI framework folds these three structures into a single framework.

ETIs are inmates who may constitute ‘an extreme threat to other people’ and/or ‘an extreme threat to the good order and security of correctional centres’. They are determined on three criteria: intelligence; violence in custody; or influence in custody.¹⁸⁵ ETIs include, for example, gang leaders, as well as inmates who are violent toward or who make threats against staff or other inmates.

The ETI framework has provisions that can consider extremist threats. The definition also includes inmates who may take a ‘leadership role in inciting/agitating racial, ethnic, ideological and/or political conflict’; that is, it can include influencers who propagate extremist ideas but do not personally engage in violence.¹⁸⁶

The framework allows for a graduated response to risk. Verbal and written warnings may be issued to individuals as a deterrent. The Extreme Threat Inmate Management Committee (ETIMC) manages the placement, security restrictions and interventions for inmates who have been assigned the ETI status. The ETIMC is responsible for developing an individual management plan for these inmates. At the time of the inspection, the ETIMC was in the process of reviewing the pre-existing caseloads. The inspection team was told that all inmates at HRMCC would be assigned the ETI status.

At that time, 33 inmates came under the ETI framework for holding extremist beliefs, of which three had been issued with a verbal warning; one had been issued with a written warning; and 30 were validated as ETI. Of those 30, two had been assigned the ETI status due to their extremist behaviour in custody, while the other 28 had been assigned the ETI status due to their HRMCC placement.¹⁸⁷

184 The high-risk frameworks included: the Security Threat Group Program (STGP), which identified inmates who act in conjunction with other inmates as part of an organised group, and who posed a severe risk to the safety of others or the security of a correctional centre; the Individual Violent Offender Intervention Program (IVOIP), which targeted individual inmates who exhibited violent tendencies, but who did not act as part of a group; and the High Risk Management Program, which was a management framework for those inmates placed at HRMCC.

185 CSNSW, *Operations Procedures Manual*, 2015.

186 CSNSW, *Operations Procedures Manual*, 2015.

187 Data provided to ICS by CSNSW, 2016.

Accordingly, national security inmates at HRMCC are designated as EHRR and/or NSI, along with an ETI status. The inspection team was unable to determine the rationale for assigning this additional status to inmates currently managed under special designations. A review of the ETI framework is recommended and is to occur as part of a review of the nature and number of oversight committees.

In regard to inmates not on national security charges and assigned ETI status due to their extremist behaviours in custody, the inspection team found that management plans identifying both inappropriate behaviours and target behaviours for the individual had not been developed.

The Inspector believes it is important that CSNSW provides inmates with an understanding of why they have been identified as extremists and subsequently reclassified and redesignated, as well as an understanding of the criteria needed to be met in order for their management restrictions to be alleviated.

27. The Inspector recommends that CSNSW reviews the Extreme Threat Inmates framework.
28. The Inspector recommends that CSNSW develops individual management plans for Extreme Threat Inmates.

5. Placement

Placement decisions are critical for managing the safety and security of inmates. Inmates are accommodated in correctional centres appropriate to their security classification known as their 'gaol of classification' and then placed in an accommodation wing and a cell, commonly shared with another inmate. A number of factors influence placement at particular prisons, as well as at the wing and cell level. CSNSW policy states that general inmate placement should 'whenever possible, be in response to an assessment of risk and criminogenic need factors and resources available in individual correctional centres to match assessment results'.¹⁸⁸ Overcrowding in the NSW prison system also impacts general inmate placement options.¹⁸⁹

A number of professionals have input into the decision-making process of inmate placement, especially in terms of wing and cell placement. They include classification, intelligence, custodial, security, psychologists and health staff. Specialist committees also make recommendations about inmate placement, including ETIMC, SORC and HSIMC. Inmates are also interviewed by reception staff upon arrival at a prison to identify any immediate risks and the best options for placement.

The inspection team was interested in establishing how placement is used to:

- a) manage inmates identified as violent extremist;
- b) disrupt extremist threats;
- c) facilitate rehabilitative environments for those inmates willing to disengage from extremist behaviours;
- d) support positive influences for at-risk inmates.

5.1 Placement in prisons

Placement of violent extremist inmates at the system level is a key theme of debates internationally, domestically and among staff within the NSW corrections system itself. The main issue is whether a strategy of concentration or dispersal of violent extremist inmates best minimises the risk of radicalisation of other inmates. Another consideration relates to creating the optimal environment for disengagement and reducing recidivism.

Advocates for concentration argue that putting violent extremists in one place will leave the rest of the system less exposed to extremist influences. Advocates for dispersal argue that this will prevent violent extremists from assembling and exerting influence over other inmates, and expose violent extremists to the alternative views of other inmates. One advantage of dispersal is that it reduces the risk of co-locating extremists with varied risk profiles.¹⁹⁰ Dispersal may involve extremist inmates being dispersed across multiple prisons as per standard classification procedures or extremist inmates being kept in a number of specific high-security units or segregated areas of prisons.

No evidence-based studies have been undertaken to examine the behaviour of violent extremists or inmates on terrorist-related charges who have been dispersed across a prison population. Therefore, the impact of dispersal on radicalisation within a correctional jurisdiction is debated.

188 CSNSW, *Offender Classification & Case Management Policy & Procedures Manual*, 2015, p 6.

189 For the impact of overcrowding on the prison system, see ICS, *Full House*, 2015.

190 Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

The inspection team found no consistent evidence in the literature to support dispersal or concentration across a custodial system as being more successful in minimising risk.¹⁹¹ Of note, the *UN Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons* suggests that local context plays an important part in informing the best strategy for individual jurisdictions:

The suitability of separation, concentration, dispersal or integration approaches (or a mix thereof) will depend on specific factors within a jurisdiction, including the size of the violent extremist prison population, the prison infrastructure, and the capacity, the size and skill level of staff, as well as the resources and capacity to deliver disengagement programmes.¹⁹²

Internationally, approaches vary. Belgium, France, the US and the Netherlands concentrate inmates identified as violent extremists in high-risk units and specialist programs areas, whereas Canada and the UK have used a dispersal strategy.¹⁹³ The UK has recently moved away from a dispersal approach, following the Acheson Review, to a separation strategy where the most dangerous extremists are held in specialist units in a number of locations instead of within the general prison population.¹⁹⁴ In Australia, Victoria's approach has moved from a concentration model that managed national security offenders as a separate group, to a model whereby individuals are placed across the prison system according to their individual risk.¹⁹⁵ CSNSW has adopted a concentration approach, driven primarily by security concerns.

It is clear that from a management perspective there are advantages in concentrating inmates identified as violent extremists within a specialised wing of a facility, or a specialised facility such as HRMCC. In NSW, concentration supports a risk-containment strategy and is paired with strict security controls and surveillance technology, such as real-time monitoring of phone calls.

CSNSW nominates placement as a key strategy to 'focus on appropriate levels of containment to ensure that offenders convicted of terrorism offences do not have the opportunity to propagate their ideologies, radicalise and possibly recruit others'.¹⁹⁶

CSNSW also uses placement to prevent the creation of extremist networks within the general prison population; prevent the mobilisation or coordination of threats to the community from prison; and prevent the radicalisation or recruitment of the general prison population.¹⁹⁷

191 Neumann et al., *Prisons and Terrorism*, 2010; Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016.

192 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 137.

193 Jones notes the various jurisdictional approaches: high-security federal detention (including segregation and isolation) in the US; dispersal plus extra intensive security and supervision measures in the UK and France; and the use of a 'high-profile offender' tag in Canada; see Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS) 2016, pp 18–30. Recent international workshops in this area include 'Preventing Radicalisation in Prisons', Amman, 2015, and 'Best Practices in the Assessment, Intervention and Management of Radicalized Offenders', Ottawa, 2014.

194 Ian Acheson-led report, *Government Response to the Review of Islamist Extremism in Prisons, Probation and Youth Justice*, UK Ministry of Justice, 2016, <www.gov.uk/government/publications/islamist-extremism-in-prisons-probation-and-youth-justice/summary-of-the-main-findings-of-the-review-of-islamist-extremism-in-prisons-probation-and-youth-justice>; UK Ministry of Justice, press release, 6 July 2017, <<https://www.gov.uk/government/news/radical-extremists-moved-as-first-separation-centre-opens>>.

195 ICS meeting with Corrections Victoria, 2016.

196 CSNSW, 'Counter-Terrorism Approach', (internal use), 2016.

197 ICS interview with CSNSW, 2016 and 2017.

In practice, this has resulted in all inmates convicted or charged with national security offences being placed at HRMCC. This security approach is defined by two features. Firstly, the separation of inmates on national security charges from the general prison population. Secondly, the intensive and widespread application of rigorous controls and monitoring:

... incapacitation and containment are the overwhelmingly dominant considerations for the prison services in all the countries. With very few exceptions, terrorists are considered 'high risk' and are, therefore, treated in similar or identical ways to non-terrorist offenders in this category. This not only means that they are sent to 'high security' prisons but also that – compared to the general prisoner population – they are sometimes locked up in their cells for longer; they are monitored more closely; and their communications are subject to greater scrutiny.¹⁹⁸

There is consensus that the identification and control of key leaders is essential to minimise extremist activity in institutional settings.¹⁹⁹ Therefore, the CSNSW focus on disrupting and isolating inmates assessed as violent extremist influencers at HRMCC is supported by international research and practice. However, the inspection team also heard evidence from staff and inmates that the concentration of all inmates on national security charges at HRMCC risked reinforcing extremist ideologies among the population and reduced opportunities for disengagement. The inspection team was also told that limited associations within HRMCC, combined with strict security controls and a behaviour management regime, have fuelled grievances around fair treatment.²⁰⁰

Therefore, the Inspector believes that the current approach of placing all inmates charged with or convicted of national security offences at HRMCC requires reconsideration. This does not, however, mean that dispersal of extremist inmates throughout the correctional system is supported. Given a range of factors specific to the NSW context, such as overcrowding, dispersal would present a range of challenges. Accordingly, the Inspector recommends that CSNSW develops a number of placement options for violent extremists and inmates charged with or convicted of national security offences, to prevent the reinforcement of extremist ideologies and provide opportunities for disengagement.

29. The Inspector recommends that CSNSW develops a number of placement options for violent extremists and inmates charged with or convicted of national security offences.

5.2 Placement in wings and yards

Placement in accommodation wings is determined by general security concerns around reducing threats to staff and inmates, protection needs, and disrupting power networks. The inspection team found that CSNSW staff put considerable thought into these factors. However, the team found no evidence of a strategy focused on reducing the radicalisation threat through placement within centres.

In any prison context, gangs form around different identities. In the NSW prison context, there are distinct organised crime gangs, some of which have members that are Muslim. Some NSW prisons, therefore, deliberately disperse Muslim inmates, as opposed to extremist inmates, across multiple wings to prevent the creation of gangs or power bases in any single wing.

198 Neumann et al., *Prisons and Terrorism*, 2010, p 19.

199 Correctional Service Canada, 'Best Practices in the Assessment, Intervention and Management of Radicalized Offenders', international roundtable, (summary of proceedings), Ottawa, 2014, <cep-probation.org/wp-content/uploads/2015/11/Best-Practices-in-the-Assessment-Intervention-and-management-of-radicalized-offenders.pdf>.

200 ICS interview with staff and inmates, 2016.

In contrast, at Goulburn Correctional Centre (Goulburn CC), Muslim inmates are concentrated as part of a general management strategy of dividing prison accommodation yards along ethnic or racial lines.²⁰¹ This arrangement, which is exclusive to Goulburn CC, came about after a series of violent assaults and murders at the prison in the early 1990s. New inmates have some choice about the yard in which they are placed, while existing inmates decide who will be permitted in their yard.²⁰² The inspection team was told repeatedly by staff at Goulburn CC that the yard arrangement results in fewer assaults and other serious incidents at Goulburn CC.

At the time of the inspection, one yard exclusively held Muslim inmates of different ethnic backgrounds, although the team heard that it has housed Christian inmates in the past. Inmates in this yard routinely pray as a group and there is ease of religious practice with staff accustomed to group prayers. The culture of this yard promotes religious practice and specific yard rules, such as zero tolerance for drug use. As such, correctional officers at Goulburn CC considered the yard orderly, but recognised that individuals were vulnerable to group codes of conduct and ethics.

If there is an incident in the yard that suggests violent extremism, CSNSW will either place the inmate in segregation, separate the inmate, or transfer the inmate to another centre in order to lower the security threat at the centre.²⁰³ However, to reduce the broader threat of violent extremism across the prison estate, information about why the inmate is being transferred must flow through the system. Otherwise, transfer of an inmate from one prison to another leads to displacement of the problem. It may also result in inadequate information for placement decisions at the receiving centre.

The Inspector notes that CSNSW does not currently consider the Goulburn CC yards as a placement option for those moving out of the HRMCC.²⁰⁴ The Inspector concurs. Current awareness of the radicalisation threat provides a timely opportunity for CSNSW to evaluate the effectiveness of the strategy of segregated yards at Goulburn CC.

30. The Inspector recommends CSNSW undertakes a review of the Goulburn CC yard placement system.

5.3 Placement in cells

Due to overcrowding and bed pressures, inmates are placed two to a cell in most NSW prisons. Single bed cells are for medical purposes, segregation and, where possible, for behavioural incentives.

Wing staff attempt to pair inmates based on age, race and vulnerability, and are open to suggestions from inmates about potential cellmates. The inspection team heard that Muslim inmates are often paired in cells, which could be convenient if their religious practices are similar. However, there is no practice or guidance around the role of ideology when placing Muslim inmates. The inspection team was told that problems between cellmates usually became evident after an incident occurred.

201 Yards are referred to by CSNSW as the 'Lebanese yard', the 'Aussie Asian yard' (Anglo-Australian inmates and inmates with East Asian heritage), the 'Aussie Islander yard' (Anglo-Australian inmates and inmates with Pacific Islander heritage) and the 'Koori yard' (predominately Aboriginal inmates, as well as some Anglo-Australian inmates).

202 The physical yard in which inmates are placed changes regularly, so the 'Lebanese yard' effectively refers to a group of inmates who associate with each other on a daily basis, but who are rotated through a number of different physical yards.

203 *Crimes (Administration of Sentences) Act 1999*, section 78A.

204 ICS interview with CSNSW, February 2017.

Although placement is used as a strategy to disrupt influence and maintain good order and security, placement as a prevention tool or as a tool to manage emerging risks is constrained in an overcrowded system. Strategic cell placement can promote positive influences for inmates at risk of radicalisation and reduce the negative influences of those posing a threat. The inspection team found there was no clear policy to guide prison staff on placement to prevent the risk of radicalisation to violence, or to prevent vulnerable inmates being subjected to violent behaviours of other inmates. There is an opportunity to develop a strategic approach to placement of inmates in cells informed by a risk assessment.

31. The Inspector recommends that CSNSW develops a strategic approach to placement to support risk management of violent extremism threats and vulnerabilities.

32. The Inspector recommends that cell placement is informed by a risk assessment.

5.4 Placement at HRMCC

In most prisons, associations between inmates occur freely within a wing, and the majority of inmates share a cell. The exception is HRMCC, where inmates are placed in single-bed cells with limited associations regardless of the wing they are in.

Although the CSNSW strategy of concentration separates HRMCC inmates from the general prison population, and convicted and unconvicted national security inmates from one another, it does not completely isolate inmates from each other, as associations are vital for mental health in high-security environments.²⁰⁵

Inmates at HRMCC may associate with other inmates in their accommodation wing during their time out of cell. However, associations are limited and only two inmates may associate at one time. Inmates must apply to associate with another inmate and requests are determined in accordance with the CSNSW *Offender Classification and Case Management Policy and Procedures Manual*.²⁰⁶ Associations are vetted for risk factors, including possible assaults during contact, and communications within prison that may threaten the community.

The inspection team found that the original rationale for restrictions on and vetting of associations at HRMCC was based on the potential for physical threat, as the majority of inmates were institutionally violent. In response to accommodating national security inmates CSNSW has also introduced a practice whereby associations are based on classification and legal status.

The inspection team was told this practice aims to minimise the possibility of convicted Operation Pendennis inmates associating with unconvicted Operation Appleby inmates. This is to reduce the possibility for radical influence by older inmates of younger inmates. The restriction also aims to prevent terrorist offenders and high risk criminal offenders at HRMCC from associating to prevent an undesirable confluence of ideology and violence. This rationale is supported by the Inspector.

205 Haney, C, 2012, 'Prison Effects of in the Age of Mass Incarceration', *The Prison Journal*, 20(10); 1-24 ; United Nations Committee Against Torture, *Concluding Observations about Australia*, 2008.

206 CSNSW, *Offender Classification and Case Management Policy and Procedures Manual*, v 1.5, 2015.

However, associations based on classification may still leave a gap regarding potential radicalisation. An understanding of religious ideology and the risk it presents is necessary to ensure associations do not encourage or reinforce extremist tendencies in inmates. For example, at the time of inspection, an inmate who had been placed at HRMCC for extremist violence in custody had been refused an association with another inmate based on a previous criminal gang affiliation. The same inmate was approved to associate with another individual, who had been placed at HRMCC for extremist behaviour in custody. Staff were of the view that the association system, originally used to prevent and reduce violence in custody for institutionally violent offenders, needs to consider radicalisation risks.²⁰⁷

The physical environment of the HRMCC also impacts CSNSW's ability to keep remand inmates completely separate from convicted inmates or other inmates who hold entrenched extremist views. While inmates are held in single cells and contact is restricted to one associate at a time, some verbal communication is still able to occur through cell walls and interconnecting spaces, such as exercise yards.

Even limited verbal contact between otherwise restricted inmates has operational as well as security implications for the HRMCC. That is, it is unlikely the HRMCC will be able to operate to its intended 75 bed capacity while also managing association restrictions. The impact of future terror-related arrests on operational capacity should be considered by CSNSW.

Placement at HRMCC has also created a particular inmate dynamic that is challenging for staff to manage. The inspection team heard from staff about specific challenging inmate behaviours at HRMCC. Observations ranged from reports of non-conformist behaviour, refusal to engage with officers, withdrawn behaviours and the use of religious practice for symbolic resistance. Evident in these descriptions is a sense among staff of the risk the HRMCC environment poses in reinforcing and amplifying radicalisation. Both staff and inmates expressed the view that placement at HRMCC could lead to and has led to a feeling of enhanced status for some young inmates and identity seekers.²⁰⁸ It does not seem wise to co-locate ideologues, identity-seekers and admirers.

Research has found the use of isolationist strategies may act to reinforce the psychology of exclusivity and 'martyrdom' among terrorist offenders and even work to foster or magnify the root causes that lead individuals toward terrorism.²⁰⁹

A number of staff expressed the view that the risk of housing inmates in one place is that an individual's vulnerability to radicalisation can increase, and capacity to disengage from extremist views can be reduced. 'If you were to measure extremist views, they wouldn't diminish in here.'²¹⁰

An approach to associations that does not take into account individual risks in the inmate population can be counterproductive to managing the radicalisation threat. The Inspection team formed the view that the HRMCC association system needs to consider radicalisation risk factors in determining associations and non-associations. This is an opportunity for CSNSW to use associations to facilitate positive inmate influences against radicalisation.

207 ICS interview with CSNSW staff, 2016.

208 ICS interview with CSNSW staff and inmates, 2016.

209 See Richman (2008) and Carlton (2008) in Jones, 'Managing Terrorist Offenders', (unpublished; report for ICS), 2016, p 46.

210 ICS interview with CSNSW staff and inmates, 2016.

Placement strategies must be flexible and able to respond to different types of inmates, fluctuations in number, and changes in radicalised offender profiles over time. The inspection team believes that, as the number of national security inmates has grown and diversified, the placement strategy requires reconsideration to respond to the individual risks and needs of different inmates held on national security offences.

Currently, in NSW, there are inmates on national security charges who have been placed at HRMCC for more than ten years. While acknowledging that placement at HRMCC is required for extremist inmates who pose the highest risk, the Inspector believes a number of placement options are required for national security inmates. This will better enable CSNSW to keep unconvicted inmates completely separate from convicted inmates and keep inmates with entrenched extremist views separate from others.

The courts have at times raised concerns about the adverse effects on terrorism suspects held in maximum security detention for long periods prior to and during trial.²¹¹ The Inspector believes that in the interests of ensuring inmates charged with national security offences are able to prepare adequately for trial, national security inmates on remand should be placed in facilities that are conducive to preparing for trial and closer to the courts.

Due to the distance from Goulburn to Sydney, inmates are relocated from HRMCC to MRRC during their trials. Extensive security planning and assessment has to be undertaken before transporting inmates between centres or to court to ensure community safety and security throughout the journey to and from the centre. The Extreme High Security Escort Unit staff who control all movements and interactions for these offenders undergo extensive training in escort protocols, threat assessments, protection principles and counter-ambush drills. Specialised vehicles fitted with ballistic protection and satellite communication systems have been purchased by CSNSW to make transporting these inmates safer and more secure. Accommodating these inmates in a facility closer to the courts will reduce the need for extreme high security escorts to travel between Goulburn and Sydney.

Progression pathways are required for the safe and secure progression of national security inmates from HRMCC to allow participation in disengagement services, and other rehabilitation programs. As discussed later in this report, it is necessary for inmates who want to disengage from extremism to be separated from those who have entrenched extremist views.

33. The Inspector recommends that inmates charged with or convicted of national security offences are placed according to individual risks and needs.
34. The Inspector recommends that CSNSW develops placement options and progression pathways to support the disengagement and rehabilitation of violent extremists and national security inmates.
35. The Inspector recommends that inmates on remand for national security offences are accommodated in a facility, proximate to the courts and to their legal representatives, with regimes and conditions that allow preparation for trial.
36. The Inspector recommends that CSNSW includes radicalisation risk factors in determining associations and non-associations within HRMCC.

211 In *R v Benbrika & Ors*, the conditions faced by unconvicted prisoners accused of terrorist offences held on remand in the Victorian equivalent of HRMCC were considered. See *R v Benbrika & Ors (Ruling No 20) (2008) VSC 80 (20 March 2008)*.

6. Management regimes and conditions

Prison conditions matter in the context of radicalisation. Improving the prison environment can help reduce the risk that a prison becomes a site for radicalisation. Further, it is recognised that disengagement efforts are best undertaken in custodial settings that are humane, adequately resourced and well operated.²¹²

The *UN Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons* suggests that conditions and overcrowding need to be addressed to avoid creating incentives for inmates to subscribe to violent extremist narratives and to enable more responsive action in managing any threats.²¹³ The handbook also argues that ‘stand-alone disengagement interventions for violent extremist prisoners which are implemented in isolation of the broader prison context are unlikely to yield positive results’.²¹⁴

6.1 Management regime at HRMCC

HRMCC is the most secure prison in the NSW correctional system. Opened in 2001, the facility was purpose-built to house inmates considered to require the highest level of security. Historically, this has included a mix of institutionally violent inmates, inmates with an extraordinary capacity to influence, engage and persuade others to undertake illegal activities, and notorious offenders. It was not designed as a remand facility, however, approximately one-third of inmates currently at HRMCC are on remand for national security offences.

HRMCC is austere, yet compared with many prisons in NSW the relatively modern facility is not overcrowded. It is temperature-controlled and well maintained. Security is a dominant consideration for prison management in high-risk maximum security settings and it is not unexpected that HRMCC is governed by a security approach. The inspection team found no evidence of physical mistreatment of inmates; however, there was some evidence of arbitrary decision-making in the application of the overarching management framework for inmates at HRMCC.

The inspection team found that regimes like that at HRMCC may exacerbate radical tendencies in some inmates. In such an environment, inmates may be subject to conditions and treatment that have the potential to generate a group identity based on shared grievances and strengthened by mutual support.

6.1.1 Behaviour Management Program (BMP)

The Behaviour Management Program (BMP) is the overarching management framework for inmates at HRMCC, as well as the Institutional Violence Intervention Unit (IVIU) at Lithgow for institutionally violent offenders.²¹⁵

212 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 104.

213 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 139.

214 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 2.

215 CSNSW, ‘Counter-Terrorism Approach’, (internal use), 2016.

BMP is essentially a 'sanctions and privileges' scheme that progresses, maintains or regresses inmates through three stages, with increased access to various provisions according to:

- reduction of target problem behaviours;
- increase in target positive or pro-social behaviours;
- participation in assessment or intervention;
- active participation in an individual management plan.²¹⁶

The aim of BMP is to reduce the antisocial behaviours of institutionally violent offenders. However, the majority of national security inmates are housed at HRMCC as security placements because of their offence, not because of their behaviour in custody. Despite this, they are still subject to BMP. In effect, a management framework intended for one group (institutionally violent) is being applied to another (terrorist offenders).²¹⁷

In practice, BMP is about compliance with centre routine, rules and regulations. The system assesses inmate compliance against restrictions imposed upon them. Access to books, magazines and newspapers is restricted under this system. The inspection team was told this was because some resources had been misused by some inmates in the past.²¹⁸ Even so, it is unclear to the inspection team how access to reading materials as a productive means of occupation is incompatible with the interests of the security and good order of the centre.

Progress through BMP is assessed by a Behavioural Management Team (BMT), which consists of a psychologist or counsellor and correctional officers. The team is responsible for reviewing all inmates at HRMCC on a monthly basis, drawing on case notes and staff inputs. A senior psychologist or custodial executive staff member then approves the outcome of individual reviews. BMT members meet with the inmate to communicate the outcome of the review and rationale.

The Inspector has concerns with the decision-making process around BMP. The inspection team found that BMP reviews are based on informal notions of time-bound advancement with staff hesitant to progress inmates too quickly.²¹⁹ This can result in inmates not progressing, despite meeting expectations. Progression through all stages of BMP would usually result in moving out of HRMCC. However, this does not apply to national security inmates subject to BMP. Moreover, the inspection team found that inmates could be regressed on their BMP level if they refused to sign the paperwork to accept the outcome of their review. It is of further concern that remand inmates awaiting trial in NSW are also managed under this regime.

The inspection team notes that, as well as BMP, inmate behaviours are concurrently addressed through a correctional centre offence system whereby inmates can be charged with correctional centre offences for misconduct. Procedures and delegations for dealing with correctional centre offences are set out in the OPM.²²⁰

216 CSNSW, *Operations Procedures Manual*, v 1.0, 2015.

217 ICS interview with CSNSW staff, 2016.

218 ICS interview with CSNSW staff, 2017.

219 ICS interview with CSNSW staff, 2016.

220 CSNSW, *Operations Procedures Manual*, v 1.6, 2016, section 16.

The inspection team found that using BMP to manage convicted and unconvicted national security inmates fuelled inmate grievances and created hostility towards prison staff, particularly when the rationale for decisions was not made apparent. The inspection team formed the view that internal review mechanisms and complaint mechanisms should be available to reduce the risk of arbitrary decisions.

37. The Inspector recommends that CSNSW conducts a review of the Behaviour Management Program framework to ensure the system has sufficient oversight.
38. The Inspector recommends that CSNSW should only use a behavioural management framework for those inmates assessed as institutionally violent.
39. The Inspector recommends that CSNSW provides education and activities for inmates within the HRMCC, including approved reading materials.

6.1.2 Staff and inmate relationships

The importance of the nature and tenor of relationships between staff and inmates was noted by Ian Acheson, a former prison governor and former prison officer, in oral evidence presented to the British House of Commons Justice Committee (HC417):

We are too early into the timeline, particularly in relation to ISIS-inspired terrorist prisoners, to know what could drive desistance and change [in inmates]. Surely one of the things that will drive it is humanisation of the relationship between prisoners and staff. In that respect, when you are dealing with that sort of prisoner representing that sort of threat, you have to have high staff numbers.²²¹

Acheson also noted that when you have a 'stable, well-trained prison staff, you have at least the possibility of getting a foot in the door ideologically with people who wish to dehumanise you'.²²²

The inspection team notes that HRMCC is an exceptional work environment for staff. There are limited opportunities for staff to engage with inmates in positive ways, discuss differences in attitudes or beliefs, or create openings for changes in inmate thinking and behaviour.

For example, HRMCC has a secure interview space for staff to interview inmates for classification review purposes or psychological services. The secure space is a metal cage where all inmates are required to be placed for meetings and interviews. This security protocol was developed to ensure the protection of staff and professional visitors from physically violent inmates; however, it is not conducive to promoting positive staff and inmate relationships.

The UN *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons* notes the importance of specialised training for staff working with extremist inmates:

More advanced training should be provided for staff working with violent extremist prisoners on a daily basis and should include topics such as: understanding violent extremism; recognizing signs of radicalization to violence; assessment of violent extremist prisoners; implementing a positive regime for violent extremist prisoners; assessment of intelligence and other information about violent extremist prisoners; anti-conditioning and manipulation training; dealing with individual or group violence in a way that protects staff while using minimal force; adhering to ethical and professional standards; interpersonal skills; intelligence gathering; stress management; religious diversity and freedom of religion or belief; and sensitization and awareness courses focussing on language, behaviour, cultural and religious issues related to specific groups.²²³

221 UK House of Commons Justice Committee, *Radicalisation in Prisons and Other Prison Matters*, 2016, p 11.

222 UK House of Commons Justice Committee, *Radicalisation in Prisons and Other Prison Matters*, 2016, p 11.

223 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 30.

There is no doubt that a high-security facility is required for violent extremists who pose a high risk to others. However, managing all convicted and unconvicted national security inmates in high-security conditions at HRMCC on a long-term basis misses the opportunity to use prison as a setting for positive reform. Moreover, it may do more harm than good and result in a long-term risk to the community. The choice of management regime can have an important impact on the potential for either further radicalisation or disengagement.

The Inspector believes CSNSW should reconsider the appropriateness of existing regimes and conditions for national security inmates to prevent radicalisation to violence and foster disengagement.

40. The Inspector recommends that CSNSW establishes a unit to lead and advise on managing and countering violent extremism in NSW prisons.
41. The Inspector recommends that CSNSW develops and deliver specialised training for staff managing violent extremists and inmates charged with or convicted of national security offences.

7. Offender programs and services

Offender programs and services are a critical part of prison management strategy. Programs and services create opportunities for pro-social contact, providing training for future occupations, preparing inmates for release, and, most importantly, reducing reoffending.

Managing the radicalisation risk in prisons is both a concern for CSNSW, which is tasked with delivering a safe environment in prison, and more broadly as a concern for public safety. Offenders convicted of national security charges will re-enter the community. Rehabilitation and creating a progressive pathway for release back into the community are equally important issues for this cohort as with any other offender group.

In 2016, CSNSW renewed its commitment to the delivery of custodial-based offender rehabilitation programs to target offending behaviour.²²⁴ The interventions are aimed at reducing the likelihood of recidivism for those inmates assessed as at moderate-to-high risk of committing further offences upon release from custody. These rehabilitation programs are part of case management and are developed with evidence-based principles.

Successful programs designed to prevent reoffending are typically based on 'what works' principles, which focus on risk, need and responsiveness of offenders. Most rehabilitation programs target those who are deemed of higher risk of reoffending and of committing serious harm; 'need' aspects target factors that directly contribute to offending; and 'responsiveness' aspects focus on delivery methods that maximise learning for individuals.²²⁵

Importantly, rehabilitation programs do not operate in isolation to the prison regime and conditions.²²⁶ Broader prison-reform strategies are considered to reduce prison radicalisation and increase the chances of rehabilitation.²²⁷

From a correctional perspective, rehabilitation interventions can take different forms. As Christopher Dean, principal psychologist and head of extremism in the UK correctional system, highlights:

These may range from implementing a well-considered policy to having a meaningful conversation with an offender, from expertly delivering a structured programme to placing an individual in suitable employment, from locating an offender effectively to rebuilding supportive relationships with friends and family. Whilst the word intervention has become more commonly associated with structured or semi-structured programmes, such approaches are only a part of how NOMS [National Offender Management Service] has addressed this issue.²²⁸

224 'A \$237 million investment in reducing reoffending will target persistent domestic violence defendants and other high-risk offenders and ensure that inmates serving sentences of six months or less for any crime participate in rehabilitation programs,' Minister for Corrections, David Elliott MP, press release, 31 August 2016, <www.justice.nsw.gov.au/Documents/Media%20Releases/2016/237-Million-dollars-Investment-in-reducing-Reoffending.pdf>.

225 Dean, C, *Addressing Violent Extremism in Prisons and Probation: Principles for effective programmes and interventions*, Global Center on Cooperative Security, 2016, p 2. Dean provides a discussion on the applicability of the 'what works' principles to prevent other forms of reoffending and their applicability to violent extremist offenders.

226 See Pickering, R, 'Terrorism, Extremism, Deradicalisation and the Offender Management System', *Prison Service Journal*, issue 20, 2012, p 14. See also 'Good Practice Number 2': 'Good prison standards and practices can offer an appropriate starting point for building an effective, safe and smoothly operating rehabilitation program. Counter-extremism and rehabilitation programs have the best chance of succeeding when they are nested in a safe, secure, adequately resourced, and well operated custodial setting where the human rights of prisoners are respected,' GCTF, *Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012.

227 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, pp 109, 139.

228 Dean, C, 'Intervening Effectively with Terrorist Offenders', *Prison Service Journal*, vol 203, p 31, 2012.

The inspection team was interested with understanding what the NSW correctional system is doing to rehabilitate inmates identified as ‘extremists’, including those on national security charges and those inmates at risk of or demonstrating extremist behaviours in custody.

Deradicalisation programs are not the same as disengagement programs. For correctional agencies, there is an important distinction: ‘disengagement’ aims to change behaviour, while ‘deradicalisation’ goes further and seeks to change the beliefs and views of the individual. Internationally, research has focused on the role that programs and services can have in reducing the radicalisation threat in terms of both disengagement (a move away from violent behaviour, but not explicitly seeking to change beliefs or ideologies) and deradicalisation (a move away from extremist ideology). The consensus is that interventions should focus on disengagement, and that ‘effective disengagement requires an understanding of the factors that motivate radicals to violent action’.²²⁹

Internationally, there are various models for disengagement programs. Disengagement programs take a number of different designs but commonly include social, political, educational and economic elements. There are examples of practice, activities and lessons learned from new and often bespoke rehabilitation projects, but it’s understood that these models cannot simply be copied.²³⁰ Still, there are many unknowns in this field, and the efficacy of such programs continues to be the subject of ongoing international debate.²³¹ Currently, the knowledge base around such measures is weak and it is widely recognised by experts that more empirical evidence is needed to fully understand the impact and potential of disengagement initiatives.²³²

While there is no consensus on best practice in disengagement and deradicalisation projects, there are working principles to improve the design of interventions that seek to engage with violent extremists.²³³ These principles commonly highlight the importance that one size does not fit all; program environments, staffing and management are core variables.

229 Correctional Service Canada, *Best Practices in the Assessment, Intervention and Management of Radicalized Offenders*, 2014, p 5. See also Veldhuis, T, *Designing Rehabilitation and Reintegration Programmes for Violent Extremist Offenders: A realist approach*, ICCT Research Paper, ICCT, The Hague, 2012, p 8 : ‘From a criminal justice perspective, one could argue that renouncing violent behaviour (i.e. disengagement) may suffice, as long as the individual indeed refrains from committing any further terrorist offenses after being released from prison.’

230 For an overview of the different insights, lessons and practices that have come out of the European Union-wide umbrella network of practitioners, see European Commission, Preventing Radicalisation to Terrorism and Violent Extremism *The RAN Collection of Approaches and Practices*, 2016, <ec.europa.eu/dgs/home-affairs/what-we-do/networks/radicalisation_awareness_network/ran-best-practices/docs/ran_collection_approaches_and_practices_en.pdf>; for an inventory of policies and practices on countering violent extremism and radicalisation leading to terrorism from the different European member states, see European Commission, *Inventory of the Best Practices on De-radicalisation from the Different Member States of the EU*, <www.terra-net.eu/files/nice_to_know/20140722134422CVERLTdef.pdf>.

231 For an overview of the research on rehabilitation approaches, see Schmid, AP, *Radicalisation, De-radicalisation, Counter-Radicalisation: A conceptual discussion and literature review*, ICCT Research Paper, ICCT, The Hague, 2013; and Veldhuis, *Designing Rehabilitation and Reintegration Programmes for Violent Extremist Offenders*, 2012.

232 In June 2016, CSNSW convened an expert round table on radicalisation in prisons. Participants included Australian and international experts and academics and CSNSW executive staff from custodial operations, security and intelligence, programs and services and community corrections. Discussions on rehabilitation approaches to violent extremists canvassed what constitutes rehabilitation and measuring effectiveness, specific programs versus existing programs that address criminogenic needs, focus on behaviour versus ideology. Participants recognised the limitations to an evidence-based response to prison radicalisation, acknowledging that empirical studies measuring the extent and factors contributing to prison radicalisation is lacking. See also Veldhuis and Kessels, *Thinking before Leaping*, 2013.

233 For example, GCTF, *Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012; International Centre for Counter-Terrorism, *Roundtable Expert Meeting & Conference on Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012; and Dean, *Addressing Violent Extremism in Prisons and Probation*, Global Center on Cooperative Security, 2016.

Researchers have cautioned that high-security environments and an over-focus on managing risks can jeopardise counter-radicalisation and disengagement projects.²³⁴ In a 15-country comparative study, the International Centre for the Study of Radicalisation and Political Violence (ICSR) emphasised the importance of ensuring that demands for security and rehabilitation balance rather than challenge each other:

The emphasis on containment and security – however justified and appropriate in many cases – means that opportunities to pursue reform and rehabilitation are missed. The analysis shows that it would be mistaken to see a contradiction between the dual demands for security and reform, and prison authorities should be more ambitious in pursuing both and at the same time.²³⁵

The report argued that the ‘security first’ approach results in missed opportunities to rehabilitate offenders. In NSW, security and intelligence strategies are key features of CSNSW’s approach to managing inmates on national security charges. There are limited education services, and no work opportunities or programs for national security inmates placed at HRMCC. The inspection team found that a co-ordinated approach between security and rehabilitation is needed for these inmates. In response, CSNSW is developing a Counter Terrorism and Countering Violent Extremism Strategy.²³⁶

A strategic approach to managing violent extremism in prisons would equally ensure that any approaches to behaviour modification in custody should set clear goals and be informed by specialist multi-disciplinary advice. The Inspector believes that, as part of expanding and developing rehabilitation approaches, CSNSW should invest in research and knowledge development. This should include seeking out external expertise to ensure approaches are in step with global research and developments.

Notably, CSNSW hosted a Radicalisation Roundtable in June 2016 which drew together international and Australian academics, and policy-makers from across government agencies to discuss key issues in the assessment, management and rehabilitation of violent extremists, and strategies for preventing radicalisation. CSNSW is also a member of the Countering Violent Extremism Steering Committee and has committed to participating in a number of international forums on the threat of radicalisation in prison. These are important initiatives with other correctional systems and research institutions to inform the CSNSW strategy for managing violent extremists, promoting disengagement, and preventing radicalisation to violence.

42. The Inspector recommends that CSNSW reviews its strategy for managing extremism in NSW prisons to focus on security, rehabilitation and prevention.
43. The Inspector recommends that CSNSW collaborates with other correctional systems and research institutions, both in Australia and internationally, to foster an evidence base to guide strategies for managing the radicalisation threat.

234 See Liebling, A and Straub, C, ‘Identity Challenges and the Risks of Radicalisation in High Security Custody’, *Prison Service Journal*, issue 203, 2012, p 15. Jones (2016) argues that the prison regime and environment has an important impact on the potential for radicalisation and for effective rehabilitation. Jones, ‘Managing Terrorist Offenders,’ (unpublished; report for ICS), 2016.

235 Neumann et al., *Prisons and Terrorism*, 2010.

236 Letter from the Hon. David Elliott MP, Minister for Corrections to ICS, 23 November 2017.

7.1 Proactive Integrated Support Model (PRISM)

Like many jurisdictions managing extremist inmates, CSNSW has had to decide whether different approaches are needed for the rehabilitation of extremist offenders.²³⁷ CSNSW has an approved list of offender behaviour programs according to offence type or criminogenic needs. At the time of the inspection, these included general offending programs, addictions programs, aggression/violence programs, sex offender programs and young adult offender programs.

Since September 2015, CSNSW has been implementing a pilot assessment and intervention, the Proactive Integrated Support Model (PRISM), which is a Commonwealth-funded initiative dedicated to reducing the radicalisation threat in the NSW corrections system. The overarching objective of PRISM is early intervention to assist offenders in custody to disengage from violent extremism.²³⁸

PRISM involves a team of multi-service experts who undertake assessments and develop individualised plans for inmates 'who have expressed certain religious or political views, or acted in such a way that may be considered radical or extreme'.²³⁹ The PRISM team includes specialist psychologists and a faith professional. PRISM provides inmates with intensive support services to encourage disengagement from violent extremism prior to the inmate's release into the community. This support can be provided in a range of different areas and is tailored to individual needs. For example, services can address mental health, education, opportunities for employment, improvements in personal relationships, including the integration of family members and significant others into these services.

Participation is subject to referral and involves the inmate's consent. To be eligible, inmates must be sentenced and have a minimum of six months remaining until their earliest possible release date.

There are a number of key specific behaviours or facts that make an inmate eligible for referral to the PRISM team:

- currently convicted of a terrorism offence;
- current behavioural indicators of radicalisation in custody, in the community, or offence-related (for example, particular language used, a change in appearance, or use of ideology to justify behaviour);
- possession or dissemination of extremist materials;
- associations with identified extremist people or groups;
- attempts to coerce others due to extreme ideology;
- statements promoting the use of extremist violence;
- intention to fight overseas in extremist conflict (for example, in Syria or Iraq).²⁴⁰

An inmate who presents with one or more of these behaviours may be referred to the PRISM team.

The stated objectives of PRISM are: (1) to develop a proactive approach to the assessment of inmates identified as possibly at risk of, or currently in the process of adopting, violent extremist beliefs; and (2) to develop tailored intervention strategies and plans to encourage disengagement.²⁴¹

237 For a discussion on the extent to which research and knowledge on programs to prevent different types of offenders from reoffending is also applicable to violent extremism offenders, see Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016.

238 PRISM Pilot Project funded through the Countering Violent Extremism sub-committee of the National Counter-Terrorism Committee.

239 CSNSW, *Proactive Integrated Support Model Information Sheet*, (internal use; no date), p 1.

240 CSNSW, *PRISM Referral Form*, (internal use), 2016.

241 CSNSW, *The PRISM Project*, (internal use), 2015.

Inmates at any prison could be referred to the PRISM team for assessment. Referrals to PRISM can be made by centre management, senior staff from custodial and offender services, CIG or the Extreme Threat Inmate Management Committee (ETIMC). Inmates can also self-refer. Currently, referrals are predominately made by CIG drawing on intelligence data, while a small number of referrals have come directly from centre management.

The PRISM service is necessarily resource intensive to enable individual engagement and assessment.²⁴² Currently, the PRISM team's capacity is capped at a case load of 12 inmates. If inmates are referred to PRISM and cannot be prioritised for immediate support, the PRISM team will redirect them to local services, such as a Muslim chaplain or psychologist, as far as practicable.

It was clear to the inspection team that services such as PRISM, and programs for radical inmates in NSW, are continuing to evolve, as is the case in many other jurisdictions. Such innovation brings its own challenges. 'Often, practices and procedures are fine-tuned and optimised as the staff learns from unexpected difficulties or opportunities.'²⁴³

Since the inception of PRISM in 2015, CSNSW has adjusted the program. The current PRISM case load includes individuals who have been assessed as having 'escalating behaviours' in custody. The PRISM team has also commenced engagement with inmates at HRMCC for assessment purposes. However, it seems the original vision of PRISM has evolved from an 'early intervention' program for 'at-risk' inmates to a pre-release service. Although inmates at different stages of their sentence with correspondingly diverse needs have been identified for referral and some have expressed interest in participating, PRISM, like other programs delivered by CSNSW, generally prioritises its case load according to earliest possible release dates.

The inspection team learnt that, at a practice level, national security inmates are engaged in the program two years out from parole, compared to one year out for other inmates. Because PRISM emphasises reintegration with family and community, the service is designed for inmates with an upcoming release date.

The question of supporting inmates' readiness to disengage in a timely manner should factor into the CSNSW disengagement strategy. In regard to proactive and early intervention approaches, the inspection team was repeatedly told by CSNSW staff that there is a very narrow window of opportunity, perhaps the first one to three weeks in custody, to engage with young offenders on national security charges. Young offenders who have been arrested on national security offences and are new to the custodial environment have the potential to be receptive to positive influences and disengagement programs. It was suggested that younger inmates should have an early assessment of their willingness to disengage from extremism.²⁴⁴

The negative impact of a highly securitised environment such as the HRMCC on the potential for effective disengagement is well documented.²⁴⁵ The inspection team agree that an early assessment on the willingness to disengage from extremism is necessary as the security regime and peer pressure at the HRMCC may impact on disengagement.

242 Dean outlines the various benefits of one-to-one programs for violent extremist offenders, including encouraging confidence in disclosure of information and engagement with individual risk factors rather than group or shared risk factors. See Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016, p 9.

243 Veldhuis, *Designing Rehabilitation and Reintegration programmes for Violent Extremist Offenders*, 2012, p 20.

244 ICS interview with CSNSW staff, 2016.

245 For example: 'Security-first should not be mistaken for security-only ... The "security first" approach has resulted in missed opportunities to promote reform ... reform does not need to come at the expense of security', in Neumann et al., *Prisons and Terrorism*, 2010, pp 22, 59; and, 'There are risks if we view Muslim prisoners principally through a "security lens",' Home Office, *Prevent Strategy*, 2011, p 87. Further, Recommendation 1 of *Penal Reform International's International Experts Roundtable on Preventing Radicalisation in Prisons* (2015; p 15) argues, 'An approach to preventing radicalisation that focuses on security alone is not sufficient.'

The inspection team were of the view that CSNSW should clarify the objective of PRISM. If the intention of PRISM is to provide early intervention for vulnerable at-risk inmates, as well as inmates who are already considered extremists and are nearing the end of their custodial sentence, this needs to be supported with additional resources and a systematic method of identifying such inmates.

As information and awareness about the PRISM service is provided to centres, it will be important for CSNSW to monitor the demand for the PRISM service. It will also be necessary to provide alternative services for those individuals not prioritised for PRISM.

Currently, the PRISM service is funded on an annual cycle for a limited case load by the Commonwealth Government. An evaluation of PRISM is a condition of the funding provided by the Commonwealth to establish the PRISM program. As the number of inmates who have accessed this service will be limited, measuring the impact of PRISM will be difficult. However, it is still important for CSNSW to evaluate PRISM.

44. The Inspector recommends that CSNSW clarifies the objectives of the Proactive Integrated Support Model program.
45. The Inspector recommends an independent evaluation of the Proactive Integrated Support Model program.
46. The Inspector recommends that CSNSW develops and resources a disengagement and rehabilitation strategy for inmates identified as violent extremists.

7.2 Rehabilitative settings

HRMCC accommodates a mix of inmates that CSNSW considers high-risk due to the nature of their offences, their violent or disorderly behaviour in custody, or their high profile. For inmates placed at HRMCC due to acts of institutional violence (that is, inmates who are violent to staff or other inmates), program and placement pathways are established. Transition plans support institutionally violent inmates returning to maximum security centres, or being placed in IVIU at Lithgow.

IVIU is a program and placement component of CSNSW's ETI framework. IVIU has two accommodation wings: one wing is for inmates engaging in programs; the other wing is designed to be a separate housing area for inmates not yet suitable for programs or transitioning into placement into a main prison from HRMCC. In the latter wing, staff have an opportunity to observe and engage with inmates to frequently assess whether they are ready to move to the program wing or the main prison.

The IVIU skills-based group treatment programs focus on past abuse and trauma and on aggressive behaviour that does not necessarily align with the risks and needs of inmates on national security charges.²⁴⁶ IVIU may be a suitable placement for those inmates placed at HRMCC due to violent extremist behaviours in custody, or for national security inmates who have displayed institutional violence.

HRMCC is a security placement. At the time of the inspection there were no education services, work opportunities or programs and associated program pathways for national security inmates placed at HRMCC. Although education services have not been discontinued, there have been interruptions to consistent delivery. Inmates can access psychological and counselling services at HRMCC, but uptake of these services is limited due to environmental and individual factors of a high-security setting that do not incentivise participation.

²⁴⁶ The inspection team was told the initial program used for IVIU inmates would be Real Understanding for Self Help (RUSH), which is a skills-based group treatment program that focuses on past abuse and trauma experienced by participants. RUSH would be followed by a second program that focuses on aggression, Explore, Question, Understand, Investigate and Plan to Succeed (EQUIPS). EQUIPS is a therapeutic and educational program developed by CSNSW to reduce the risk of reoffending for a wide range of offenders.

It is well known that the therapeutic integrity of any program or service can be undermined by the broader treatment environment.²⁴⁷ HRMCC staff and inmates emphasised that any rehabilitative program effort in such an environment is impacted by the restrictive conditions.²⁴⁸

By way of example, while PRISM's overall approach aims for engagement with families for the purpose of disengagement and reintegration in line with international best practice, family connections at HRMCC are constrained by the EHRR designation and insufficient visit facilities.

An additional challenge in delivering disengagement services is that 'communal approval' is effectively required for an individual inmate to be able to engage with the PRISM team in either the HRMCC or Goulburn CC. The very act of participation in such situations 'can signal disloyalty or distrust to a shared identity that may trigger group reprisals'.²⁴⁹ Group pressure can impact participation and curb individuals from making or demonstrating change.

Of note, the PRISM team is able to make recommendations on a case-by-case basis for change of placement for inmates accommodated in the main prisons to the CSNSW classification and placement team for consideration. The PRISM team recognises that such services need to take place in prison environments that do not generate threats to an inmate from other inmates for engaging with the PRISM service.

In the UK, the National Offenders Management Service (NOMS) recognised that programs will not be effective unless opportunities that meet needs and provide alternatives to engaging in extremism are accessible:

A significant challenge for offenders serving sentences in both custody and community is that if restrictions on liberty (to maintain security) are too draconian, this can inadvertently limit opportunities or incentives for participants to identify elsewhere. Arguably, such conditions at best may maintain an individual's levels of engagement and at worst increase them. The most effective and appropriate programs are those that seek to maintain security and allow opportunity.²⁵⁰

As a consequence of a lack of access to programs and services, there have been cases of national security inmates released directly into the community from HRMCC having not engaged in rehabilitative programs or services. The Inspector believes this is concerning and poses a risk to community safety.

A rehabilitation strategy is required for inmates on national security charges to enable their needs to be assessed from the time they enter custody, to facilitate access to programs and services that promote disengagement. Such a strategy should consider individual readiness to disengage, effective approaches for young offenders, and rehabilitative settings.

247 'Regardless of whether the underlying theories about the impact of treatment programmes on reduced recidivism are correct or fundamentally flawed, their actual impact depends on the setting in which they are implemented ... the culture, ethos, management structure and available resources of the respective institution needs to be facilitative of rehabilitation efforts': Veldhuis, *Designing Rehabilitation and Reintegration Programmes for Violent Extremist Offenders*, 2012, pp 10–11.

248 For the importance of intervention settings, staffing and management, see Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016, pp 9–10.

249 Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016, p 9.

250 Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016, p 10.

7.3 Religious and pastoral services

Universally accepted international standards clearly uphold a prisoner's right to practise their religion. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) explicitly asserts the right 'in public or private, to manifest [one's] religion or belief in worship, observance, practice and teaching'.²⁵¹ Freedom to have and practise religion is considered a necessary and important part of a prison regime.²⁵² This requires correctional systems to have clear policies for dealing with religious observance that promote respect for the right to freedom of religion, applied equally to all religions.

International best practice around services and programs for radicalised inmates emphasises the value of religious services in prisons. This is because 'a number of the incarcerated violent extremists who cite religion for their actions have a shallow knowledge of the religion by which they were supposedly inspired'.²⁵³ The intention here is to challenge attitudes that support violence by developing a precise and conversant understanding of Islam.

In the UK, NOMS argue for the importance of providing and supporting the services of an imam.²⁵⁴ The role of the chaplaincy, specifically Muslim chaplains and imams, in responding to the risks posed by radicalisation and extremism was a key focus area of a dedicated working group on countering extremism in prisons in the UK.²⁵⁵ More broadly, since 2003, NOMS has recognised that the religious needs of non-Christians, particularly Muslims, are not adequately being met; NOMS has progressively addressed these gaps, including significantly increasing the number of Muslim chaplains.²⁵⁶

Muslim inmates comprise approximately 10 per cent of the prison population in NSW.²⁵⁷ The inspection team was interested in establishing whether the religious needs of Muslim inmates are being met through the prison regime, diet and service provision. It is important for CSNSW to provide consistent opportunities for religious practice across prisons and for staff to be knowledgeable of these policies. The inspection team sought to understand how adequate and appropriate religious service provision is in NSW prisons.

The inspection team found that religious practices and access to associated services across the five centres inspected were not consistent. The Inspector believes that there is scope for more systematic policy advice to increase and integrate these services in prison routine.

7.3.1 Muslim chaplains and imams

With the right support from prisons, including adequate facilities and backing from management, Muslim chaplains can create and moderate a space for prayer, discussion and learning for Muslim inmates. This outcome can help to deny religious space to extremists and reduce any grievances inmates may have around being marginalised in the prison regime.

251 OHCHR, *Universal Declaration of Human Rights*, 1981, <www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf>; and OHCHR, *International Covenant on Civil and Political Rights*, 1966, <www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

252 UNODC, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*, 2016, p 15.

253 GCTF, *Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders*, 2012, p 8.

254 Pickering, *'Terrorism, Extremism, Deradicalisation and the Offender Management System'*, 2012, pp 9–14.

255 Pickering, *'Terrorism, Extremism, Deradicalisation and the Offender Management System'*, 2012, pp 9–14.

256 Pickering, *'Terrorism, Extremism, Deradicalisation and the Offender Management System'*, 2012, p 12.

257 Data provided to ICS by the CSNSW Corporate Reporting Team in November 2016 shows Muslims at 9.09 per cent of the total active population.

The role of Muslim chaplains is to lead Friday prayer when they are able to attend a prison on a Friday; provide a written sermon for when they are not able to attend Friday prayer; and collect religious materials (such as books) from approved shops in Sydney and distribute the materials to inmates. Muslim chaplains provide one-on-one pastoral care and religious instruction to inmates; however, this function is constrained due to the chaplains' high demand. Chaplains also meet with inmates who have requested to convert to Islam in prison, and meet with staff to provide advice on managing challenging inmates or resolving inmates' problems.

The inspection team heard from Muslim chaplains and inmates that the distribution of religious materials to inmates absorbs a lot of the chaplains' time. At the time of the inspection, CSNSW was working on including religious materials on the buy-ups list, which will alleviate this task from Muslim chaplains and enable them to better support religious worship and instruction, as well as provide advice and counselling.

Muslim chaplains perform a critical role in challenging distorted views and narratives of Islam in prison. However, inmates, staff and Muslim chaplains recognised that the efficacy of the role was limited by a lack of time on visits. It means that opportunities to perform any one-on-one work or mentoring is reduced, even if an appetite for information, knowledge and religious instruction exists among inmates. The risk is that extremist inmates acting as self-appointed scholars will fill these gaps.

The inspection team also met with Christian chaplains, who service various prisons in the corrections system under a pastoral care model. Pastoral care in the prison system has been provided primarily from a Christian perspective, with representatives of various Christian churches servicing prisons.²⁵⁸ There are 35 Christian chaplains funded across the NSW prison system.²⁵⁹ In theory, chaplains are to provide a multi-faith approach to pastoral care, and are accessible to inmates of different beliefs or faiths. However, the provision of multi-faith pastoral care that is delivered by predominately Christian chaplains does not necessarily meet the religious needs of non-Christian inmates.

The inspection team found that staff had mixed views about the role of Muslim chaplains. Some staff described Muslim chaplains as having 'immense value' at their prison, and acknowledged that they do a difficult job, given the sensitivities of a role that involves a balancing act between engaging inmates and building confidence with staff. At most centres inspected, centre management was keen to have a Muslim chaplain visit their prison weekly, as a consistent presence would encourage inmates to take the position seriously. However, some front-line staff were confused about the role of Muslim chaplains, and did not understand that they should be allowed to function exactly like Christian chaplains in terms of their physical access across the prison and to inmates.

At the time of inspection, CSNSW had funded two Muslim chaplain positions through the Islamic Council of NSW. There are now four. These positions are funded on a full-time basis to provide services to Muslim inmates across the entire NSW prison system, which spans a large geographical area. Unlike Christian chaplains, who are assigned to a single centre on an ongoing basis, Muslim chaplains operate on a visiting basis as each Muslim chaplain is assigned to service up to nine prisons spread across NSW.

258 CSNSW funds chaplains through the Civil Chaplaincy Advisory Organisation of which the Islamic Council is a member. In addition, various sessional and volunteer chaplains visit prisons.

259 Data provided by CSNSW.

The inspection team was told Muslim chaplains are able to visit each prison assigned to them approximately every four to eight weeks. Visits last approximately two to four hours, depending on the travel time required and the operational routine/time-out-of-cell at each centre. At the time of the inspection, a Muslim chaplain was visiting HRMCC on a fortnightly basis for up to two hours but was not permitted to provide inmates with religious educational materials. Having four positions allows two Muslim chaplains to visit HRMCC together every fortnight. This is important and means that Muslim inmates at HRMCC are receiving more regular visits than Muslim inmates in other facilities. The Inspector believes that CSNSW should consider expanding Muslim chaplaincy services to provide a similar level of service to Muslim inmates in other facilities.

The inspection team heard from all stakeholders on the importance of carefully selecting prison chaplains who are appropriate and professional. NSW has had a mixed history of Muslim chaplains engaged in the prison system, in terms of both suitability and longevity in the role. Prison chaplains and voluntary religious visitors such as monks or imams are now subject to rigorous security vetting and checks. It is important that the integrity of the chaplain function, and subsequently its effectiveness, is not compromised by lack of staff support or by individual performance. Further, the administrative arrangements for recruiting Muslim chaplains should ensure that candidates are selected with community and cultural advice and under merit-based criteria.²⁶⁰

It is equally important for the correctional system to be clear on the scope and purpose of the role of Muslim chaplains and for staff to understand and value the role.²⁶¹ The inspection team found that there is scope to consider the role of Muslim chaplains and imams in responding to the risks posed by extremist narratives, providing one-on-one sessions and more structured sessions to support identity and faith issues. Additionally, recognising and supporting the potential of religion to contribute positively to Muslims in prison, especially young offenders, is an opportunity that should be developed and implemented across the prison system.

47. The Inspector recommends that CSNSW considers expanding Muslim chaplaincy services across NSW prisons.

7.3.2 Communal prayer and private worship

Friday prayer or Jummah is a congregational prayer held by Muslims around midday each Friday. The inspection team observed that prison management understood the importance of Friday prayer taking place within a specified time frame, and scheduled prayers accordingly; however, not all prisons facilitated communal worship. Local operating rules govern where and when group prayers take place, which inmates can attend, and who can compose and lead a sermon.

260 The importance of having community expert advice in policy development and recruitment of specialist service providers in the justice system was highlighted at a 2015 European Commission ministerial conference. Mohamed Ajouaou, the head of imams working in Dutch prisons, noted that in his jurisdiction, 'The Muslim community is responsible for selecting suitable Imams who are capable of providing Islamic philosophy to detainees. The Muslim community is hired to help Muslim detainees in prison and to provide religious services.' Ajouaou, M, *High-level Ministerial Conference: The criminal justice response to radicalisation*, European Commission, Brussels, 2015, p 9, <<http://www.cep-probation.org/wp-content/uploads/2016/05/Report-on-High-level-ministerial-conference-the-criminal-justice-response-to-radicalisation.pdf>>.

261 Neumann cautions the importance of setting clear expectations and boundaries around the role of Muslim chaplains or imams in prison: 'In the case of Islamist militant radicalisation, prison imams have an important role to play, but they are not a panacea. Their independence and credibility need to be protected. It is neither reasonable nor realistic to expect them to be spiritual advisers, welfare officers and terrorism experts all at the same time.' Neumann et al., *Prisons and Terrorism*, 2010, p 2.

At some prisons, the Muslim chaplains send a copy of their sermon in English for Friday prayer to the manager of security, which is approved by local intelligence officers in prisons. Such vetting does not occur for other religious sermons. Approved inmates lead the sermon and are rotated in this role. Muslim chaplains are generally consulted in the approval process and inmates are evaluated for suitability by CIG in collaboration with prison intelligence officers.

At Goulburn CC, Friday prayer takes place in the yard holding Muslim inmates. The yards are outdoor communal areas where inmates spend their time out of cell. At MRRC, Friday prayer is facilitated separately for several accommodation areas to mitigate security issues arising from inmates from different areas of the prison gathering in one place. Friday prayer is generally hosted in the yards or shared areas of accommodation wings that are vacant during the day.

At some prisons, however, there are no local operating procedures around the facilitation of Friday prayers and opportunities for communal worship are not regularly provided. Such a policy should inform staff of acceptable practice, and facilitate inmates' ability to attend religious services or engage in prayer according to their religious beliefs.

At MNCCC, there are approximately two to three Muslim inmates per accommodation wing. Group prayers are prohibited in the communal areas of the accommodation wings, although inmates can pray in their cell. Muslim inmates who wish to participate in Friday prayer are able to go to the gym to pray communally; however, the inspection team heard that communal worship does not regularly take place and there are restrictions on the number of inmates allowed to congregate, which impacts on how many inmates can attend prayers.

HRMCC offers no communal prayer opportunities due to security procedures. Sermons are sometimes provided by the Muslim chaplain for the centre to distribute to inmates.

Since 2014, the Metropolitan Special Programs Centre in the Long Bay Correctional Complex has developed a practice of Muslim prayer service. CSNSW has advised that this was introduced as an initiative of the CSNSW Muslim Leaders Community Engagement Forum.²⁶² Approximately six volunteer imams, who work on a roster, rotate between the areas to facilitate prayer services for inmates on Fridays. Coordinated by the president of the Australian National Imams Council, with ongoing support of centre management, this innovative approach to facilitating religious services ensures that Friday prayer is regularly facilitated and led by suitable community members and scholars. The inspection team regards this initiative as a suitable model for Muslim prayer services that could be adopted at Sydney metropolitan centres.

The same initiative of volunteer imams coordinated by the Australian National Imams Council has also been implemented at MRRC, however, access issues have impacted on service provision in this prison, and the cooperation of community volunteers has weakened.

The inspection team found some CSNSW staff to be confused by the variance in Friday prayer practice across the system. With the exception of custodial staff at Goulburn CC and MRRC, staff at other centres expressed unease about communal Muslim worship and uncertainty about the conditions under which it should be allowed.

262 The CSNSW Muslim Leaders Community Engagement Forum commenced in 2013. The membership of the Forum included representatives from the Civil Chaplaincy Advocacy Committee, Islamic Council of NSW, Australian National Imams Council (ANIC), Islamic Sciences and Research Academy Australia, Centre for Study of Contemporary Muslim Lives (Macquarie University) and Department of Justice representatives. In 2015, CSNSW collaborated with ANIC to create a pool of six imam volunteers to deliver Friday prayers to Muslim inmates at Long Bay Correctional Complex; in 2016 Muslim Leaders Community Engagement meetings were not convened.

Most prisons have assigned areas for group prayer that is out of sight of other prisoners but can be monitored. Staff observed that some inmates have occasionally tried to lead group prayer and exert their influence, and their understanding of the Qur'an and its teachings, over other inmates. Such influencers are typically banned from leading prayer, or even banned from attending.

There are also variations in the rules regarding private worship. Across the five centres, the inspection team observed different local procedures regarding the management of Muslim inmates who wished to perform daily prayers whether they are in their cell, or engaged in work, education or other activities. At one centre, individual prayers conducted in public were considered a punishable offence and Muslim inmates were warned that they would be sacked from industries for praying during work time. This response to religious worship is concerning.

Some Muslim inmates who were interviewed stated that they consider constraints around praying to be discriminatory. Muslim inmates who have experienced different rules around religious practice in different prisons expressed confusion.

When rules are inconsistent, and when staff do not exercise tolerance and understanding in regard to religious practice, there is greater opportunity for Muslim inmates to make religion a point of grievance. Some Muslim inmates viewed restrictions on Muslim prayers as prejudiced, as the rules vary from prison to prison according to different religions. The inspection team is not aware of such restrictions being applied to other religions. In turn, this point of resistance contributes to an unproductive relationship between staff and inmates. Consistency in the provision of religious services across correctional centres would better ensure that Muslim inmates are given the same opportunities for religious worship as other inmates, no matter which prison they are placed in. CSNSW is considering the filming and broadcasting of Friday prayers to provide consistency across different locations.

The inspection team heard from staff seeking policy direction and practical consistency regarding:

- who is allowed to lead Friday prayer;
- who should prepare a sermon, and whether sermons should be vetted;
- what language(s) the sermon can be delivered in;
- where prayers should be held;
- which inmates should be allowed to attend;
- whether private worship during work, education or other activities is permitted.²⁶³

The inspection team considers there is scope for CSNSW to standardise the facilitation of Friday prayer sermons across correctional centres and have Muslim chaplains guide inmates who are approved to lead sermons. Such a policy should inform staff of acceptable practice, and facilitate inmates attending religious services or engage in prayer according to their religious beliefs.

48. The Inspector recommends that CSNSW standardises its policy on communal prayer, including Friday prayer.

263 ICS interview with CSNSW staff, 2016.

7.3.3 Religious education and texts

The *UN Standard Minimum Rules for the Treatment of Prisoners* states that 'so far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination'.²⁶⁴

Inmates typically obtain the Qur'an from fellow inmates but can also obtain the Qur'an from Muslim chaplains, Christian chaplains or prison libraries. As mentioned, CSNSW is soon to include religious texts on the buy-ups list. In July 2016, when the inspection team visited HRMCC, there was only one English version of the Qur'an available to inmates, as Arabic versions had been confiscated. However, since December 2016, approved Arabic versions of the Qur'an text have been reinstated at the centre.

Inmates are permitted to have other approved religious texts as private property in their cell. The texts must be ordered at specified bookshops in Sydney, for example by family members, and a Muslim chaplain will collect and distribute the texts to the relevant inmates. HRMCC inmates are not able to access literature or reading materials through this approved process.

NSW prison libraries hold a variety of religious texts and education materials. At a policy level, the procurement and distribution of the texts is centrally managed through Brush Farm Corrective Services Academy. Prior to 2014, Muslim chaplains were able to add books to the prison library collections, with the exception of the HRMCC library; however, this practice has only continued in a limited number of prisons.

Since 2014, CIG has conducted an audit of a number of prison libraries to review the suitability of religious texts. These audits have resulted in the removal of a number of texts and revealed the need for a standardised policy for the identification and procurement of religious texts in libraries.²⁶⁵ Recently, CSNSW Offender Programs and Services has sourced a number of religious studies texts for distribution in prison libraries, with the assistance of community experts. The inspection team notes that the removal of religious texts from libraries or the purchase of new materials should be undertaken in conjunction with experts, such as Muslim chaplains or community partners.

Restrictions on an inmate's right to access religious literature at HRMCC, or at any prison, should only be subject to limitations that are necessary to protect public safety and the good order of the prison.²⁶⁶

Very little research has been done on inmates' motivations for engaging with extremism.²⁶⁷ However, the importance of information, education and communication in countering violent extremism is recognised in both security and rehabilitation efforts. In NSW, security threat assessments recognise that extremist inmates can exploit a vacuum of religious education and achieve influence.

264 OHCHR, *UN Standard Minimum Rules for the Treatment of Prisoners*, 1957 and 1977; <www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx>.

265 In 2015, the then Inspector of Custodial Services recognised the need for religious instruction texts in libraries and personally donated contemporary religious studies books to CSNSW for distribution in prison libraries.

266 The UN General Assembly's *Plan of Action to Prevent Violent Extremism* acknowledges that, in setting a policy framework for preventing violent extremism, basic service provision should be non-discriminatory and any restrictions on freedoms should be clearly and narrowly defined and meet the three-part test of legality, proportionality and necessity. See UN, *Plan of Action to Prevent Violent Extremism*, 2015, A/70/67.

267 This has been recognised by CSC Canada, who, in their own research, distinguished criminal from ideological motivations, with both influenced by a need for identity. See Stys, Y and Michel, S, *Examining the Needs and Motivations of Canada's Federally Incarcerated Radicalized Offenders*, Correctional Service of Canada, Ottawa, 2014, p 6.

Prison chaplains emphasised that inmates can be vulnerable to accepting various interpretations of religious texts since they have limited religious education on entry into prison and have limited alternative sources in prison. Some inmates may also be more receptive to listening to other inmates than reading and interpreting material themselves. Internationally, disengagement efforts also recognise that ideas matter; such programs often support religious education and include strategies to counter extremist interpretations of religious texts while providing alternative religious guidance.²⁶⁸

In October 2015, CSNSW and the Islamic Sciences and Research Academy of Australia (ISRA) piloted an Islamic education course (19 sessions of two-hour classes) for up to 10 Muslim inmates on a voluntary basis at the Outer Metropolitan Multi-Purpose Correctional Centre (OMMPCC). This included the provision of literature. A survey of course participants found inmates' motivations for participating mostly related to expanding knowledge, becoming a better person, becoming a better Muslim and living a more ethical life.²⁶⁹

The voluntary program is currently being evaluated by CSNSW for its suitability to provide Islamic education to Muslim inmates. The outcome of the evaluation will help illuminate how this initiative or similar can be integrated into CSNSW's services towards addressing radicalisation in prisons. Certainly, there is scope for CSNSW to explore the role of religious education services in diverting vulnerable inmates from radicalisation.

49. The Inspector recommends that CSNSW, in collaboration with community experts, develops a policy on the procurement and approval of religious texts for prison libraries and individual inmate property.

7.3.4 Religious festivals and diet

Ramadan is 'a period of prayer, fasting, charity-giving and self-accountability for Muslims in Australia. Considered the holiest season in the Islamic year and commemorates the time when the Qu'ran is said to have been revealed to the Prophet Muhammad.'²⁷⁰ Eid al-Fitr is a celebration at the conclusion of Ramadan.

Traditionally, Lithgow CC has hosted a barbeque for Eid al-Fitr, as have some other prisons. Muslim chaplains were also able to bring in special foods for Muslim inmates to celebrate the occasion, but this practice was stopped. Special food parcels are no longer provided at HRMCC, and in 2016 Eid al-Fitr celebrations were cancelled at Goulburn CC, and not offered at MNCCC. These changes have created questions around whether Muslim inmates are allowed to have a barbeque for Eid al-Fitr at the end of Ramadan.

CSNSW provides inmates who identify as Muslim with two maamoul biscuits for Eid al-Fitr. The biscuits are procured by Corrective Services Industries (CSI), and can be distributed to all centres. While acknowledging the importance of a consistent approach, the Inspector believes that the provision of two maamoul biscuits should not preclude other celebrations, such as the local initiatives at Lithgow and Goulburn CC.

268 A paper on addressing violent extremism in prisons argues that 'psychosocial programs that seek to respect religious identity can reduce mistrust, challenge the myth that programs are focused on removing or deprogramming religious values and beliefs, and reinforce the idea that religious identity can help protect against future reoffending' See Dean, *Addressing Violent Extremism in Prisons and Probation*, 2016.

269 Ozalp, M and Hassan, A, 'Windsor Islamic Course Trial with Muslim Inmates', (draft report), Islamic Sciences and Research Academy of Australia, 2016.

270 Department of Justice NSW, Ramadan, <<http://intranet.internal.justice.nsw.gov.au/NewsEvents/Pages/News/Events/ramadan.aspx>>.

The inspection team also noted the approval process for various faith-based organisations that provide food and other items to celebrate cultural and religious events. For example, the NSW Jewish Council of Deputies has ongoing approval to provide Jewish inmates with kosher parcels to celebrate holy days, and the Salvation Army provides gifts to inmates of all faiths at Christmas.

Religious-friendly meals are available to all inmates. During Ramadan at some centres the religious-friendly meal served for dinner at 15:30 is a cold meal, so that it can be safely consumed after sunset. However, this practice is not consistently applied across all centres. The inspection team thought this was a practical solution to ensure food safety and the practice could be applied across all centres.

It is important for CSNSW to develop consistent approaches to working with a diverse inmate population to minimise grievances or feelings of prejudice among inmates. Policies that clearly state commitment to operating consistently and equitably within a culturally, linguistically and religiously diverse environment would also enhance the capacity and confidence of the front-line CSNSW workforce to operate in a multicultural setting.

50. **The Inspector recommends that CSNSW establishes a policy for cultural and religious events, including the provision of food and the role of external service providers, in consultation with religious and cultural experts.**

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Annex A: Ministerial correspondence



The Honourable David Elliott MP

**Minister for Corrections
Minister for Emergency Services
Minister for Veterans Affairs**

Ms Fiona Rafter
Inspector of Custodial Services
GPO Box 6
SYDNEY NSW 2001

Dear Inspector

I refer to our recent discussion about the issue of radicalisation in prisons.

The number of prisoners in NSW who are charged or serving sentences for terror-related offences has increased. Information indicates that these prisoners, as well as some other prisoners on non-terror related charges and sentences, advocate or approve of the use of violence and terror as part of their political and religious views.

Radicalised prisoners present challenges to prison systems in Australia and overseas with respect to matters like security measures, inmate management strategies and the provision of programs to address offending behaviour.

As we discussed, I request that you conduct an inquiry into the management of radicalised prisoners in NSW and consider whether the NSW Government can make improvements in tackling this important issue.

The scope and terms of reference of your inquiry are, of course, a matter for you to determine within the powers conferred on you by the *Inspector of Custodial Services Act 2012*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Elliott'.

David Elliott MP
**MINISTER FOR CORRECTIONS
MINISTER FOR EMERGENCY SERVICES
MINISTER FOR VETERANS AFFAIRS**

Annex B: Terms of reference



Terms of reference

The Inspector of Custodial Services will examine strategies, policies, and procedures for the management of radicalised prisoners in the NSW correctional centres with particular reference to:

- a. Existing legislative and policy frameworks and procedural guidelines
- b. Identification and risk assessment
- c. Classification, designation and placement
- d. Management regimes and conditions
- e. Programs and services
- f. Any other related matter

The following centres have been selected for this inspection:

- Metropolitan Remand and Reception Centre
- Mid North Coast Correctional Centre
- Goulburn Correctional Centre
- High Risk Management Correctional Centre
- Lithgow Correctional Centre



Justice

Inspector of
Custodial Services