

**Report of investigation into the
Department of Corrections in dealing
with the LynnMall supermarket attacker
before 3 September 2021**



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Our whakataukī

Mā te titiro me te whakarongo ka puta mai te māramatanga

By looking and listening, we will gain insight



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FOREWORD

This report details the Office of the Inspectorate's investigation into the Department of Corrections in dealing with the LynnMall supermarket attacker before 3 September 2021.

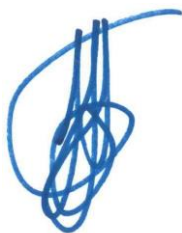
Prior to the attack, Mr Samsudeen spent around four years in total on remand in a number of New Zealand prisons, and just over seven weeks being managed by the Department of Corrections in the community.

After the events of 3 September 2021, oversight bodies - Independent Police Conduct Authority, the Office of the Inspectorate, and the Inspector-General of Intelligence and Security - committed to conduct a Coordinated Review of the events leading up to the attack and Mr Samsudeen's death. The Coordinated Review examined whether the actions of Police, Corrections and the Security Intelligence Service to mitigate the threat posed by Mr Samsudeen were appropriate and adequate. Further, the Terms of Reference left it open to each oversight body to undertake a separate investigation into its own agency.

I considered it vitally important to undertake a Corrections-focussed investigation to examine Corrections' actions, and to make specific findings, recognising that some were likely to fall outside the scope of the Coordinated Review. Accordingly, this investigation was self-referred under ss 29(1)(c) and (g) of the Corrections Act 2004.

This report contains the Inspectorate's specific and detailed comments on Corrections' management and treatment of Mr Samsudeen, with a focus on Corrections' compliance with its own policies and procedures. It contains additional detail in this regard, and should be read alongside the Coordinated Review report.

Finally, but importantly, and as expressed in the Coordinated Review, I would like to acknowledge the survivors of the terror attack at the LynnMall Countdown supermarket on 3 September 2021. The events of that day changed lives and caused long-lasting physical and psychological damage. The wider review team and I hope that all affected receive the support and care they need to recover and find peace.



Janis Adair
Chief Inspector

INTRODUCTION

1. On 3 September 2021, Mr Ahamed Aathil(l)¹ Mohamed Samsudeen (**Mr Samsudeen**) committed a terror attack with a knife at the LynnMall Countdown Supermarket in Auckland, injuring five people. One person sustained a minor wound, and another person dislocated their shoulder while trying to stop Mr Samsudeen from harming others. Police from the Special Tactics Group shot him within minutes of the attack beginning, and he died at the scene. Mr Samsudeen had been released from Auckland Prison seven weeks earlier.
2. In the period following the incident I decided that there was a need to review the events leading up to the attack and Mr Samsudeen's death. It was important to understand whether all reasonable and appropriate steps had been taken by the Department of Corrections (**Corrections**) to mitigate the risks of and/or prevent this incident from occurring.
3. From 23 May 2017, Mr Samsudeen was in custody for two extended periods of time - interposed by one short period on bail - until he was released on 13 July 2021. Thereafter he was supervised by Community Corrections until 3 September 2021.²
4. On 16 September 2021 the Police, Corrections, and New Zealand Security Intelligence Service (**NZSIS**) and their respective oversight agencies agreed to conduct a coordinated review of the events leading up to the attack and Mr Samsudeen's death.³ Each entity's oversight agency assumed responsibility for their contribution to the final coordinated report.
5. As set out in the Terms of Reference for the Coordinated Review (**Terms of Reference**), the purpose of the Coordinated Review is to examine whether the discrete and collective actions taken by Police, Corrections and NZSIS to mitigate the threat posed by Mr Samsudeen were appropriate and adequate.⁴ Those decisions are to be viewed in light of each oversight agency's respective mandates, functions, powers and resources.
6. Accordingly, this investigation was self-referred under ss 29(1)(c) and (g) of the Corrections Act 2004 (**Corrections Act**). Those provisions empower the Office of the Inspectorate (the **Inspectorate**) to report in writing to the Chief Executive of Corrections on the treatment and conduct of persons who were under Corrections' control or supervision. Whereas the Coordinated Review makes a number of systemic comments and findings – including with regard to Corrections – this report contains the Inspectorate's specific and detailed comments on Corrections' management and treatment of Mr Samsudeen, with a focus on Corrections' compliance with its own policies and procedures. It contains additional detail in this regard, and should be read alongside the Coordinated Review's comments and findings.

¹ The Inspectorate notes the different spellings of Mr Samsudeen's name in formal documentation: 'Aathill' is the spelling used in Mr Samsudeen's Court and Corrections records, 'Aathil' is the spelling used in his passport.

² Community Corrections refers to people serving community sentences and/or parole, who are managed by Probation Officers.

³ The oversight bodies are as follows: for the Police, the Independent Police Conduct Authority; for Corrections, the Office of the Inspectorate; for the NZSIS, the Inspector-General of Intelligence and Security (**IGIS**).

⁴ The full Terms of Reference for the Coordinated Review can be found at: <https://www.ipca.govt.nz/Site/publications-and-media/2021-media-releases/2021-sep-16-co-ordinated-review-new-lynn-countdown.aspx>

7. The Inspectorate's investigation for this report has concentrated on the following:
- a) Corrections' role in reporting or acting on any matters that might have prolonged Mr Samsudeen's time in custody.
 - b) Mr Samsudeen's treatment and management while in custody.
 - c) Mr Samsudeen's monitoring by Corrections on release from custody.

EXECUTIVE SUMMARY

8. Mr Samsudeen was received into Corrections' custody on 23 May 2017. He was remanded in custody, on bail, or subject to a community-based sentence and supervised by Community Corrections as follows:

23 May 2017 – 28 June 2018: 402 days remanded in custody.

29 June 2018 – 9 August 2018: 42 days on bail.⁵

10 August 2018 – 12 July 2021: 1,068 days remanded in custody.

13 July 2021 – 3 September 2021: 53 days on bail/serving a sentence of supervision.⁶

Accordingly, Mr Samsudeen cumulatively spent 1,523 days under Corrections' management and supervision prior to the attack on 3 September 2021.

Corrections' role in reporting or acting on any matters that might have prolonged Mr Samsudeen's time in custody

9. Mr Samsudeen was involved in numerous incidents at Corrections' prisons between 2017 and 2021. These incidents included Mr Samsudeen being involved in altercations with other prisoners or staff; or behaving in a manner that was intimidating or abusive (particularly whilst he was segregated from the general remand population). Most of these incidents were dealt with through Corrections' internal processes.
10. On the evidence reviewed by the Inspectorate, Corrections staff reported incidents involving Mr Samsudeen to Police where this was appropriate. Although Corrections staff were concerned about Mr Samsudeen's risk to the community when he was released, there is no evidence that Corrections tried to address that risk by keeping Mr Samsudeen in custody longer than was otherwise warranted.
11. Disclosure of Mr Samsudeen's personal information by Corrections to Police occurred in line with existing information sharing agreements and relevant legislation such as the Privacy Act.⁷

Mr Samsudeen's treatment and management while in custody

12. During his time in custody, Mr Samsudeen was afforded his minimum entitlements in accordance with statutory requirements and housed appropriately according to his internal risk profile and behaviour in prison. With the exception of specific matters discussed further below, there is no evidence that Mr Samsudeen was treated inappropriately by Corrections staff.

⁵ Mr Samsudeen was not under Corrections' supervision whilst on bail between 29 June and 9 August 2018.

⁶ Mr Samsudeen was under Corrections' supervision as a sentenced offender serving a sentence of supervision.

⁷ Both the Privacy Act 1993 and the Privacy Act 2020 were in force at various times during Mr Samsudeen's time in custody.

13. In the Inspectorate's view, Corrections failed to meet certain statutory and policy requirements and/or best practice, in particular with regard to:
- a) Mr Samsudeen's access to religious and cultural support;
 - b) 9(2)(a) [REDACTED]
 - c) Mr Samsudeen's case management at Auckland Prison; and
 - d) The development of an appropriate rehabilitation and reintegration plan for Mr Samsudeen during his second period in custody.
14. While these issues present some real missed opportunities for intervention, the Inspectorate can draw no conclusion as to any direct correlation between these aspects of Mr Samsudeen's treatment and management, and his subsequent offending.

Access to religious and cultural support

15. The Corrections Act requires that appropriate provision is made for the various religious, spiritual, and cultural needs of prisoners, so far as is reasonable and practicable in the circumstances. The Inspectorate's view is that more should have been done to meet Corrections' statutory obligations in this respect.
16. Mr Samsudeen first asked to see an Imam for religious support on 12 April 2018. Prior to that date he had met with a Muslim volunteer from the community on numerous occasions while in custody. However, he was not visited by an Imam until 3 December 2020. A second and final visit took place on 29 April 2021.
17. There were several factors contributing to the significant delay in Mr Samsudeen's initial access to an Imam, including restrictions associated with his risk and segregation status, case management issues, internal communication breakdowns amongst Corrections staff, the impact of COVID-19, and resource availability. After the first visit, there was a lack of coordinated follow-up by Corrections to facilitate further religious support. This was in part due to internal uncertainty as to who was ultimately responsible for the issue. However, it was not assisted by delays in communication with members of the Muslim community, a lack of consistent case management for Mr Samsudeen, and Mr Samsudeen's own changing views on the subject.

9(2)(a) [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Case management at Auckland Prison

21. From 1 July 2020 to 6 January 2021, Mr Samsudeen did not have an assigned case manager at Auckland Prison. This meant Mr Samsudeen had no direct or consistent point of contact for his case management needs. This was a breach of Corrections' policy on the delivery of case management to prisoners during this period.
22. On the evidence reviewed by the Inspectorate, this was most likely due to resource constraints at Auckland Prison and Mr Samsudeen's unique management under the Persons of Extreme Risk Directorate (**PERD**).

Developing a rehabilitation and reintegration plan⁸

23. In the 2018 sentencing decision for his initial charges, it was suggested that Mr Samsudeen would be an ideal candidate for a culturally sensitive and closely supervised intervention programme.⁹ Rehabilitation is not mandatory for any prisoners whether they are on remand or sentenced, but Corrections must have a management plan for a person in custody for a continuous period of more than two months on remand and must ensure that rehabilitative programmes are provided to prisoners that would benefit from them, subject to what resources are available and prescribed requirements.¹⁰ The management plan must outline how the prisoner may be prepared for their eventual release from prison and successful reintegration into the community.
24. Throughout his time in custody, Mr Samsudeen did not participate in any rehabilitation or reintegration programmes aimed at addressing his risk of violent extremism. This appears to have been due to:
 - a) No programmes aimed at anti-radicalisation or countering violent extremism being available to Corrections at the time.
 - b) Mr Samsudeen's status as a remand accused prisoner and the limited programmes available to him in that capacity.
 - c) Mr Samsudeen's reluctance to participate in any relevant rehabilitation or reintegration programmes.

⁸ Often referred to as an offender plan or a remand plan.

⁹ *R v Samsudeen* [2018] NZHC 2465 at [22].

¹⁰ Corrections Act, ss 51 and 52.

25. Corrections failed to consider any community-led rehabilitation programme. It was not until 2021 that Corrections began preparing a release plan for Mr Samsudeen. The risk assessment for Mr Samsudeen was marked as High for reoffending. Although the plan outlined risks and action points, it did not include any plan to attempt to reintegrate him back into the community. When Mr Samsudeen was released on 13 July 2021, no rehabilitation programme had been developed to provide wrap-around support to Mr Samsudeen or effectively reduce the risks that he posed to others.
26. It is acknowledged that mandatory treatment is not effective if individuals are not motivated or ready to engage in treatment. Voluntary treatment is recognised as being more effective in developing a therapeutic alliance through which insight-oriented and skills-based interventions can be better delivered.
27. It is evident from the information the Inspectorate has seen that Mr Samsudeen was vulnerable, isolated, and had extremist beliefs. Had a plan been developed, these factors may have been addressed.
28. Because of Mr Samsudeen's acute risks, the Inspectorate considers that Corrections should have taken a broader approach to rehabilitation options, and more actively planned for his release and reintegration into the community. External agencies could have provided assistance with de-radicalising Mr Samsudeen and mitigating the dangers posed by his release. This was a failure of best practice for offenders with high risks, and a failure to meet the requirements in s 51 of the Corrections Act.

Monitoring in the community

29. Preparations for Mr Samsudeen's release into the community by Community Corrections began at least four months in advance of his eventual release date. By the time he was released into the community on 13 July 2021, Corrections had invested significant time and resource into confirming appropriate accommodation and attempting to implement robust oversight mechanisms for him. Corrections' records indicate that this was driven primarily by the assessment that Mr Samsudeen was at high risk of harm to others and/or reoffending. The prevailing view amongst Corrections staff was that he would need to be closely managed in the community.
30. Sourcing accommodation in the community for Mr Samsudeen was made difficult by the lack of suitable placements, and uncertainty attached to Mr Samsudeen's release date and conditions. Moreover, Mr Samsudeen had no established support in the community and at times refused to engage with the accommodation assessment process. Corrections staff attempted to balance Mr Samsudeen's individual needs (including his religious and cultural needs) with his risk of reoffending. By July 2021, the only suitably vetted and appropriate accommodation available as a result of Police and Corrections' enquiries was Masjid-e-Bilal, the Mosque in Glen Eden. This was intended as short-term accommodation for Mr Samsudeen while a longer-term accommodation solution was canvassed.
31. At the time of the attack on 3 September 2021, Community Corrections had a release and management plan in place that primarily focussed on managing the risk Mr Samsudeen posed to public safety and Corrections staff.

32. Mr Samsudeen's Probation Officers attempted to have him engage with the conditions of his sentence. Mr Samsudeen was serving a low-level community-based sentence and the conditions of his sentence prevented Community Corrections from being able to enforce his engagement with a psychologist. Further, Mr Samsudeen was for the most part unwilling to engage in any Corrections-led measures that might have provided an appropriate rehabilitative framework.

The Federation of Islamic Associations of New Zealand's submission

33. The Inspectorate acknowledges the substantial work that has gone into the Federation of Islamic Associations of New Zealand's (**FIANZ**) submission to the Coordinated Review. The submission has been considered by the Inspectorate in forming its conclusions, and **Appendix 1** of this report responds to certain key submissions by FIANZ.

FINDINGS

34. The Coordinated Review sets out a number of findings that relate to Corrections, both specifically and in combination with other agencies. It is important to emphasise that this matter has been approached primarily as a coordinated review, recognising that the actions of agencies are properly examined as a whole rather than being considered in a fragmented way.
35. The findings of this report are specific to Corrections and supplement the findings of the Coordinated Review. They should be read alongside the findings of the Coordinated Review, which provides overarching conclusions as well as important context for Corrections' decision-making.

Corrections' role in reporting or acting on any matters that might have prolonged Mr Samsudeen's time in custody

- i. All notable incidents that should have been reported to third parties such as Police, were so reported.
- ii. Disclosure of information about Mr Samsudeen from Corrections to Police occurred in line with existing information sharing agreements and relevant legislation.

Mr Samsudeen's treatment and management while in custody

- iii. During his time in custody Mr Samsudeen was afforded his minimum entitlements in accordance with statutory requirements and housed appropriately according to his internal risk profile and behaviour in prison. In particular:
 - a) Incidents involving Mr Samsudeen while he was in custody were appropriately reported and recorded.
 - b) Disciplinary action and misconduct charges were in accordance with legislative requirements.
 - c) Mr Samsudeen's complaints while he was in custody were dealt with substantially in compliance with statutory and policy requirements.
- iv. The Inspectorate considers that Corrections failed to adequately meet certain statutory and policy requirements and/or best practice:
 - a) For the majority of Mr Samsudeen's time on remand, segregation directions were appropriately applied and reviewed in accordance with statutory requirements. However, for a period of about 8 months in 2019, a formal segregation direction recognising that Mr Samsudeen was segregated for his own safety was not in place. As a result, Mr Samsudeen was segregated without the required oversight and attention, including visits from management and health staff and three monthly reviews of the segregation direction.
 - b) Corrections did not meet its statutory obligations to provide for Mr Samsudeen's religious, spiritual and cultural needs. While there were a number of challenges for Corrections,

including Mr Samsudeen's changing views, more should have been done to provide access to an Imam or other support person.

- c) 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- d) Mr Samsudeen did not have an assigned case manager for approximately six months while at Auckland Prison. This did not meet the requirements of Corrections policy or the Corrections Act, and was a missed opportunity to address Mr Samsudeen's needs and the risks he posed during that period.
- e) While Corrections faced a number of challenges, it should have taken a broader approach to reintegration options, and planned more actively for his release and reintegration into the community.
- v. Public statements made by Corrections after the incident on 3 September 2021 were unhelpful and premature.

Management in the Community

- vi. Corrections faced significant challenges in housing and monitoring Mr Samsudeen upon his release due to:
 - a) The unusual circumstances of a high-risk offender being released with limited supervision conditions.
 - b) Limited ability to secure appropriate accommodation, due to the challenges presented by Mr Samsudeen, and the extent of Corrections' existing connections with the Muslim community.
- vii. Ultimately however, Corrections and its partner agencies lacked the capability to meet the challenge of monitoring a person with Mr Samsudeen's characteristics and risk profile in the community.

METHODOLOGY

The Inspectorate's powers and functions

36. The powers and functions of Corrections' Inspectors are set out in the Corrections Act, and include but are not limited to:
- a) Examining the treatment and conduct of persons who are or were under control or supervision, including by way of non-compellable interviews;¹¹ and
 - b) Reporting in writing to the Chief Executive on any of the matters outlined above, or any other matter relating to any prison, community work centre, probation office, or any other place (including a dwellinghouse) at which a person under control or supervision is required to attend, work, or live, as often as he or she sees fit, and whenever he or she is requested to do so by the Chief Executive.¹²

This investigation

37. This investigation by the Chief Inspector was supported by the Assistant Chief Inspector, two Inspectors, the Senior Advisor to the Chief Inspector and a Principal Clinical Inspector in respect of clinical health enquiries.
38. In addition to the joint methodology and scope contained in the Coordinated Review Terms of Reference, the Inspectorate considered it necessary to broaden the scope of its own enquiry to encapsulate Mr Samsudeen's first period under Corrections' supervision between 23 May 2017 and 29 June 2018.

Interviews

39. Commencing on 29 October 2021, inspectors formally interviewed 40 current and former Corrections staff from the National Office, the Northern Regional Office (including Mt Eden Corrections Facility **MECF**), Auckland Prison, the **PERD**, Prisoners of Extreme Risk Unit (**PERU**) and Community Corrections.¹³
40. Formal interviews were conducted in person or, where that was not possible, remotely via electronic means. All formal interviews were conducted with the interviewee's consent and were digitally recorded and transcribed.

Inspecting records

41. Records inspected as part of this investigation included:

¹¹ Section 29(1)(c) and Subpart 6 of Part 2.

¹² Section 29(1)(g).

¹³ **Corrections Staff & Contractor**

- a) Mr Samsudeen's prison file, directed segregation paperwork and records, Community Probation file, and health file.
- b) Relevant Intelligence and Person Profile information and reports.
- c) Criteria and Service Framework: Persons of Extreme Risk Directorate and Prisoners of Extreme Risk Unit operating model.
- d) Multi-Disciplinary meetings' records including MECF support meeting, Auckland Prison support meeting, and Operational Review meeting notes.
- e) Management and Release plan for Mr Samsudeen.
- f) Relevant excerpts from the Prison Operations Manual (**POM**),¹⁴ Health Services Manual, Corrections Intelligence Manual, Community Probation Integrated Practice Framework, Case Management Integrated Practice Framework, and Psychology and Programmes Integrated Practice Framework.
- g) Relevant information from Corrections database Integrated Offender Management System (**IOMS**) and Corrections Business Reporting and Analysis (**COBRA**), including incidents, misconducts and complaints.
- h) Relevant CCTV and On Body Camera (**OBC**) footage and Use of Force reports regarding the Use of Force Incidents on 23 June 2020.
- i) Records in relation to allegations against staff made by Mr Samsudeen.

Other enquiries

42. Other key enquiries undertaken by the Inspectorate included:

- a) Making relevant enquiries and inspecting records from MECF regarding Mr Samsudeen's period of custody between 10 August 2018 and 1 July 2020.
- b) Making relevant enquiries and inspecting records from Auckland Prison and PERU regarding Mr Samsudeen's period of custody between 1 July 2020 and 13 July 2021.
- c) Reviewing records from MECF, Waikeria Prison, and Rimutaka Prison regarding Mr Samsudeen's periods of custody at those facilities prior to 10 August 2018.
- d) 9(2)(a) [REDACTED]

¹⁴ The purpose of the Prison Operations Manual (POM) "is to provide instructions to Corrections employees on the day-to-day activities relating to managing a prison". These instructions are to ensure the safe, secure, humane, and effective operation of prisons. All staff are to ensure that they perform their duties in accordance with the instructions contained within POM.

Coordinated multi-agency processes

43. The Inspectorate liaised with the Independent Police Conduct Authority (**IPCA**) and Inspector-General of Intelligence and Security (**IGIS**) throughout this investigation. Where relevant, interviews were undertaken in a joint interagency approach and relevant information was shared from individual interviews and each agencies' respective enquiries. Joint investigation work included conducting joint agency interviews with:
- a) Members of Mr Samsudeen's family.
 - b) A Criminologist based at the Research School of Psychology, Australia.
 - c) Representatives of Islamic community organisations, including:
 - i. Avondale Islamic Centre.
 - ii. Masjid Al Maktoum, the Airport Mosque.
 - iii. Masjid-e-Bilal, the Glen Eden Mosque.
 - iv. 9(2)(a) [REDACTED], Auckland.
 - d) 9(2)(a) [REDACTED], an organisation providing social housing and 9(2)(a) [REDACTED], who were asked to provide supporting services to Mr Samsudeen in the community when released on supervision.
44. In December 2021 and March 2022, representatives from the Inspectorate, IPCA and IGIS also jointly met with representatives of FIANZ. FIANZ had conducted its own investigation and prepared a comprehensive written submission for the Coordinated Review. It was appropriate for the Inspectorate to meet with FIANZ to consider their key findings and concerns about Corrections.

BACKGROUND

45. Mr Samsudeen was a Sri Lankan National born in 1989. 9(2)(a)

Offending and sentencing outcomes

47. On 29 June 2018, Mr Samsudeen pleaded guilty to two charges of using a document for pecuniary advantage, two charges of knowingly distributing restricted material, and one charge of failing to assist the police in their exercise of a search power.¹⁶ The offences of distributing restricted material related to Mr Samsudeen's publication of material depicting violence and atrocities committed against Muslims in graphic detail on Facebook. Mr Samsudeen was sentenced to one year of supervision.
48. On 27 May 2021, a High Court jury found Mr Samsudeen guilty of two charges of knowingly possessing an objectionable publication with reasonable cause to believe that it was objectionable, and one charge of failing to assist a police officer exercising a search power. The possession offences related to two nasheeds (hymns) promoting acts of violence and terrorism. Each nasheed had been classified as objectionable by the Office of Film and Literature Classification. Mr Samsudeen was again sentenced to one year of supervision.¹⁷

FACTUAL NARRATIVE

49. This section sets out a summary of Mr Samsudeen's profile as discerned by Corrections' intelligence sources, key events, and a table of Mr Samsudeen's time under Corrections' management in custody.
50. A detailed chronology of key events is at **Appendix 2**.
51. Mr Samsudeen was first received into Corrections custody at MECF on 23 May 2017 as a remand-accused prisoner. He had been remanded in custody on one charge of knowingly distributing objectionable material under the Films, Videos and Publications Classification Act 1993. The Crown later filed further charges of the same type, then amended the charges after the material was referred to the Classifications Office/the Film and Literature Review Board and classified as restricted rather than objectionable.
52. Mr Samsudeen had no criminal history in New Zealand and had not previously been in custody. No information at Corrections indicated that Mr Samsudeen ought to be considered a high-risk individual

¹⁵ *BA (Sri Lanka)* [2013] NZIPT 800347.

¹⁶ *R v Samsudeen* [2018] NZHC 1597 [29 June 2018].

¹⁷ *R v S* [2021] NZHC 1669 [6 July 2021].

at that point in time. He was assigned Level 2 remand status in custody: the lesser of two security levels for remand accused prisoners.

53. The first Corrections record raising concerns about Mr Samsudeen's Intelligence risk profile was a restricted Corrections National Intelligence Unit report dated 8 August 2017.¹⁸ The report provided an update on persons of interest who at that time were under Corrections' management. It assessed Mr Samsudeen as "likely" to have an established interest in "radical Islamic ideology", and "possible" that this may extend to acts of violent extremism.¹⁹ It was noted that Mr Samsudeen had claimed he was in custody because he had been set up by Police and that "It is possible that this feeling of persecution by New Zealand Police may enhance [Mr Samsudeen]'s radical views and fuel his resentment towards authority." The report also observed:

It is difficult to assess the true extent of [Mr Samsudeen]'s radical beliefs and the ongoing risk he may continue to pose. While [Mr Samsudeen] is not openly displaying an interest in violent extremism while in prison, there is no information to demonstrate that he is effectively engaging with a pro-social interpretation of Islam.

54. The report concluded by recommending ongoing monitoring of Mr Samsudeen's telephone activity, mail and behaviour, together with his interactions with other prisoners.
55. On 5 January 2018, an Information Report²⁰ prepared by the Corrections National Intelligence Unit recorded that Mr Samsudeen had allegedly started "preaching" to a Muslim prisoner in his MECF unit about ISIL²¹ and that Mr Samsudeen had reportedly said to the prisoner: "If you were a good Muslim you would support us and join too".²² Mr Samsudeen had allegedly said that his plan was to "kill infidels", that when he was released he would try to get to Syria, and if he could not do that, he would "do something in New Zealand". The report indicated that it was unknown what Mr Samsudeen was planning and that the information contained therein was graded as "Fairly reliable" and "Possibly true".
56. In April 2019, Corrections Intelligence information reports record that Mr Samsudeen had allegedly told his Corrections staff member at MECF that if he was deported back to Sri Lanka, he intended to make his way to Iraq where he could fight.²³ In May 2019 it was recorded that Mr Samsudeen had advised his Corrections staff member that he was happy following the news of the Easter Sunday attacks in Sri Lanka on 21 April 2019.²⁴ When the officer informed Mr Samsudeen that many people had been killed, including Sri Lankans, Mr Samsudeen replied "They are not Sri Lankans, they are infidels."

¹⁸ Persons of Interest Update, National Intelligence Unit, 8 August 2017 – [REDACTED]

¹⁹ The Intelligence Grading and Probability Statements section of the report defines "Likely" as meaning "The event will probably occur in most circumstances". "Possible" means "The event might occur".

²⁰ The information report records a disclaimer: "Aspects of this report may be uncorroborated at the time of release. This report is not a completed intelligence product and should not be used as such by decision makers." The Corrections Intelligence Manual of Guidance records that Information Reports are designed to enable raw information to be passed quickly and without the need for analysis, often to an external agency. Such information is unlikely to be something that would require an Intelligence Report but will possibly be of interest to another agency.

²¹ Islamic State of Iraq and the Levant (also sometimes referred to as ISIS or Daesh/Daish/Da'ish/Da'eesh). We use this term throughout the report for the sake of consistency.

²² [REDACTED], 5 January 2018. Information graded as "Fairly reliable" and "Possibly true" according to the Admiralty Grading System.

²³ [REDACTED], 8 April 2019. Information graded as "Usually reliable" and "Probably true".

²⁴ [REDACTED], 8 May 2019. Information graded as "Usually reliable" and "Probably true".

57. On 1 May 2019, Mr Samsudeen was reported to have approached a Corrections officer and advised him that he was very happy upon hearing that an important ISIL leader was alive and had come out of hiding.²⁵ By contrast, in a Corrections information report dated 26 November 2019, Mr Samsudeen was said to be sad to hear about the death of Abu Bakr al-Baghdadi²⁶ but *“was sure someone stronger would come along”*.²⁷
58. On or around 4 July 2020, Mr Samsudeen was reported to have been telling other prisoners that he was associated with ISIL.²⁸ Two months later, a restricted intelligence report dated 10 September 2020 recorded the concerns raised by other prisoners about Mr Samsudeen *“recruiting for ISIS and preaching about ISIS”* but observed that: *“Aside from these concerns, there is no information to suggest that [Mr Samsudeen] is linked to ISIS or has been recruiting for ISIS whilst in Department of Corrections care. It is assessed as unlikely that he has been actively recruiting prisoners for ISIS while on remand.”*
59. From 2020, it appears that intelligence reports were prepared by, and shared amongst, a combination of Corrections Intelligence staff, the PERD and the New Zealand Police. The last Corrections Intelligence report four days prior to Mr Samsudeen’s release on 13 July 2021 recorded that:²⁹

6(c), 9(2)(a)

Chronology of Mr Samsudeen’s time in custody

60. The following chronology outlines the key dates in respect of Mr Samsudeen’s arrest incidents, dates on remand in custody, custodial locations, and court hearings.

Date	Event
2017	
19.05.2017	Arrested at Auckland Airport as he attempts to leave New Zealand.
23.05.2017	Remanded in custody at Mt Eden Corrections Facility (MECF).

²⁵ [REDACTED] Corrections Information Report, 8 May 2019. Information graded as *“Usually reliable”* and *“Probably true”*.

²⁶ An Iraqi militant and the leader of ISIL.

²⁷ [REDACTED] Corrections Information Report, 26 November 2019. Information graded as *“Usually reliable”* and *“Probably true”*.

²⁸ IOMS file note 4 July 2020.

²⁹ [REDACTED] Prisoner Telephone Disclosure report produced by the PERD Intelligence Unit, 9 July 2021. Information graded as *“Fairly reliable”* and *“Possibly true”*.

12.06.2017	Appeared at Auckland District Court and entered Not Guilty plea to charge of possession of objectionable publication with knowledge (further similar charges were later laid by the Crown).
18.12.2017	Bail Application Hearing Auckland High Court. Bail declined: <i>R v Samsudeen</i> [2017] NZHC 3229.
2018	
26.01.2018	Transferred to Waikeria Prison.
27.03.2018	Transferred to Rimutaka Prison.
6.6.2018	Transferred to Spring Hill Corrections Facility.³⁰
07.06.2018	Transferred to MECF.
22.06.2018	Re-applied for bail. Bail declined: <i>Samsudeen v R</i> [2018] NZHC 1522.
29.06.2018	Pleaded guilty in the High Court to five 2017 charges. Released from Auckland High Court on bail pending sentencing: <i>R v Samsudeen</i> [2018] NZHC 1597.
09.08.2018	Arrested and new charges filed by Police.
10.08.2018	Appeared in Auckland District Court on new charges. Remanded in custody at MECF.
13.08.2018	Appeared in Auckland District Court and applied for bail. Bail declined.
19.09.2018	Sentenced on 2017 charges to one year of supervision with conditions: <i>R v Samsudeen</i> [2018] NZHC 2465 [19 September 2018]. Remanded back in custody at MECF on active charges.
2019	

³⁰ This was a stop-over as part of the transfer to MECF where he was received on 7 June 2018. The transfer occurred due to upcoming court appearances in Auckland.

1.2.2019	9(2)(a) [REDACTED] [REDACTED]
2020	
22.05.2020	Mr Samsudeen's High Court trial on his 2018 charges adjourned to May 2021, due to COVID-19 restrictions.
23.06.2020	Mr Samsudeen assaults Corrections staff at MECF. Police charge Mr Samsudeen with injuring with intent to injure/reckless disregard and assault with intent to injure on 5 September 2020.
01.07.2020	Transferred from MECF to Auckland Prison. Jointly managed by the PERD and Auckland Prison (Tier 2).
16.07.2020	Crown application to charge Mr Samsudeen under s 6A of the Terrorism Suppression Act 2002 declined by the High Court: <i>R v S</i> [2020] NZHC 1710 [16 August 2020].
12.11.2020	High Court dismissed two charges against Mr Samsudeen relating to the High Court trial: <i>R v S</i> [2020] NZHC 3006 [12 December 2020].
2021	
17.05.2021	Mr Samsudeen's High Court jury trial on 2018 charges commenced. Moved into the PERU under the direct management of the PERD at Auckland Prison (Tier 3).
27.05.2021	Jury found Mr Samsudeen guilty of two of the 2018 charges. Further remanded in custody at Auckland Prison until sentencing.
06.07.2021	Sentenced in the Auckland High Court to 12 months' supervision: <i>R v S</i> [2021] NZHC 1669 [6 July 2021].
13.07.2021	Appeared in the Auckland District Court. Granted bail on assault charges. Released from Auckland Prison on bail and serving sentence of supervision.

CORRECTIONS' ROLE IN REPORTING OR ACTING ON ANY MATTERS THAT MIGHT HAVE PROLONGED MR SAMSUDEEN'S TIME IN CUSTODY

Corrections' role in reporting incidents to Police (or any other agency)

61. Section 29(c) of the Corrections Act empowers the Inspectorate to examine the treatment and conduct of persons under the control or supervision of Corrections.
62. Part of examining Mr Samsudeen's treatment and conduct in custody involves an assessment of those matters that Corrections acted on and/or reported, and which had a material bearing on Mr Samsudeen's ongoing remand in custody. Such matters may have included but were not limited to Mr Samsudeen's behaviour and compliance in custody, any criminal charges arising from his time in custody, and any information specific to Mr Samsudeen's risk profile, case management and/or personal needs, that were appropriate for sharing with third parties such as the Police or the NZSIS.
63. During his time in custody Mr Samsudeen is recorded as having been involved in 9(2)(a) at various custodial sites. Most of these incidents were dealt with by Corrections' formal internal disciplinary processes. Accordingly, not all information about those incidents was shared with Police or any other third party contemporaneously.
64. In relation to allegations that Mr Samsudeen assaulted Corrections officers on 23 June 2020 in MECF (see Appendix 3), information was shared between Corrections and Police. Mr Samsudeen was subsequently charged by Police with injuring with reckless disregard and assault with intent to injure and remanded in custody to face trial for those charges. At the time of the attack in the community on 3 September 2021, Mr Samsudeen was on bail, pending his next court appearance on 20 October 2021 in the Auckland District Court for the violence charges.
65. On the evidence it has reviewed, the Inspectorate is satisfied that any incidents involving Mr Samsudeen under Corrections' supervision that ought to have been reported to Police or brought to the attention of other relevant agencies (such as the NZSIS) were so reported.³¹ Moreover, the documentary evidence suggests that due to his escalating risk profile and behavioural non-compliance whilst in custody, Mr Samsudeen received more scrutiny than many other remand prisoners in custody at the same time, particularly from July 2020 onwards.
66. Equally, although Corrections staff were concerned about Mr Samsudeen's risk of harm to others once released into the community, there is no evidence that Corrections sought to address that risk by keeping Mr Samsudeen in custody longer than was otherwise warranted. From approximately March 2021, Community Corrections' attention turned to developing an appropriate release plan to ensure Mr Samsudeen's safe return to the community whilst subject to conditions to manage his risk. Documents reviewed by the Inspectorate indicate that Corrections and Police were cognisant of the

³¹ Intelligence reports were regularly prepared by Corrections' National Intelligence Unit and/or the PERD staff, and subsequently shared with the Police and at times the NZSIS. In respect of (Restricted) Priority Person Profile (PPP) reports, these appear to have been a joint intelligence effort involving Corrections and the Police. The distribution lists indicate that PPP reports were shared with senior Corrections and Police officials.

cumulative amount of time that Mr Samsudeen had spent in custody on remand and were jointly exploring release options and risk mitigation strategies. However, by the time Mr Samsudeen was bailed on 13 July 2021, the effect of any conditions that could be imposed on him to manage his risk in the community was diminished by the significant period of time he had already spent in custody.³²

Disclosure of information pertaining to Mr Samsudeen between agencies

67. Although there are limited provisions in the Corrections Act regarding the collection and sharing of information about remand accused prisoners amongst agencies,³³ Corrections maintains an overarching information-gathering function to support and comply with the principles of the Corrections Act. In the case of high-risk prisoners such as Mr Samsudeen, this is consistent with the maintenance of public safety, which under the Corrections Act is the paramount consideration in decisions about the management of persons under Corrections' control.³⁴ For all other information sharing, Corrections relies on relevant legislation such as the Privacy Act 2020 and confidential, formal inter-agency information sharing agreements.

68. Under the Privacy Act 2020 and its predecessor the Privacy Act 1993,³⁵ Principle 11(e)(i) can be used to share information between agencies where Corrections believes on reasonable grounds that disclosure is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences.³⁶ The Inspectorate is aware that in Mr Samsudeen's case this was used as a statutory basis for disclosures of information from Corrections to Police, as it is for the disclosure of information about other prisoners where appropriate. Sections 112 and 117 were relied on by Corrections to monitor and disclose information contained in Mr Samsudeen's telephone calls in custody. For the avoidance of doubt, some of Mr Samsudeen's external calls were exempt from monitoring and/or disclosure, for example, calls to his lawyers. [REDACTED] 6(c)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

69. In Mr Samsudeen's case, information was disclosed between Corrections and Police to reflect his evolving risk profile and escalating behaviour in custody over time. The Inspectorate has not seen any evidence to suggest that information shared by Corrections with Police regarding Mr Samsudeen while

³² Although GPS tracking was recommended by his Probation Officer to the Court at sentencing on 6 July 2021, the Court could not justify imposing electronic monitoring in part due to the length of time Mr Samsudeen had already spent in custody and in light of the legislative requirement to impose the least restrictive outcome: *R v S* [2021] NZHC 1669 [6 July 2021], per Fitzgerald J at [34].

³³ Section 181A provides the legal basis for information sharing between Corrections and Police regarding highest-risk offenders. Under s 3 of the Corrections Act, 'offenders' do not include people under control or supervision by reason only that they are in custody awaiting trial.

³⁴ Section 6(1)(a).

³⁵ Both statutes were in force at different times during the periods that Mr Samsudeen was in custody. The Privacy Act 2020 came into force in staggered fashion on 30 June 2020 and 1 December 2020.

³⁶ Privacy Act 1993, s 6(1)(e)(i) and Privacy Act 2020, s 22(1)(e)(i).

supervised by Corrections fell outside, or was contrary to, any lawful purposes set out in the Privacy Acts and associated regulations.

70. The Inspectorate has reviewed a 2015 Memorandum of Understanding (**MoU**) between Corrections and Police.³⁷ The MoU records that the fundamental purpose governing the disclosure of information about offenders between Corrections and Police is *“to enhance public safety and law enforcement including the prevention of offending, through the necessary release of relevant official and personal information.”*³⁸
71. Under the MoU, Corrections previously used the Highest Risk Offender system and High-Risk High Profile forums to exchange information with Police regarding high-risk offenders. Although the Inspectorate understands that this terminology is outdated, as these are not the assessment forums currently used, the processes for sharing information about prisoner risk profiles, including for Mr Samsudeen, is materially unchanged.³⁹
72. Additionally, Corrections and Police rely on prescribed National Standards of Service Delivery under the MoU to guide the disclosure of information about particular offenders. Those standards describe the type of service to be provided between the parties, together with performance indicators.
73. There are numerous examples of this operating in practice in Mr Samsudeen’s case. First, Corrections were required under the MoU to provide Police with operational information about Mr Samsudeen. Information in that category included recent photographs, his location, status of imprisonment, prison transfers, and release details and conditions. In regard to his risk status, information was shared with Police on an ongoing basis, particularly through the use of Corrections Intelligence information reports.
74. Second, Community Corrections were required to advise Police if Mr Samsudeen’s release conditions were amended. On 16 July 2021, after his release from Auckland Prison, Mr Samsudeen’s bail conditions were varied in the Auckland District Court. In accordance with information sharing protocols, both Community Corrections and Police were apprised of the relevant bail variations in addition to Mr Samsudeen’s concurrent supervision conditions. 9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
75. In respect of information flowing in the opposite direction under the MoU, Police are required to advise Community Corrections of any high-risk situations involving offenders managed in the community by Corrections when sentence management or public or staff safety might be affected. In Mr Samsudeen’s case, Corrections and Police worked closely to identify and mitigate the potential risks to the public and Corrections’ employee safety. That process commenced in early 2021, well in advance of Mr Samsudeen’s release into the community in July.

³⁷ Memorandum of Understanding between the Department of Corrections and the New Zealand Police, December 2015, reviewed 1 February 2017.

³⁸ At 12, Schedule 4: Information Sharing.

³⁹ Internal groups such as the High Risk and Complex Needs Panel, and the Northern Regional Risk Action Group (incorporating the Northern Region High-Risk Response Team) have superseded the previous high risk offender bodies referenced in the MoU.

Intelligence

76. Corrections and Police are also required under the MoU to cooperate in mutual intelligence exchange. This does not exclude the agencies from obligations under the Privacy Act 1993 (and the Health Information Privacy Code 1994 where applicable), the Official Information Act 1992, and the Corrections Act, but provides a formal means by which intelligence can be securely processed and authorised through designated channels.⁴⁰
77. In Mr Samsudeen's case, the relevant designated intelligence channel for his time in custody was the Corrections Northern Region Intelligence Office. That office worked closely with Police in sharing intelligence associated with Mr Samsudeen's risk profile.

Did Corrections act and/or report information appropriately in respect of Mr Samsudeen?

78. The Inspectorate has looked for evidence of actions taken by Corrections in respect of reporting or acting on material incidents during Mr Samsudeen's time in custody, which might have meant he would have been in custody on 3 September 2021.
79. It has found no evidence of failure to report acts or incidents relating to Mr Samsudeen's time in custody that should have been reported but were not.
80. Although by 2021 there was a clear view amongst Corrections staff that Mr Samsudeen was a high risk of violent offending upon his release into the community, there is no evidence of Corrections being over-vigilant in attempting to keep Mr Samsudeen in custody longer than was appropriate. Corrections has no power to keep a person in custody based on intelligence that the person poses a risk to public safety. Only convicted prisoners, convicted of a crime and sentenced to a term of imprisonment, and remand prisoners, awaiting trial or sentencing, are held in prison. A prisoner cannot be detained indefinitely for community protection purposes except under a sentence of preventive detention.⁴¹

⁴⁰ It appears that most of the intelligence information gathered regarding Mr Samsudeen's case would have been subject to the internal *In Confidence Corrections Intelligence: Manual of Guidance*, February 2018.

⁴¹ Sentencing Act 2002, s 87.

MR SAMSUDEEN'S MANAGEMENT AND TREATMENT IN CUSTODY

Placements in Corrections facilities

81. In total, Mr Samsudeen spent 402 days on remand during his first period in custody, and 1,068 days during his second. Cumulatively, Mr Samsudeen spent 1,470 days in custody as a remand accused prisoner under Corrections' management at Waikeria Prison, Rimutaka Prison, MECF, Spring Hill Corrections Facility and Auckland Prison. It is notable that the average period in prison for a remand accused prisoner in 2021 was 76 days.⁴²

Mr Samsudeen's safety and security, and risk assessments

Safety and Security

82. The Corrections Regulations provide that "*accused prisoners*"⁴³ on remand are entitled to the same standard of treatment as convicted prisoners.⁴⁴ However, the standard of treatment provided to accused prisoners must take account of individual safety needs and any security issues relating to a particular prisoner and may exceed the standard of treatment provided to convicted prisoners.⁴⁵
83. The Corrections Regulations also stipulate that as far as practicable, accused prisoners must be kept apart from other prisoners in a prison.⁴⁶ The Inspectorate has seen no evidence to suggest that Mr Samsudeen, as a remand accused prisoner, was ever housed together or mixed with convicted sentenced prisoners. This remained the case from his time on remand during his first period in custody, through to his time spent in the PERU at Auckland Prison. Due to his remand accused status and specific risk profile it appears that significant time and resources were expended on ensuring that

⁴² According to the Justice Section Projections Report, the average time a person spent on remand as at November 2021 was 76 days: <https://www.justice.govt.nz/assets/Documents/Publications/FSJOM-2021-Justice-Sector-Projections-Report.pdf>. The following table shows the average number of days on remand for male prisoners from 2017 to 2021 (inclusive).

FINANCIAL YEAR	AVERAGE REMAND DAYS
2016-2017	69
2017-2018	74
2018-2019	71
2019-2020	79
2020-2021	79

⁴³ Regulation 3. "*Accused prisoner*" means a prisoner detained only by reason of the fact that he or she is awaiting trial or is on remand in custody during the trial, but does not include a prisoner who is on remand awaiting sentence. "*Remand prisoner*" is a wider term that captures "*accused prisoner*" as well as prisoners remanded in custody pending sentence.

⁴⁴ Regulation 185.

⁴⁵ Regulation 185(2).

⁴⁶ Regulation 186.

Mr Samsudeen was kept apart from prisoners who presented a risk to him and/or for whom it would be inappropriate for Mr Samsudeen to interact with [REDACTED] 6(c), 6(d), 9(2)(a) 47

9(2)(a) [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

47 [REDACTED] 6(c), 6(d), 9(2)(a)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

52 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Risk assessments: Remand supervision level

88. Remand prisoner risk is assessed by use of the Corrections Remand Management Tool (**RMT**). The RMT assessment determines the level of custodial management a person may require. The supervision level factors in prison movements, unit placement and participation in any of the available activities for remanded prisoners.
89. There are two levels to the RMT:
- a) Level 1 (High supervision): Prisoners whom by their alleged offence or history of offending and general demeanour while in custody present a high level of criminal influence and require frequent/close custodial supervision. All remand prisoners in High or Maximum Security prisons are Level 1.
 - b) Level 2 (Low supervision): Prisoners remanded for less serious alleged offending and considered at risk of/more vulnerable to criminal influence, may participate in activities that are conducted under a lower form of custodial supervision.
90. Corrections best practice dictates that the two levels of supervised remand prisoners are housed and managed in separate areas. If the site and/or resources do not allow for the separation, then units must try to limit the opportunities for the two levels to mix.
91. An initial assessment should be conducted for all remand prisoners to determine the appropriate level of custodial supervision.⁵¹ Review assessments are to be completed within seven days if there is a change in the number or nature of charges the prisoner faces and/or there are triggering events such as behavioural incidents (positive or negative) - for example, misconduct, conviction or completion of an intervention. All Level 1 remand prisoners are to have their level reviewed every three months.
92. Upon his initial remand at MECF in May 2017, Mr Samsudeen was assessed as requiring Level 2 (Low) supervision only.
93. His RMT security level remained unchanged after his first recorded altercation in custody with another prisoner on 1 August 2017.
94. On 20 March 2018, Mr Samsudeen was involved in a fight with another prisoner at Waikeria Prison. He was reassessed using the RMT and moved from Level 2 supervision to Level 1 (High).⁵² He was subsequently transferred to Rimutaka Prison on 27 March 2018 and was a Level 1 remand accused prisoner for the remainder of his time in custody in 2018 and then upon re-entry to MECF in August

⁵¹ Initial assessments are also conducted for prisoners who are transferred between facilities and have not yet undergone an RMT assessment; or if a person reverts to remand; or for a remand convicted prisoner if sentencing is more than two weeks from reception.

⁵² The Corrections Event Based RMT Review Assessment document (dated 26 March 2018) records Mr Samsudeen as having been involved in a fight on 20 March 2017 at Auckland Prison. The Inspectorate infers that those are document recording errors, since Mr Samsudeen was not arrested and remanded in custody until May 2017, and not transferred to Auckland Prison until July 2020.

2018. Internal Time Based RMT Review Assessment forms indicate that Mr Samsudeen was to be maintained at Level 1 due to a high-risk offender alert placed on his file.⁵³

IOMS alerts

95. At the time of his death on 3 September 2021, Mr Samsudeen had a number of Active Alerts on his Corrections file, pertaining to various risks, these included:

- a) On 18 July 2018, an alert detailed that Mr Samsudeen was a *“person of national security interest – Police suspect he holds Islamic extremist ideology and beliefs”*.
- b) In March 2020, a ‘Transport’ alert indicated that Mr Samsudeen was not to be transferred between units or prison or placed on an escort without approval from the Commissioner of the PERD.
- c) On 7 May 2020, Mr Samsudeen had a non-association alert placed on his file, requiring that he be kept separate from another prisoner *“due to sharing extremist views.”*
- d) The final active alerts on Mr Samsudeen’s profile were dated 23 and 27 June 2020 and recorded that:
 - i. Mr Samsudeen’s directed segregation (denied association) order had been extended by a Visiting Justice from the initial date of segregation on 26 February 2020.
 - ii. 9(2)(a) [REDACTED]
 - iii. Mr Samsudeen had reportedly assaulted staff and made threatening statements to *“get staff outside of prison”*.

Cell sharing with other prisoners

96. Between 23 May 2017 and 26 March 2019, cell sharing records show that Mr Samsudeen shared a cell with 75 different prisoners on 82 different occasions (on seven occasions he shared with a prisoner more than once). Mr Samsudeen and the prisoners he shared a cell with underwent a Shared Accommodation Cell Risk Assessment (SACRA) at each prison site and were considered suitable for cell sharing. The purpose of the SACRA process is to assess the compatibility of prisoners for cell sharing, to reduce the risks prisoners pose to each other in shared cells.⁵⁴ Records show that staff intervened in two reported incidents between Mr Samsudeen and the prisoners he shared his cell with, with the other prisoner being immediately relocated both times. No other incidents involving Mr Samsudeen and the prisoners he shared his cell with have been found in incident reports or prison file records. From 26 March 2019, Mr Samsudeen was accommodated in a single cell only.

⁵³ Mr Samsudeen’s three-monthly review at Level 1, 9 June 2019 records a *“CPPS High Risk Offender alert”*, which contributed to no change in his RMT level. CPPS was later split into Community Corrections and Psychological Services.

⁵⁴ The SACRA compatibility guidelines provide guidance on key attributes to consider before placing two prisoners in a shared cell, such as evidence of a prisoner’s gang affiliations or health needs.

Segregation

97. Under ss 58-60 of the Corrections Act, a Prison Director has the power to make segregation directions so that a prisoner's opportunity to associate with other prisoners is restricted, meaning the prisoner has limited contact with other prisoners, usually also under segregation directions; or denied, meaning the prisoner has no contact with any other prisoner. A segregation direction is not a penalty or a punishment.
98. 'Directed segregation' means the prisoner is involuntarily segregated under these powers, known as Directed Protective Custody (**DPC**). A prisoner can also request to be segregated, known as Voluntary Protective Segregation (**VPS**). A prisoner must consent to a VPS direction in writing, and the direction ceases to have effect if the prisoner withdraws consent.⁵⁵
99. A Prison Director can only make segregation directions if:
- a) The safety of a person, or security or good order of the prison would otherwise be endangered or prejudiced (s 58); or
 - b) A prisoner requests segregation and the manager considers that it is in the prisoner's best interests (s 59(1)(a)) (**VPS**); or
 - c) A prisoner has been put at risk by another person and there is no reasonable way to ensure that prisoner's safety other than segregation (s 59(1)(b)); or
 - d) A health centre manager recommends that segregation is desirable to assess/ensure physical or mental health (except against the risk of self-harm) (s 60).
100. Segregation directions are prison specific and Prison Directors are responsible for approving initial directions, seeking a continuation of directions before the expiry date if necessary, and revoking directions which cease to be justified. Each type of direction must be evidence-based, justified on the facts and reviewed at intervals, with the subject of the direction promptly being given the reasons in writing for the direction.
101. At any time, a s 58 or s 59 direction can be revoked by the Chief Executive and a Visiting Justice can revoke a s 58 direction at any time. A s 58 or s 59(1)(b) direction will expire after 14 days, unless the Chief Executive directs that it continues. If a s 58 direction continues, it must be reviewed by the Chief Executive every month and will expire after 3 months unless a Visiting Justice directs that it continue. If a s 59(1)(b) direction continues, it must be reviewed by the Chief Executive every three months. These statutory requirements for segregation are prescriptive, recognising that segregation is a serious matter and can affect a prisoner's mental health.
102. A s 60 direction can be revoked if the health centre manager advises that there ceases to be justification for the direction.

⁵⁵ Section 59(2).

103. Upon his arrival at MECF on 23 May 2017, an alert for VPS under s 59(1)(a) was placed on Mr Samsudeen's file.⁵⁶ The alert note recorded: *"First time in prison, no gang connections, fears for safety"*. Mr Samsudeen was accordingly segregated from the prison's main remand population, with his consent. He remained under a VPS direction at his subsequent remand at Waikeria in January 2018. When he was transferred from Waikeria to Rimutaka on 27 March 2018, Corrections records show that he was received and treated as a mainstream remand accused prisoner, although the unit he was placed in did include prisoners under VPS.⁵⁷ There is no record of him requesting VPS over this period at Rimutaka.
104. On 7 June 2018, Mr Samsudeen was transferred back to MECF from Rimutaka Prison via Spring Hill Corrections Facility. He was inducted into Unit [REDACTED]. On the same day, he made a written request seeking VPS because he feared for his safety in the mainstream MECF remand population.⁵⁸ The Prison Director agreed that segregation would be in his best interests. A direction was made for his VPS under s 59(1)(a).
105. On 29 June 2018, Mr Samsudeen was released on bail pending sentencing. He was arrested on other charges and remanded again at MECF on 9 August 2018. Records show that he was placed on VPS and was appropriately placed into units for VPS prisoners, per his previous VPS request and the s 59(1)(a) direction.⁵⁹
106. On 26 March 2019, IOMS file notes and an incident report record that Mr Samsudeen was interviewed by the Corrections staff member [REDACTED] because Mr Samsudeen alleged he had been threatened and insulted by other prisoners because of his Muslim faith.⁶⁰ Although Mr Samsudeen was already in the VPS part of MECF, he asked for *"super segregation"*, a colloquial term for DPC. The IOMS Alert from that date indicate that Mr Samsudeen was relocated to Unit [REDACTED] under a DPC direction under s 59(1)(b), due to a threat to his safety.⁶¹ The IOMS file notes indicate that he was celled alone and that his unlock periods were limited to one hour, during which he had no associations with other prisoners.⁶² Muster summary reports for Unit [REDACTED] recorded him as a prisoner under DPC, until 11 June 2019 when muster summary reports recorded him as a prisoner under VPS.⁶³
107. However, the Inspectorate has been unable to locate any information formalising this purported DPC direction on 26 March 2019. MECF have confirmed that there are no records of the DPC direction from

⁵⁶ Section 59(1)(a) of the Corrections Act provides that a prison manager may direct a prisoner have their association with other prisoners restricted or denied if the prisoner requests it and the prison manager considers that it is in the best interests of the prisoner to give such a direction.

⁵⁷ Corrections COBRA Muster summary data, 27 March – 6 June 2018; Rimutaka Prison Segregation Register (No record of Mr Samsudeen recorded as a VPS prisoner on Rimutaka Prison Segregation Register).

⁵⁸ Letter dated 7 June 2018 written by Mr Samsudeen at MECF requesting segregation, and VPS documentation dated 7 June 2018 confirming segregation approval.

⁵⁹ MECF record of VPS application and documentation dated 7 June 2018; Corrections COBRA Muster Summary data between 7 June 2018 and 26 March 2019 record that he was placed into units at MECF solely for VPS prisoners.

⁶⁰ IOMS Offender File Notes, 26 March 2019.

⁶¹ IOMS Alert dated 26 March 2019, Summary of the Incident Report.

⁶² IOMS Offender File Notes from 26 March 2019.

⁶³ Extracted from Corrections' Business Reporting and Analysis. These reports do not show any explanation for a segregation direction, they show the number of persons on site, recording the prisoners: unit; cell location; whether they are sentenced, remand convicted, or remand accused; and whether they are VPS, DPC or Mainstream.

that time, including no record on the directed segregation register. Therefore, contrary to the information in the IOMS alerts, muster summary reports and offender file notes, between 26 March – 7 December 2019 Mr Samsudeen was categorised as being voluntarily segregated under s 59(1)(a). There is no record of Mr Samsudeen requesting an opportunity to associate with any other prisoner, or raising any issue about his placement in Unit [REDACTED] during this period. However, it is clear that Mr Samsudeen moved units and was treated as though he was under s 59(1)(b) from 26 March 2019. This categorisation error is significant because of the strict rules relating to DPC which do not apply to VPS.

108. A written direction should have been made under s 59(1)(b), to be approved and reviewed by the Chief Executive at appropriate intervals. Mr Samsudeen should have had a specific management plan showing how he was to be managed in the unit, including how his minimum entitlements would be met and any necessary health checks.⁶⁴ It is a requirement that the health centre manager is notified when a prisoner is placed under a DPC direction,⁶⁵ and that ‘special attention’ is paid to the prisoner by health staff, which in practice means the prisoner receives a daily welfare check (see [182]).⁶⁶ Additionally, a prisoner placed under a DPC direction must be visited daily by the prison director (or their delegate).⁶⁷ Between 23 March and 7 December 2019 there is no evidence from the health records that Mr Samsudeen was visited by health for any welfare checks associated with segregation. There was a risk that, because he was not recorded as being under a DPC direction, he did not receive the required attention whilst he was segregated.
109. On 7 December 2019, the MECF Prison Director made a direction to shift Mr Samsudeen’s custodial status from VPS to (involuntary) DPC under s 59(1)(b). It was noted on that form that Mr Samsudeen had been under a VPS direction prior to 7 December 2019. The application was based on his assessment as a high-risk offender and the Police view that Mr Samsudeen held extremist ideology and beliefs. DPC was approved by the Prison Director for a period of up to 14 days “*to ensure the safety of himself, and so that he can be further monitored and assessed to be able to make decisions on his future placement.*”⁶⁸ A management plan was implemented to ensure that Mr Samsudeen’s minimum entitlements were met whilst he was segregated.
110. On 18 December 2019, the maximum 14-day DPC direction was reviewed and renewed for three months on the basis that Mr Samsudeen was still considered by Corrections Intelligence to be “*high risk due to his Islamic extremist beliefs*”.⁶⁹ However, on 22 January 2020, Mr Samsudeen’s DPC status under s 59(1)(b) was revoked by the Prison Director. Mr Samsudeen’s segregation status at that time reverted back to VPS under s 59(1)(a), meaning that he could associate with other segregated prisoners. He was then accommodated and managed in other units holding voluntary segregated prisoners at MECF until 26 February 2020.

⁶⁴ POM at M.07.01.02.

⁶⁵ Corrections Regulations 2005, reg 55.

⁶⁶ Corrections Regulations 2005, reg 76(2).

⁶⁷ Corrections Regulations 2005, reg 56.

⁶⁸ Offender Alert on IOMS from 7 December 2019 and DPC documentation, 7 December 2019.

⁶⁹ POM-M.07. Form 05, 18 December 2019.

111. On 26 February 2020, Mr Samsudeen's segregation status was reviewed again and a recommendation for DPC under s 59(1)(b) was made to the [redacted] Corrections staff member. This was based on new Corrections intelligence information suggesting Mr Samsudeen's safety was at risk from other prisoners. Directed segregation was reviewed within 14 days on 9 March 2020 and again on 22 May 2020 by the [redacted] Corrections staff member and continued (being an interval of not more than 3 months since the previous review). The direction was to be reviewed again before 25 August 2020.
112. Corrections records indicate that the primary basis for ongoing DPC at MECF at this point was that Police intended to charge Mr Samsudeen with offences under the Terrorism Suppression Act 2002. The proposed prosecution stemmed from events directly preceding Mr Samsudeen's arrest on 10 August 2018, including the allegation that he had been researching extremism-related material online and had purchased a hunting knife. MECF staff determined that, based on the intelligence information they had received at that point, Mr Samsudeen's safety was to be considered at risk from other prisoners in the general remand population. Mr Samsudeen therefore remained segregated from the mainstream prison population for his own safety and the safety of others.⁷⁰
113. However, on 23 June 2020 Mr Samsudeen was involved in two physical altercations with MECF Corrections staff within a short period. The first incident involved Mr Samsudeen refusing to comply with a lawful order. When Mr Samsudeen physically resisted a direction to return to his cell, staff responded with a spontaneous Use of Force. Mr Samsudeen resisted, resulting in two staff members receiving minor injuries. In the second incident about 30 minutes later, Mr Samsudeen assaulted another staff member. Staff responded with a spontaneous Use of Force, resulting in Mr Samsudeen being injured. A summary of the incidents and the subsequent investigation is at **Appendix 3**.
114. Consequently, the Prison Director at MECF directed that Mr Samsudeen be subject to DPC under s 58(1)(b) of the Corrections Act because the safety of Corrections staff would otherwise be endangered. On 29 June 2020, the Regional Commissioner recorded their agreement with the s 58(1)(b) direction.⁷¹ The segregation direction continued in force until Mr Samsudeen was transferred to Auckland Prison on 1 July 2020. Thereafter, the MECF segregation direction was revoked.⁷²
115. Upon his transfer to Auckland Prison Mr Samsudeen was assessed as presenting a continued threat to staff. A new segregation direction under s 58(1)(b) was made by the Prison Director on 6 July 2020, continued in force by the [redacted] Corrections staff member (under delegated authority) on 8 July until 22 July.⁷³
116. 9(2)(a) [redacted]
[redacted]

⁷⁰ This included a short period of time between 17 – 22 January 2020 where Mr Samsudeen was placed in the Management Unit to avoid Mr Samsudeen being verbally abused or threatened by other prisoners, before his DPC direction was revoked on 22 January 2020.

⁷¹ The Regional Commissioner acts under delegated powers by the Chief Executive.

⁷² In accordance with POM M.07.04.02.

⁷³ Notice of the segregation direction made at Auckland Prison on 6 July 2020 was delivered to Mr Samsudeen on 9 July 2020. He refused to sign an acknowledgment, indicating that he first wished to speak with his lawyer. He then lodged a request to have his segregation direction reviewed.

117. On 15 July 2020, at Mr Samsudeen's request, the segregation direction was reviewed by a Visiting Justice.⁷⁴ The Visiting Justice directed that the segregation direction was to continue in force and would expire after three months unless a subsequent Visiting Justice reviewed and amended the direction before that time.⁷⁵ Thereafter, Mr Samsudeen's segregation was periodically reviewed in accordance with statutory requirements,⁷⁶ and a Visiting Justice directed on 12 October 2020, 12 January 2021, 12 April 2021 and 10 July 2021, that the segregation direction was to continue in force.⁷⁷
118. The Inspectorate is satisfied that segregation directions were appropriately applied, and reviewed in accordance with statutory requirements for the majority of his time in custody. Mr Samsudeen was appropriately informed about the procedure and implications of segregation directions, had the opportunity to obtain related advice and assistance, and knew of the process for applying to the Chief Executive and/or a Visiting Justice to review the justification for ongoing DPC.⁷⁸ The exception to this is the noted discrepancies in the management of his segregation between 23 March 2019 and 7 December 2019. He was treated during this period as though he was on DPC, without any of the extra requirements for DPC being met. There is no evidence that this segregation arrangement was detrimental to Mr Samsudeen, but the effect was that he was further segregated without required oversight or planning from MECF, including visits from management and health staff and three monthly reviews of the segregation direction.

Incidents in custody and complaints

Incidents in custody

119. Between 1 August 2017 and 30 December 2019, Mr Samsudeen was involved in numerous incidents while in custody at MECF. These incidents included physical fights and verbal altercations with other prisoners. Mr Samsudeen was placed on five misconduct charges for various incidents including fighting, behaving in a threatening, abusive or intimidating manner, and assaulting Corrections officers.
120. Between 31 December 2019 and 23 June 2020, Mr Samsudeen had no recorded misconduct or behavioural incidents at MECF. After Mr Samsudeen's alleged assault of MECF staff on 23 June 2020

⁷⁴ In accordance with POM M.07.04.04.

⁷⁵ In accordance with s 58(3)(e) Corrections Act.

⁷⁶ Section 58(3) Corrections Act.

⁷⁷ On 23 July 2020, Mr Samsudeen contacted the Inspectorate about his DPC status. The Principal Inspector provided a written response on 30 July 2020 advising Mr Samsudeen that the Inspectorate was satisfied that the reason(s) for his initial segregation was appropriate in the circumstances, as was the continuation. He was advised of his right to apply to the Visiting Justice for consideration to review/and or revoke his segregation order and to seek an investigation and review by an Ombudsman.

⁷⁸ Mr Samsudeen refused to acknowledge receipt of the written reasons for all subsequent reviews of the segregation direction, and successive Visiting Justices directing that the segregation direction was to continue in force.

and his transfer to Auckland Prison,⁷⁹ he remained relatively free of incidents until 8 November 2020. Auckland Prison file notes indicate that between those dates he was generally compliant and followed instructions. From 8 November 2020, reported incidents regarding his behaviour in custody began to escalate.

121. Between 8 November 2020 and 28 June 2021, Mr Samsudeen was involved in 9(2)(a) incidents of various forms of misconduct at Auckland Prison. These misconducts included aggressive verbal abuse of Corrections staff (including making threats and using racist and sexist slurs), disfiguring property, discharging urine from his cell or throwing it at staff,⁸⁰ and abuse of the prison cell intercom system.
122. Corrections staff interviewed by the Inspectorate described his behaviour as volatile and erratic. On occasion he could be pleasant to engage with and compliant; at other times he would threaten staff and antagonise other prisoners. He was the subject of misconduct sanctions, including reductions in his minimum entitlements and privileges.
123. Towards the end of his time in custody, a Corrections Intelligence Information Report recorded that:⁸¹

9(2)(a)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

124. A detailed summary of incidents involving Mr Samsudeen in custody is at **Appendix 4**.
125. The Inspectorate notes that Mr Samsudeen experienced threats and acts of aggression by other prisoners. Those prisoners faced disciplinary and segregation procedures at the appropriate times.
126. The recorded physical assaults by other prisoners on Mr Samsudeen were as follows:
 - a) On 1 August 2017, staff intervened after Mr Samsudeen's new cell mate reportedly assaulted him. Mr Samsudeen reported that his cell mate said he did not like the way Mr Samsudeen was brushing his teeth, then pushed and punched him. Mr Samsudeen said he punched his cell mate back, defending himself. The prisoners were separated, interviewed by the

⁷⁹ See **Appendix 3**.

⁸⁰ This occurred 12 times between 11 April and 28 June 2021, sometimes two times in a day.

⁸¹ Information Report, 28 June 2021, PERD2021155, [REDACTED] Information graded as "Fairly reliable" and "Possibly true".

Corrections staff member [REDACTED] and assessed by health staff (neither man was injured). Mr Samsudeen declined police intervention. The cell mate was identified as the aggressor, relocated and charged with misconduct. The charge was withdrawn for unknown reasons on 17 August 2017.

- b) On 8 December 2017, staff found Mr Samsudeen and another prisoner fighting. CCTV footage showed the other prisoner was the aggressor. 9(2)(a) [REDACTED]

[REDACTED] The other prisoner was relocated and charged with misconduct. The charge was withdrawn on 21 March 2018 due to it not being heard in the specified timeframe. There was no information found to show that Mr Samsudeen wanted the matter to be referred to Police.

- c) On 20 March 2018, staff broke up an altercation between Mr Samsudeen and his cell mate. They were interviewed and assessed by health staff. The other prisoner said they had argued and Mr Samsudeen hit him over the head with a breakfast bowl. Mr Samsudeen said he had been attacked by the other prisoner. 9(2)(a) [REDACTED]

[REDACTED] When he returned to his cell, he pressed his cell alarm. Staff found him on the floor. 9(2)(a) [REDACTED]

[REDACTED] Both prisoners were charged with misconduct.⁸² The charge against Mr Samsudeen was withdrawn because it was not heard in the specified timeframe. The other prisoner entered a guilty plea to the charge and received a caution.

127. A significant example of the alleged verbal abuse Mr Samsudeen received from other prisoners was on 26 March 2019 (less than two weeks after the Christchurch Mosque shootings), involving three other prisoners in the day room. Mr Samsudeen told staff that the first prisoner said to him “*Allahu Akbar*” and “*God bless America*”, the second showed him a drawing of a Nazi symbol and said “*that’s what’s happening in Christchurch*”, and the third had said he had gang contacts on the outside and that he would start shooting all the Muslim people. The three prisoners were interviewed by the Prison Director. Their cells were searched. The drawing of the Nazi symbol was found – the prisoner admitted to drawing it but said it was only for fun. The other two prisoners denied they had spoken to Mr Samsudeen as he claimed. No further action was taken against them after they were spoken to and warned about their actions. The three prisoners were relocated to Management Unit and non-association alerts entered. Mr Samsudeen was relocated at his request.

128. The Inspectorate is satisfied that incidents involving Mr Samsudeen while he was in custody were appropriately reported and recorded, and disciplinary action and misconduct charges were in accordance with the legislative requirements.

⁸² The incident reports indicated that both prisoners would be placed on directed segregation as a result of the incident, but there was no evidence found the Waikeria Prison Segregation Register that they were.

129. On 7 September 2021, after Mr Samsudeen's death, the Corrections' National Commissioner issued a statement which detailed Mr Samsudeen's threats, abuse and use of violence towards staff. The statement did not cover any of the threats, abuse or violence Mr Samsudeen experienced whilst in prison, and did not address the extent to which Mr Samsudeen's aggravated behaviour escalated towards the end of his time in custody. It is the view of the Inspectorate that this statement was unhelpful and premature, particularly when it would have been anticipated that many of the assertions made would be considered subsequently as part of a full independent review.

Complaints

130. Mr Samsudeen made ^{9(2)(a)} complaints during his time in custody. A tabulated summary of Mr Samsudeen's complaints is at **Appendix 5**.

131. Subpart 6 of the Corrections Act and Part 12 of the Corrections Regulations govern the prisoner complaints process. Section 153 requires prisons to have an auditable internal complaints system that enables complaints to be dealt with internally on a formal basis.⁸³ Reasonable assistance is to be provided to a prisoner making a complaint, and the prisoner should be kept apprised of the progress of their complaint.⁸⁴

132. In addition to the legislative framework, there are prescribed processes in the POM for how Corrections staff are to respond to prisoners' complaints.⁸⁵ These include:

- a) If a complaint cannot be resolved informally, the prisoner must be advised about the complaint process and given a copy of the PC.01.Form.01 'Prisoner complaint'.⁸⁶
- b) When the PC.01.Form.01 has been completed, the staff must register the complaint in IOMS and provide the IOMS generated complaint registration form within 24 hours of the complaint being received.⁸⁷
- c) The prisoner must be interviewed within three working days of the complaint being registered in IOMS.
- d) Prisoner complaints about staff conduct and attitude must be referred to the Prison Director under POM.⁸⁸ It is standard practice for this to be recorded in the response section.
- e) If the complaint alleges assault by staff on a prisoner, the allegation must be managed as per the instructions set out in IR.07 of POM. The Inspectorate may decide to monitor any IR.07 Allegations against staff at any stage.

⁸³ Corrections Act, s 153.

⁸⁴ Corrections Regulations 161 and 165.

⁸⁵ Prisoners are advised about the internal complaint process as part of their induction when they arrive at a prison.

⁸⁶ PC.01.03.

⁸⁷ PC.01.06(3).

⁸⁸ PC.01.07.

[illegible]

- ### Interactions with the Office of the Inspectorate

- 92 Complaints about staff lodged by Mr Samsudeen in custody.

- 93 Detailed in full at **Appendix 3.**

- ⁹⁴ The Inspectorate reviewed 40 of the 132 complaints in detail. In 39 instances, Corrections staff provided an acceptable outcome – in one instance, the complaint was only partially resolved.

a 9(2)(a) representative had visited Mr Samsudeen and was satisfied that active steps were being taken to accommodate Muslim prisoners' needs at that point in time. However, as covered below, the absence of adequate religious and cultural support throughout Mr Samsudeen's time in custody was a missed opportunity in respect of his prospective rehabilitation and/or reintegration.

144. 9(2)(a)

145. On 6 August 2020, Mr Samsudeen contacted the Inspectorate via its dedicated 0800 line requesting that the Chief Inspector undertake an investigation of his complaints. A Principal Inspector responded on 11 August 2020 advising Mr Samsudeen that his complaints had already been responded to, and that the Inspectorate had closed his complaints. Mr Samsudeen was informed that the Chief Inspector would not undertake a further review and he was advised of his right to request an investigation or review of the decision by the Office of the Ombudsman

146. Mr Samsudeen's final interaction with the Inspectorate was a telephone call to the Inspectorate's 0800 voice messaging service on 11 June 2021. Mr Samsudeen left a voice message containing abusive language and alleged that the Inspectorate was corrupt. The Inspectorate wrote to Mr Samsudeen, advising him that he could raise his corruption allegations against the Inspectorate with the Ombudsman, and warning him that if he were to leave another message of a highly offensive nature his access to the Inspectorate complaints process would be restricted.⁹⁷

Minimum entitlements

147. Section 69 of the Corrections Act provides as follows:

69 Minimum entitlements

- (1) Every prisoner has the following minimum entitlements:
 - (a) Physical exercise, as provided for in section 70:
 - (b) Bed and bedding, as provided for in section 71:
 - (c) Food and drink, as provided for in section 72:
 - (d) Access to private visitors, as provided for in section 73:
 - (e) Access to statutory visitors and specified visitors:

⁹⁵ Where a prisoner believes they have been treated unfairly, they have the right to complain to and seek an Ombudsman review of the decision.

⁹⁶ 9(2)(a)

⁹⁷ Office of the Inspectorate 'Unreasonable complaint conduct policy'.

- (f) Access to legal advisers, as provided for in section 74:
 - (g) To receive medical treatment, as provided for in section 75:
 - (h) To send and receive mail, as provided for in section 76:
 - (i) To make outgoing telephone calls, as provided for in section 77(3):
 - (j) To exercise any right conferred on prisoners by regulations made under this Act to communicate using any specified device or medium of communication:
 - (k) Access to information and education, as provided for in section 78.
- (2) A prisoner may be denied, for a period of time that is reasonable in the circumstances, 1 or more of the minimum entitlements set out in subsection (1) if—
- (a) There is an emergency in the prison; or
 - (b) The security of the prison is threatened; or
 - (c) The health or safety of any person is threatened.
- ...
148. A prisoner in Corrections' custody may be denied minimum entitlements under s 69(2) or in circumstances where, for example, in the opinion of the Prison Director it is not practicable to provide the entitlement during the times the prisoner is in prison.⁹⁸ Prisoners may also be denied some of their minimum entitlements (visitations, telephone calls, external communication, or access to information and education) if undergoing a penalty of cell confinement or the Prison Director considers that the prisoner is likely to damage prison property.⁹⁹
149. Mr Samsudeen had a history of misconduct in custody and was involved in numerous incidents of disorderly behaviour (particularly while at Auckland Prison from November 2020 onwards). This significantly restricted his access to entitlements at times. Penalties in relation to offences against discipline can comprise the loss or postponement of privileges including the following:
- a) The opportunity to make telephone calls beyond the minimum entitlement;
 - b) Use of a television, radio or other electronic equipment;
 - c) Purchase of anything other than essential items; and
 - d) The opportunity for physical exercise beyond the minimum entitlement.
150. The Inspectorate has examined Corrections' records and found no evidence that Mr Samsudeen's access to minimum entitlements was restricted or denied in breach of legal requirements. Mr

⁹⁸ Section 69(4)(aa).

⁹⁹ Section 69(4)(a) – (b).

Samsudeen received penalties of loss/postponement of privileges and cell confinement for his proven misconduct.

Mr Samsudeen's management by the PERD and in the Prisoners of Extreme Risk Unit (PERU)

Persons of Extreme Risk Directorate (PERD)

151. The PERD was first established after the Christchurch Mosque shootings in 2019, in recognition of the fact that there are small subsets of prisoners requiring additional measures in order to be safely managed. This is mostly because those prisoners pose an ongoing risk of serious violence; however, it could also be because they have the ability to influence others to engage in serious offending, or they are at a very high risk of harm from others (for example, those who have given evidence as witnesses against criminal organisations).¹⁰⁰ The PERD Commissioner has all the functions and powers of a Prison Director.

152. The PERU is a dedicated custodial facility for the PERD located at Auckland Prison. Its purpose is to mitigate risk to the community and maximise staff and prisoner safety by reducing:¹⁰¹

- a) The prisoners' risk of offending;
- b) The prisoners' ability to threaten the safety, security and good order of the prison; and
- c) The prisoners' ability to influence others to commit offences or threaten prison security and safety.

153. [REDACTED] 6(c), 6(d), 9(2)(a) [REDACTED] r.¹⁰² The PERU staff are specially vetted and trained Corrections employees who manage prisoners that move in and out of the PERU at any given point in time. Until January 2021, the PERU was in Unit [REDACTED]. On 7 January 2021, it was relocated to Unit [REDACTED] for capacity reasons.¹⁰³

154. The PERD has a Three Tier model of service classification for its prisoners. Tier 1 is the lowest level. The Regional Commissioner for the relevant region has responsibility for management and service delivery for a Tier 1 prisoner, but the PERD provides support, consultation and advice without holding any decision-making power, governance or assurance role.¹⁰⁴

155. Tier 2 'Directorate Governance' is a joint approach to managing risk between the PERD and the prison site (this can include Tier 2 prisoners who are already at Auckland Prison or prisoners housed elsewhere). The Regional Commissioner and the PERD Commissioner jointly approve all material

¹⁰⁰ 2.1 Operating Model – PERU, version 2.2 January 2021.

¹⁰¹ Ibid. 3.1 Operating Model – PERU.

¹⁰² [REDACTED] 6(c), 6(d), 9(2)(a) [REDACTED]

¹⁰³ From 12 May 2021, the PERU also incorporated half of Unit [REDACTED]. The Inspectorate understands that the PERU staff occupied the same spaces as Unit [REDACTED] staff.

¹⁰⁴ It is noted that the s 12 of the Act gives prison managers ultimate powers and responsibilities in relation to prisoners and prison operation.

decisions regarding treatment and management of a Tier 2 prisoner; however, the Regional Commissioner retains full accountability.

156. Tier 3 'Directorate Management' is for the highest risk prisoners in the country who are managed by the PERD. The PERD Commissioner has sole accountability for decisions made in respect of these prisoners.¹⁰⁵ All Tier 3 prisoners reside in the PERU at Auckland Prison and are managed by the PERU staff, not Auckland Prison. The PERU staff do not manage Tier 1 and 2 PERD prisoners or mainstream non-PERD prisoners at Auckland Prison, or any other prison.

Mr Samsudeen's time under the PERD

157. Mr Samsudeen was formally referred to the PERD by the Regional Commissioner for the Northern Region on 28 February 2020. At the time, he was remanded in MECF. Internal Corrections correspondence indicates that the decision to refer Mr Samsudeen to the PERD panel was based on active intelligence information, the charges against him and overall concern regarding the "high extremist risk" posed. The decision to assign Mr Samsudeen to PERD governance while on remand at MECF was approved in March 2020 and formalised in June 2020. It was determined that he would remain under directed segregation "denied association" status until Corrections Intelligence could make an informed decision as to his risk status.
158. From 13 March 2020, Mr Samsudeen was managed as a Tier 2 PERD prisoner. Although he remained at MECF and was under the purview of MECF Corrections staff for day-to-day management, he was also subject to joint PERD governance and oversight. In practice, this meant that the PERD was involved in all key decision-making regarding Mr Samsudeen's treatment and management while in MECF custody.
159. On 23 June 2020, Mr Samsudeen was involved in two incidents at MECF in which three Corrections officers were injured.¹⁰⁶ He was placed on directed segregation for 14 days.¹⁰⁷ He was subsequently transferred to Unit [REDACTED] at Auckland Prison on 1 July 2020.¹⁰⁸ Staff from the PERU were involved in effecting the transfer of Mr Samsudeen to Auckland Prison. 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
160. From the date he was transferred, Mr Samsudeen was formally regarded as a Tier 2 PERD prisoner at Auckland Prison but was managed by Auckland Prison staff with support from the specialised PERU (Tier 3) staff. This appears to have been a hybrid arrangement akin to a Tier '2.5' although the Inspectorate understands that no such formal service level exists. 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]

¹⁰⁵ Not all Tier 3 prisoners will meet the criteria for Maximum Security classification; for example, remand accused prisoners such as Mr Samsudeen.

¹⁰⁶ Detailed in full at **Appendix 3**.

¹⁰⁷ Under s 58(1)(b) of the Corrections Act.

¹⁰⁸ At this point, Unit [REDACTED] did not house the PERU.

161. In practice, Tier 2.5 was an arrangement where Auckland Prison staff received more support from the PERD for Mr Samsudeen than a standard Tier 2 case ordinarily would. The PERD/PERU staff assisted with Principal Corrections Officer checks, supervised Mr Samsudeen's movements within the prison and chaired the Multi-Disciplinary Team (MDT) meetings in respect of his treatment and management. The Inspectorate has been advised by Corrections that the Tier '2.5' approach described had not been used before Mr Samsudeen and has not been used since.

Case management at Auckland Prison

162. The Corrections case management Standard of Practice requires that all prisoners be allocated by a Principal Case Manager within 10 working days of their reception on site. Upon allocation, a case manager will complete an initial contact visit within 20 working days of the prisoner's arrival into site and record this in IOMS.¹¹⁰
163. The primary purpose of a case manager is to provide specialist end-to-end case management of prisoners based on regular meetings in person, and assessments of individual needs. They do not deliver the programmes or activities which address a prisoner's specific needs, they facilitate services and prepare plans and responses to individualised risks. The aim is to support the prisoner in taking responsibility for completing activities directed at addressing their specific needs (including rehabilitation and reintegration) and to ultimately reduce the likelihood and seriousness of any reoffending in the community. For remand prisoners, case managers typically focus on reintegration needs such as accommodation or community support for transition back into society. Case managers do not deal with a prisoner's medical needs.
164. By contrast, case officers are Corrections officers with day-to-day engagement with prisoners. They are not typically responsible for preparing individual offender/remand plans or for facilitating rehabilitation or reintegration requests.
165. It is evident from contemporaneous documentation that Mr Samsudeen's Tier '2.5' service level arrangement led to some confusion and miscommunication as to who was responsible for Mr Samsudeen's case management.¹¹¹ From the date of Mr Samsudeen's transfer from MECF to Auckland Prison on 1 July 2020 through to early January 2021, as a Tier 2 PERD prisoner, the Auckland Prison should have assumed responsibility for his case management.

¹⁰⁹ Interview with [Corrections staff member], the PERD, 17 December 2022.

¹¹⁰ MECF is exempt from this Standard of Practice due to a different operating model for case management staff at that site, related to their remand population.

¹¹¹ The Inspectorate was told by a [Corrections staff member] (and similar comments were made by other staff) that Mr Samsudeen was received as a Tier 2 prisoner, elevated to Tier 3 (PERU), then went to Tier 2 and again to Tier 3. In reality, Mr Samsudeen was only ever at Tier 3 once, from approximately 17 May 2021 onwards. [redacted] This may have caused confusion for prisoners who remained in [Unit] even when elevated to the PERU (including Mr Samsudeen), and were still able to see [Unit] staff who had previously managed them.

166. The Inspectorate has been advised that it was a direction from the PERD that prisoners were never initially assigned to a case manager at this time.¹¹² An early draft of the PERU Operating Model document stated:¹¹³

9.8 Unit [Corrections Staff] will be trained to fulfil the case management function for prisoners in the PERU. All case management interviews will take place in a non-contact interview room, with two staff present and a summary of interactions case noted.

9.9 Case Management practice support for [Corrections Staff] will be provided by the [Correcti] to ensure good practice.

167. In Mr Samsudeen's case, a [Corrections staff member] was assigned as Mr Samsudeen's case officer after his arrival at Auckland Prison even though Mr Samsudeen was not in the PERU. However, this assigned [Corrections staff member] did not fill the role of case manager.

168. That approach does not reflect the policy in POM or Corrections' standard case management practice. It was not until June/July 2021 that a dedicated case manager was assigned to the PERD.

169. The presence of case management issues is consistent with the findings of an Ombudsman Optional Protocol to the Convention Against Torture (OPCAT) Report released in December 2020 following an inspection at Auckland Prison in early 2020,¹¹⁴ which noted the increase of remand prisoners at Auckland Prison in the preceding year and the "significant pressure" this created for case managers at the prison. The report observed that:¹¹⁵

Case management practice appeared to be task driven, with limited opportunities for engagement and meaningful interactions between Case Managers and prisoners. The increase of remand prisoners at the Prison had also created significant pressure for Case Managers who felt under resourced to meet the demand.

...

Case Managers held approximately 10 remand prisoners on their caseload. After completing core functions such as initial needs assessments, CMs would then 'unallocate' remand prisoners from their caseload. Inspectors also observed instances where long-serving prisoners had been 'unallocated'. Consequently, 'unallocated' prisoners were not being provided with end to end case management and had no direct point of contact for case management needs. Inspectors spoke with a number of 'unallocated' prisoners who raised frustration and confusion regarding access to CM support.

170. The Inspectorate understands that a [Corrections staff member] at Auckland Prison was asked to attend the PERD's weekly MDT meetings to give case management advice on prisoners in the PERD

¹¹² In an interview with the Inspectorate on 1 December 2021, the [Corrections staff member] said they were circumspect about engaging case management: they "6(c), 6(d), 9(2)(a)

¹¹³ *Draft Operating Model: Prisoners of Extreme Unit*, version 1.0 October 2020. This was repeated in versions dated November and December 2020. However, version 2.8 dated 3 September 2021 amended these clauses to: "9.11 Case Management services for individuals in the PERU will be delivered by an identified Case Manager from the Auckland Prison Case Management team" (emphasis added).

¹¹⁴ Peter Boshier, Chief Ombudsman *Final report on an unannounced inspection of Auckland Prison under the Crimes of Torture Act 1989* (14 December 2020).

¹¹⁵ Pages 8 and 70.

and to assist with anything case management related. Despite this, the Inspectorate has seen no evidence that a [redacted] attended any of the PERD's MDT meetings for Mr Samsudeen from July 2020 – May 2021.¹¹⁶ Two weeks after his reception at Auckland Prison, MDT meeting notes record that Mr Samsudeen had requested a case manager.¹¹⁷

171. Although Mr Samsudeen was the subject of weekly MDT meetings from 13 July 2020 onwards due to his risk profile, it is likely that he fell into this category of 'unallocated' remand accused prisoners.
172. From January 2021, Mr Samsudeen's Tier designation formally reverted to Tier 2 (even though it was always intended that Mr Samsudeen be managed as a Tier 2 prisoner supplemented by PERU staff assistance). He was assigned to a case manager on 6 January 2021.¹¹⁸ However, Corrections documents indicate that prior to Mr Samsudeen's transfer to the PERU (and elevation to Tier 3) in May 2021, there was still ongoing internal confusion about whether he was a Tier 2 remand prisoner being managed by Auckland Prison staff, or Tier 3, directly managed by the PERD/PERU. Even after Mr Samsudeen's Tier service level was raised to Level 3, it appears that the [redacted] who was invited to attend MDT meetings offered their apologies on each occasion and did not attend.
173. During the course of the Inspectorate's investigation it was acknowledged by staff interviewed that there was some confusion about whether Mr Samsudeen was being managed under the PERD or Auckland Prison.¹¹⁹ The Inspectorate views this as a factor that may have contributed the shortcomings in Mr Samsudeen's management from his arrival at Auckland Prison until he was allocated a case manager in January 2021.
174. The absence of a case manager for over six months meant that Mr Samsudeen was effectively without a dedicated link between custodial staff and Community Corrections; this would have resulted in missed opportunities to create appropriate rehabilitation and reintegration pathways for Mr Samsudeen's eventual return to the community.

Mr Samsudeen in the Prisoners of Extreme Risk Unit

175. On 12 May 2021, a referral was made to the PERD to reassess Mr Samsudeen's Tier level. The referral rated his risk to others as very high.¹²⁰ Mr Samsudeen was assigned to Tier 3 and moved into the PERU from 17 May 2021, where he spent a total of 57 days before his release.¹²¹ The Inspectorate has been

¹¹⁶ The MDT Terms of Reference version one (13 July 2020) formulated specifically for Mr Samsudeen identify numerous stakeholders on the MDT panel including the [redacted] Corrections Staff [redacted]. There is no mention of a [redacted] Corrections staff member on the panel of these MDT meetings, though it was noted that "Any other professionals who have a vested interest in the person's care may be eligible to attend if invited."

¹¹⁷ 14 July 2020.

¹¹⁸ This was most likely also a consequence of the Ombudsman's December 2020 report and subsequent recommendation that the practice of case management staff 'unallocating' prisoners from their caseload cease. Corrections partially accepted that recommendation, stating "Corrections are currently working on a strategy to support the allocation of all prisoners to a case manager." As at the date of this report by the Inspectorate, it is now Auckland Prison policy that all prisoners are assigned to a case manager.

¹¹⁹ Interview with [redacted] Corrections staff member [redacted] on 6 January 2021; Interview with [redacted] Correction [redacted], 1 December 2021; Interview with [redacted] Corrections staff member [redacted], 23 February 2022; Interview with [redacted] Corrections staff member [redacted], 13 January 2022; Interview with [redacted] Corrections staff member [redacted], 3 February 2022.

¹²⁰ PERD referral assessment documentation, 12 May 2021 requesting a review of Mr Samsudeen's PERD Tier level.

¹²¹ Mr Samsudeen was managed at Tier 3 service level under s 58(1)(b) of the Corrections Act.

advised that this tier change was prompted by an escalation in his behaviour, his impending High Court trial, which necessitated higher security operational measures (such as his movement to and from court each day) and the increase in capacity in Unit [REDACTED] meaning that Mr Samsudeen could be managed separately [REDACTED] 6(c), 6(d), 9(2)(a) [REDACTED].¹²²

176. During his time in the PERU a management plan was in place,¹²³ which was discussed as part of regular multidisciplinary and operational review meetings.¹²⁴ Mr Samsudeen was managed in line with his level of risk.
177. After his trial concluded on 27 May, it appears that Mr Samsudeen remained in the PERU due the nature of his most recent convictions and escalating pattern of non-compliant, aggressive, and abusive behaviour towards prison staff. MDT notes on 8 June 2021 recorded that: *"Since his court case has concluded, [Mr Samsudeen] has been elevated, hostile, aggressive and abus[ive] towards staff. This has included throwing urine and being verbally abusive."* It was observed that Mr Samsudeen had made it clear that he harboured grievances towards a number of Unit [REDACTED] staff and that he had recently received 60 days of lost privileges from the Visiting Justice. Mr Samsudeen's segregation management plan was reviewed, however there were no recommendations for a reduction in his PERD tier status level due to his continued behaviour. MTD notes dated 6 July 2021 also recorded no changes in Mr Samsudeen's behaviour and accordingly, no changes were recommended to his management plan.
178. Additionally, the Inspectorate understands that he was to remain under the PERD's direct oversight to ensure a comprehensive release plan was prepared and implemented on his release date. Mr Samsudeen remained in the PERU as a Tier 3 prisoner until his release to Masjid-e-Bilal in Auckland on 13 July 2021 when he reverted to Tier 2 as a Community Corrections case.¹²⁵
179. Due to his placement in the PERU on continued directed segregation for an extended period, Mr Samsudeen was unable to associate with other prisoners. A PERU staff member told the Inspectorate that this isolation limited his opportunities to rehabilitate – the only people he had face-to-face contact with were staff members.¹²⁶ Staff members spoke to the Inspectorate about how frustrating it was that any request by Mr Samsudeen needed to be considered by senior management due to the PERD oversight.¹²⁷ One staff member said: *"I understand why everything has to be cleared but ... he doesn't ... and of course we'd pay for it."*¹²⁸ The Corrections staff member [REDACTED] who was allocated to Mr Samsudeen in January 2021 told the Inspectorate that the PERU was not an easy place to visit to provide case management.¹²⁹ The Prison Director's approval was required. The Corrections staff member [REDACTED] said that after the incident on 3 September 2021, they were astounded at how much information they did not know about Mr

¹²² Interview with Corrections staff member [REDACTED], 17 December 2021; Interview with the PERD Commissioner, 9 November 2021.

¹²³ Management plan for prisoner on segregation.

¹²⁴ A plan developed to manage his time in the PERU.

¹²⁵ There is no Tier 3 for Community Corrections cases.

¹²⁶ Interview with Corrections staff member [REDACTED] at the PERU, 23 February 2022.

¹²⁷ Interview with Corrections staff member [REDACTED] at the PERU, 20 January 2022; Interview with Corrections staff member [REDACTED] at the PERU, 14 December 2021.

¹²⁸ Interview with Corrections staff member [REDACTED] at the PERU, 14 December 2021.

¹²⁹ Interview with Corrections staff member [REDACTED] on 6 January 2021) 19 January 2022.

Samsudeen. They said: *"I felt as though I could have managed him and supported him in a whole different way"*.

Health Services

Legislative framework

180. Section 69 of the Corrections Act sets out prisoners' minimum entitlements, including access to medical treatment as provided for in s 75. Section 75 provides that a prisoner is entitled to receive medical treatment that is reasonably necessary and that is reasonably equivalent to the standard of health care available to the public.¹³⁰ Section 19A requires the presence of a health centre manager at every prison, who is responsible for ensuring the provision of health care and treatment to prisoners.¹³¹
181. Regulation 55 stipulates that the health centre manager *"must be notified reasonably promptly by the prison manager after a prisoner is placed in a cell in circumstances where, as a consequence of any segregation direction, the prisoner is denied the opportunity to associate with other prisoners"*.¹³² The health centre manager of a prison must also ensure that *"special attention is paid"* to any prisoner who is denied the opportunity to associate with other prisoners as a consequence of a segregation direction, or placed in a cell under a penalty of cell confinement.¹³³ However, there are no national guidelines for the practical, safe, and appropriate application of the requirement that *"special attention is paid"* to prisoners who are segregated or placed in a cell under a penalty of cell confinement.

9(2)(a)

■

¹³⁰ Section 75(1) and (2).

¹³¹ The Corrections staff member [REDACTED] for the period between 9(2)(a) [REDACTED] was unable to be interviewed for this Review as they are no longer an employee of the Department of Corrections 9(2)(a) [REDACTED]

¹³² Regulation 55, Corrections Regulations 2005.

¹³³ Regulation 76(2) Corrections Regulations 2005.

9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

187. On 7 September 2021, after Mr Samsudeen's death, the Corrections' National Commissioner issued a statement which stated that attempts were made to provide him with mental health support while he was in prison, but he refused to engage. It is the view of the Inspectorate this statement was premature, and overstated the extent to which Mr Samsudeen's actions jeopardised the mental health support available to him. Notwithstanding Mr Samsudeen's attitude towards Corrections' health and mental health staff, 9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

134 M.05.02.01(1)(h) and (o).

135 Prior to 10 August 2018, there are no notes in Corrections' documents reviewed by the Inspectorate that record mental health issues. Mr Samsudeen 9(2)(a)

136 The ISPT comprises nurses and mental health staff including clinical advisors who work in the Intervention and Support Unit.

9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9(2)

[REDACTED]

9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9(2)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9(2)(a) [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

143 Emails from Corrections staff member [REDACTED], 12 and 15 April 2021. 9(2)(a) [REDACTED]

144 Interview Corrections staff member [REDACTED], 16 December 2021.

145 9(2)(a) [REDACTED]
[REDACTED]

146 Interview Corrections staff member [REDACTED], 16 December 2021; Interview with the Corrections staff member [REDACTED], 19 January 2022.

Attempts at rehabilitation and reintegration

Summary

205. During his time in custody as a remand accused prisoner, Mr Samsudeen received almost no Corrections-designed or structured rehabilitation or reintegration programmes. This appears to have been due to a combination of overlapping factors, notably that:

- a) While he was convicted of certain offences, Mr Samsudeen was a remand-accused prisoner during his time in custody. Most rehabilitation programmes are designed to address the needs of 'offenders', which excludes those held on remand.
- b) Corrections had no specific disengagement or de-escalation programmes targeted at violent extremism.
- c) The case management for Mr Samsudeen was inadequate. For example, Mr Samsudeen was not assigned a case manager (from July 2020 – January 2021), meaning that his needs were not assessed for significant periods of time. Another example is the fact that Mr Samsudeen's remand plan was not reviewed between January 2019 and January 2021.
- d) 9(2)(a)
- e) From March 2018, Mr Samsudeen was assessed as a high risk prisoner. By late 2020, his behavioural incidents in custody had escalated significantly, as had his risk profile.
- f) Mr Samsudeen was also placed on directed segregation and in PERU at various points, for significant periods of time. This made it more difficult to facilitate measures to meet his needs.
- g) Corrections did not engage with Mr Samsudeen's family and failed to make adequate attempts to engage with persons in the community who could have offered alternative rehabilitation and reintegration strategies.

206. Accordingly, while Corrections faced a number of challenges, the Inspectorate concludes that Corrections should have taken a broader approach to reintegration options, and planned more actively for his release and reintegration into the community.

Legislative framework

207. In general, remand prisoners do not begin rehabilitation programmes until after (and if) they are convicted and sentenced. All prisoners, including those on remand, are eligible for education assessment and learning pathway programmes. However, successful rehabilitation depends on a prisoner's motivation and access to support and opportunities to make positive individual changes.

208. Section 5 of the Corrections Act states the purpose of the corrections system is to improve public safety and contribute to the maintenance of a just society, including by *“assisting in the rehabilitation of offenders and their reintegration into the community, where appropriate, and so far as is reasonable and practicable in the circumstances and within the resources available, through the provision of programmes and other interventions.”*¹⁴⁷ Similar reference is made to rehabilitation and reintegration of offenders under s 6 (‘Principles guiding corrections system’).¹⁴⁸
209. Remand accused prisoners are not captured by these provisions since they are not ‘offenders’ within the meaning of the Corrections Act.¹⁴⁹ They are entitled to *“the same standard of treatment as convicted prisoners”* subject to certain conditions, but of course the concept of rehabilitation does not technically apply.¹⁵⁰ What is reasonable and practicable treatment in the circumstances is likely to require a case-by-case evaluation, but will depend in part on how motivated a remand accused prisoner is to engage with programmes on offer. Remand accused prisoners may therefore be given access to programmes (referred to generally as rehabilitation programmes) that are typically designed for convicted prisoners in accordance with s 5.
210. Under s 52, Corrections must ensure that rehabilitation programmes are provided to *“those prisoners sentenced to imprisonment”* and who, in the opinion of the Chief Executive, will benefit from those programmes.¹⁵¹ Again, this does not encapsulate remand accused prisoners – even though they may have been convicted of offending separate to the reason for their custody.
211. Section 51 of the Corrections Act “Management Plans” applies to every prisoner who is in custody for a continuous period of more than two months on remand. Corrections must ensure an individual management plan is devised for every prisoner to whom s 51 applies.¹⁵² Those plans must be *“revised at regular intervals”* and must:¹⁵³
- a) Be based on an assessment of the needs, capacities, and disposition of the prisoner; and
 - b) Make provision for the safe, secure, and humane containment of the prisoner; and
 - c) Outline how the prisoner can make constructive use of his or her time in the prison (including, in the case of a person sentenced to imprisonment, ways of addressing offending behaviour and preventing reoffending); and
 - d) Outline how the prisoner may be prepared for eventual release from the prison and successful reintegration into the community; and

¹⁴⁷ Section 5(1)(c).

¹⁴⁸ For example, s 6(1)(h).

¹⁴⁹ Mr Samsudeen met the definition of an *“accused prisoner”* under regulation 3 of the Corrections Regulations 2005.

¹⁵⁰ Regulation 185(2)(a). The standard of treatment must take account of the individual safety needs of the accused prisoner and any security issues relating to a particular accused prisoner.

¹⁵¹ Section 52. Programmes are to be provided commensurate with the resources available and subject to any specific guidelines or instructions in force at the time.

¹⁵² Section 51(2) Corrections Act.

¹⁵³ Section 51(3) and (4).

- e) Include any prescribed matter or other matter required to be included in the plan by instructions issued under section 196; and
- f) Be consistent with the resources available to the Chief Executive to manage the prisoner.

212. In addition, the PERD's guidance document "*PERU – Operating Model*" stipulates that:¹⁵⁴

- 7.1 All Prisoners located in the PERU will have a comprehensive, individualised day-to-day management plan, covering day-to-day custodial operations. These plans will ensure all minimum entitlements are being met, although in most cases it is expected that prisoners' management will exceed minimum entitlements through graduated access to opportunities and services, if their behaviour indicates this is safe. Due to the diverse needs and risks of prisoners on the unit, management plans will be informed by Intelligence, Health and Psychological information to ensure that all risks are being effectively managed, and the wellbeing of the individual is supported. Management plans are shared with the prisoner.

Corrections' approach to rehabilitation

- 213. Corrections distinguishes between two domains of activity relating to reducing offenders' risks of reoffending: rehabilitative and reintegrative. Rehabilitative efforts are aimed at bringing about "*intra-personal*" changes in attitudes and beliefs, such as responses to frustrations or emotions; empathy for others; or skills in relationships. Reintegrative efforts are concerned with removing environmental obstacles to a law-abiding lifestyle, such as homelessness, unemployment, and lack of social supports.¹⁵⁵
- 214. Remand prisoners' limited access to programmes is due primarily to the fact that there is no mandated approach to rehabilitation in the relevant law, and the fact that rehabilitation programmes are often designed to address a person's offending. Remand prisoners are assessed and may be given plans that identify areas where they would benefit from assistance with reintegration during their time in prison (for example: parenting; money management; or basic living skills). However, there are also resourcing limitations that affect what programmes are available to remand prisoners. Not all programmes are available in all prisons, and waiting lists to attend programmes are high. The security classification of a prisoner also determines the type of programmes available to them.

2017 – 2019

- 215. On 1 September 2017, a file note recorded that Mr Samsudeen had declined to meet with his MECF Corrections staff member and was unable to be considered for any programmes or activities.¹⁵⁶
- 216. On 19 February 2018, the Corrections staff member at Waikeria Prison carried out an initial interview with Mr Samsudeen in accordance with standard protocols. An interview file note recorded that Mr

¹⁵⁴ Version 2.8 dated 3 September 2021, prepared by the Persons of Extreme Risk Directorate. The Inspectorate notes that this version post-dated Mr Samsudeen's time in the PERU.

¹⁵⁵ Dr Peter Johnston (Director Research and Analysis Department of Corrections) "*Editorial - Rehabilitation, Reintegration, and the Psychology of Criminal Conduct*" (2017) 5 Practice – The New Zealand Corrections Journal.

¹⁵⁶ Although standard practice dictates that a case manager completes an initial contact visit within 20 working days of the prisoner's arrival into site, MECF was exempt from this standard as a remand prison.

Samsudeen declined an offer for him to be moved to a lower security unit because of his Level 2 (Low supervision) remand status,¹⁵⁷ because he did not want to come out of segregation. The file note also recorded:

No release address available, assistance required when sentencing outcome is known.

*[Mr Samsudeen] will be revisited within one month of sentencing if imprisoned to review offender plan and complete a SDAC assessment.*¹⁵⁸

217. On 25 May 2018, another Corrections staff member met with Mr Samsudeen in Rimutaka Prison as part of a drop-in clinic for remand prisoners and recorded in a file note:

*He was not interested in any courses while on remand.*¹⁵⁹

218. On 29 June 2018, Mr Samsudeen was released on bail into the community pending sentencing on five charges. On 16 July 2018, a Corrections staff member met with Mr Samsudeen and prepared a Provision of Advice to Courts (PAC) report in advance of his sentencing. The report recorded:¹⁶⁰

*Given the nature of [Mr Samsudeen]'s index offending, he is assessed as low risk of harm. **Consequently, no rehabilitative needs have been identified.** However, his isolated lifestyle is a concern and any sentence imposed would aim to reintegrate [Mr Samsudeen] with mainstream society. This would ensure his risk of harm to others remains low. Given that [Mr Samsudeen] has not previously been subject to any community based sentence, his ability to comply is untested therefore assessed as medium.*

219. The PAC Report also provided insight into Mr Samsudeen's circumstances at that time:

9(2)(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁵⁷ As assessed by the Remand Management Tool.

¹⁵⁸ The Structured Dynamic Assessment Case Management (SDAC- 21) is a risk assessment tool used by case managers to track and respond to dynamic risk factors. It is designed to inform professional decision-making around intervention and management by case managers applying the measure once the initial intake assessment is completed. The focus on risk scenarios allows individualised formulation and prioritising of interventions. The scenarios also assist in identifying treatment goals and possible key issues, as well as management risks in prison settings.

¹⁵⁹ IOMS Offender File Note, 25 May 2018.

¹⁶⁰ PAC report, 24 July 2018 (emphasis added).

220. The report noted that “...there are no violence-prevention or anger management programmes run by Community Corrections to address any propensity for violence.”

221. On 9 August 2018, Mr Samsudeen was arrested again. Police filed new charges against him. He was remanded in custody at MECF a day later.

222. On 12 September 2018, he was visited by a [redacted] for the purpose of completing a remand plan. The [redacted] subsequent file note on 18 September recorded:

He has declined to be interviewed or take part in the case management process.

Initial needs assessment completed without his input and as such no programmes or activities have been scheduled for him at this time.

An offender plan will be created using information in the IOMS.

223. Notes in the IOMS from that time record that: “[Mr Samsudeen] is currently a remand accused inmate, as such any offending related needs and programmes will be addressed post sentencing.”¹⁶¹ Corrections Intelligence documents from early 2019 record that Mr Samsudeen was initially reluctant to speak with Corrections staff as he said he knew that Corrections were working alongside the Police. He felt that if he was to engage with Corrections staff, he would be disadvantaged. 9(2)(a) [redacted]

224. On 19 September 2018, Mr Samsudeen was sentenced to 12 months supervision in the Auckland High Court. However, he was remanded back in custody on other charges. The sentencing notes recorded that without intervention, Mr Samsudeen posed a significant risk of further offending and required an appropriate programme or programmes to reduce the likelihood that he would offend again and to promote his rehabilitation and reintegration.¹⁶³ A separate pre-sentence report prepared by a criminologist observed Mr Samsudeen would be an ideal candidate for a carefully designed, culturally sensitive and closely supervised intervention programme in the Auckland Muslim community.¹⁶⁴

225. 9(2)(a) [redacted]
[redacted]
[redacted] Mr Samsudeen was accordingly directed by the Court to attend any 9(2)(a) [redacted] rehabilitation programme as part of his special conditions of supervision. Mr Samsudeen was remanded in custody after sentencing, so was not in the community for his sentence of supervision. The Inspectorate has seen no evidence that Corrections followed up with 9(2)(a) [redacted] about this programme. [redacted] from the National Intelligence Unit noted at the time that “the special

¹⁶¹ IOMS Offender File Note, 18 September 2018, created by allocated case manager.

¹⁶² Intel Information Report 22 January 2019.

¹⁶³ *R v Samsudeen* [2018] NZHC 2465, sentencing notes of Wylie J 19 September 2018 at [44].

¹⁶⁴ *R v Samsudeen* [2018] NZHC 2465, sentencing notes of Wylie J 19 September 2018 at [22].

¹⁶⁵ 9(2)(a) [redacted]
[redacted]

conditions [of his sentence] etc won't be initiated until or if he is released into the community and could also be impacted by the outcome of other matters."¹⁶⁶

226. On 4 December 2018 a Corrections staff member met with Mr Samsudeen. On this occasion he agreed to take part in the case management process. File notes created by the Corrections staff member record:

States he has no reading and writing issues. 9(2)(a)

227. Mr Samsudeen indicated his interest in the Driver's License programme and was referred to the programme on the day of his interview, together 9(2)(a)

228. On 31 December 2018, a plan was completed for Mr Samsudeen by Corrections staff member. The assessment stated:¹⁶⁷

Due to [his] remand accused status his offending needs will not be addressed.

229. This narration appears to have remained on Mr Samsudeen's case management plans throughout his time in custody, to reflect that he was never in custody as a convicted prisoner sentenced to imprisonment and therefore not an 'offender' with offending needs. The plan also noted:

9(2)(a)

230. The plan recorded that Mr Samsudeen had one approved visitor, 9(2)(a)

231. Mr Samsudeen's remand plan stated that his plan was to be reviewed again by 1 July 2019. The Inspectorate found no documentary evidence to show that this had occurred.

232. On 16 and 17 January 2019, Mr Samsudeen again met with Corrections staff member and they discussed his support networks outside custody. Mr Samsudeen said he had lived in New Zealand for approximately seven years but had little support apart from a mosque based in South Auckland. He informed Corrections staff member that the mosque would be his preferred address of residence if he was released from custody, and that he had wished he had better access to resources related to his faith. He requested a copy of

¹⁶⁶ Email, 19 September 2018 at 1:45pm.

¹⁶⁷ Offender case management plan, 31 December 2018.

the Hadith, an Islamic text. At the [Corrections staff member] request, the [Contractor] provided a copy to Mr Samsudeen.

233. Mr Samsudeen was employed as a unit cleaner for a brief period in 2019 at MECF. This role ended when he was relocated to another unit on 26 March 2019. The Inspectorate understands that this was the only period Mr Samsudeen was in employment during his time in prison.

2020 - 2021

234. Between 17 January 2019 and 21 January 2021 there is no record on the IOMS of any further engagement between [Corrections staff member] and Mr Samsudeen.¹⁶⁸ After Mr Samsudeen was transferred from MECF to Auckland Prison on 1 July 2020, there is no record of any further case manager being assigned to meet with him until after 6 January 2021.

235. On 6 January 2021, a file note created in IOMS by the [Corrections staff member] advised that a case manager had been allocated to Mr Samsudeen. The note recorded:

Initial contact to be completed by due: 20/01/2021? ... this is 10 days out, however [Mr Samsudeen] arrived on site in Mid July (I have no idea how this was missed). He has court on 26 of this month, but ... he really wants to see a [case manager], so I think we need to get in there before he goes to court.

Offender Plan: Review and Update as required.

236. Mr Samsudeen had management plans for his period in directed segregation while at Auckland Prison. However, the Inspectorate notes that these do not operate instead of, but are supplementary to, s 51 individual case management plans (remand plans). They are designed to manage prisoners under directed segregation orders and do not typically address, for example, how a prisoner can make constructive use of his/her time in prison or outline how a prisoner may be prepared for release and successful reintegration into the community.¹⁶⁹
237. As Mr Samsudeen had no assigned case manager between 1 July 2020 and some point in January 2021, it appears that his case management plan had not been reviewed or updated in accordance with s 51. This appears to have been a direct consequence of Corrections' failure to assign a case manager to assess his individual needs during this period.

Programmes participated in by Mr Samsudeen

238. The only programmes that Mr Samsudeen is recorded as having attended while in custody were 9(2)(a) [redacted] education workshops on 2 October 2019, 30 October 2019, 31 October 2019, and 7 November 2019. It is not known what motivated him to participate in this programme.

¹⁶⁸ 17 January 2019 is the last recorded interaction with a [Corrections staff member] in a file note on IOMS. The next such note was not until 6 January 2021. This is supported by the fact that, after an offender document plan was updated on 3 December 2018, the next updated offender plan document was dated 21 January 2021. Allocation of case management records show that Mr Samsudeen was allocated a [Corrections staff member] on 31 December 2018, and then the next allocation of a [Corrections staff member] did not occur until 6 January 2021.

¹⁶⁹ Section 51(4)(c) and (d).

He also undertook a literacy/numeracy assessment on 11 December 2019.¹⁷⁰ At the time of his release he was waitlisted to complete Driver's Licence and Learning Pathways courses.

Corrections' plans for rehabilitation and reintegration

239. On 20 July 2020, a **Corrections Intelligence staff member** alerted the **Corrections Intelligence staff member** to the absence of any written disengagement plan for Mr Samsudeen. Correspondence amongst senior Intelligence staff revealed that Corrections were concerned to avoid a high-risk offender being released without community-based support, and that *"some robust reviews will need to occur" to "meet [Mr Samsudeen]'s needs."*¹⁷¹
240. Documents show that the **Corrections Intelligence staff member** then began to make enquiries with their contacts in the Muslim community in September 2020. The plan at that point was to source an appropriate Imam to engage with Mr Samsudeen with a view to disengaging him from his skewed interpretation of Islam. It appears that the **Corrections Intelligence staff member** took responsibility for this even though such tasks were not part of their standard functions. Corrections has advised this was because of their connections through the Countering Violent Extremism (CVE) Community Engagement Forum and with partner agencies. Their assumption in responsibility appears to have stemmed from the lack of any formal disengagement programme available to remand accused prisoners.

- Info** [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
242. Discussions at that point in time centred on utilising a community initiative known as the Countering Violent Extremism community engagement forum to assist with identifying an Imam that could be approached regarding religious support for Mr Samsudeen. Subsequently, the New Zealand Muslim Association (NZMA) invited Corrections staff, Police and **9(2)(a)** to a meeting on 12 October 2020 at the Avondale Islamic Centre to formulate a rehabilitation plan for Mr Samsudeen.¹⁷³ The Corrections Intelligence Representative had prepared briefing notes to inform the discussion. The notes outlined Mr Samsudeen's behaviour in custody, that he had maintained extremist views, and that he had limited family and social support in New Zealand. Corrections had carried out work framing a disengagement programme to divert individuals from already adopted violent extremist views and to help them to re-engage with the community. This had not been fully developed. The plan noted that, internationally, successful rehabilitation programmes for offenders with extremist violent views consist of three components: religious; psychological and social.

¹⁷⁰ The LNAAT is a Tertiary Education Commission (TEC)/New Zealand Council of Educational Research (NZCER) developed tool, used across the adult education sector, designed to provide information about an adult learner's English literacy and numeracy skills.

¹⁷¹ Email from **Corrections Intelligence staff member** to **Corrections Intelligence staff member** and **Corrections Intelligence staff member**, 20 July 2020.

¹⁷² [REDACTED].

¹⁷³ Email from **Corrections Intelligence staff member** to **MSD staff member** (also a member on Countering Violent Extremism (CVE) Community Engagement Forum) 22 September 2020; Interview with **Corrections Intelligence staff member** 29 March 2022.

243. Despite identifying Mr Samsudeen's rehabilitation by cultural intervention as a priority in the second half of 2020, a Corrections National Intelligence report in May 2021 discussed the still outstanding objective of identifying *"if there are any key factors that can be utilised to support Mr Samsudeen's reintegration and rehabilitation."*¹⁷⁴ That report detailed a comparative study with a high-risk offender who had been of national security interest due to his faith-motivated violent extremist ideologies.

Rehabilitation upon release

244. By the time Mr Samsudeen was released on 13 July 2021, it does not appear that there was a confirmed final plan for Mr Samsudeen's rehabilitation and reintegration upon his release into the community.
245. The most up to date Release/Management Plan reviewed by the Inspectorate was circulated in draft form on 9 July 2021 amongst stakeholders within Corrections.¹⁷⁵ This plan was a working document. Corrections has advised that it remained in draft so it could be updated appropriately until his release was confirmed. Its stated purpose was: *"To provide reintegration and rehabilitation safely and securely to Mr Samsudeen while in the care of Ara Poutama Aotearoa."* Mr Samsudeen's risk of harm and reoffending was recorded as *"very high/high"*. The plan contained proposed measures for Mr Samsudeen's release date, an assessment of his risks in the community and the special conditions of his sentence, which included: *"To attend and engage in a rehabilitative assessment (including a psychological assessment) or any subsequent recommended treatment or programme, as directed by the Probation Officer and/or assessor/treatment provider."* 9(2)(a) [REDACTED] and that his *"reintegrative needs (identification, food parcel, transport etc)"* were still outstanding items.
246. There was, however, no section delineating what rehabilitation programmes or measures were proposed to be undertaken 9(2)(a) [REDACTED]
[REDACTED]

Family support

247. 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Mr Samsudeen's telephone calls were generally limited, at times being capped at five minutes due to misconduct sanctions he had received. The calls gradually increased to between 15 and 30 minutes closer to his release date in 2021.¹⁷⁶
248. The Inspectorate notes that Mr Samsudeen received his appropriate minimum entitlements in this respect, subject to legitimate restrictions in response to behavioural incidents in custody.

¹⁷⁴ Corrections National Intelligence report, 5 May 2021.

¹⁷⁵ Email from [REDACTED] Corrections staff member, 9 July 2021.

¹⁷⁶ 9(2)(a) [REDACTED] confirmed this in 9(2)(a) [REDACTED] interview with inspectors, 7 March 2022.

249. In interviews following his death, 9(2)(a) confirmed to the Inspectorate that Mr Samsudeen had no family support living in New Zealand throughout his time in custody and at the time of his release in July 2021.
250. Corrections Standards of Practice suggest that case managers should consider involving the person's family when imminent release is likely, and how a whānau and reintegration meeting will support that person's release.¹⁷⁷
251. 9(2)(a). Mr Samsudeen's family were not contacted or involved in the planning stage of his release (or any time prior to that). The Inspectorate has seen no evidence that any consideration was given to possible family support. We believe that this was a missed opportunity by Corrections for Mr Samsudeen's integration back into the community upon his release.

Religious and cultural support

252. On 7 September 2021, after Mr Samsudeen's death, the Corrections' National Commissioner issued a statement which stated that Corrections engaged with the local Muslim community with the intention of having an Imam meet with him regarding his spiritual beliefs and although he met with the Imam twice he did not engage in a meaningful way. It is the view of the Inspectorate this statement was premature, and overstated the extent to which Mr Samsudeen's own attitude affected his engagement with the Imams and other cultural/religious supports.
253. Mr Samsudeen first asked to see an Imam while in custody at MECF on 12 April 2018. He was not visited by an Imam until 3 December 2020 at Auckland Prison, 967 days later.
254. The Inspectorate's view is that statutory requirements to support Mr Samsudeen's specific religious and cultural needs were not adequately met by Corrections.

Legislative framework

255. The principles guiding the Corrections system stipulate that in order to reduce the risk of reoffending, the cultural background, ethnic identity, and language of offenders must, where appropriate and to the extent practicable within the resources available, be taken into account:
- a) In developing and providing rehabilitative programmes and other interventions intended to effectively assist the rehabilitation and reintegration of offenders into the community; and
 - b) In sentence planning and management of offenders.¹⁷⁸

¹⁷⁷ Practice Guidance under the supported decision framework for remand prisoners: *When to Involve Pro-Social Whanau*.

¹⁷⁸ Section 6(1)(c) Corrections Act.

256. The Inspectorate notes that at no stage was Mr Samsudeen a sentenced prisoner or ‘offender’ within the meaning of that term under Corrections Act during his time in custody.¹⁷⁹ At all times in custody, Mr Samsudeen was a remand accused prisoner awaiting trial.¹⁸⁰
257. Section 78 of the Corrections Act requires that Corrections ensure that in every Corrections prison, so far as is reasonable and practicable, appropriate provision is made for the various religious and spiritual needs of prisoners.¹⁸¹ As Mr Samsudeen met the definition of a “prisoner” under the Corrections Act, it was incumbent upon Corrections to make reasonable efforts to meet his religious and spiritual needs.
258. Section 80 also mandates that so far as is reasonable and practicable, appropriate provision must be made for the various needs of prisoners arising because they belong to a particular culture.¹⁸² In Mr Samsudeen’s case, the two obligations overlapped, since his religious practice and faith appear to have stemmed from his cultural upbringing in Sri Lanka.

Mr Samsudeen’s requests for an Imam

259. Mr Samsudeen was first remanded in custody at MECF on 23 May 2017. Between that date and his transfer to Waikeria Prison on 26 January 2018, documents suggest that he was visited by an approved Muslim volunteer from the community. The volunteer had been approved by Corrections staff member [REDACTED] and previously visited prisoners at MECF and Auckland Prison in lieu of an Imam. The volunteer had Authorised Provider Prison Entry (APPE) status and provided cultural and religious support to Muslim prisoners. It is not clear from Corrections records how many times the volunteer visited Mr Samsudeen while in MECF.¹⁸³
260. [REDACTED]
[REDACTED] Attempts to identify and confirm a suitable replacement to continue prison visits for Muslim prisoners throughout 2018 were unsuccessful.
261. The first recorded instance of Mr Samsudeen requesting religious support was on 12 April 2018 when he asked to see an Imam whilst remanded in Rimutaka Prison. At the time, no Imam was available. His Corrections staff member [REDACTED] were both contacted about the request.
262. On 14 April 2018, Mr Samsudeen was provided with a Muslim prayer timetable at his request. There are no documented records of Mr Samsudeen requesting an Imam or further religious support in 2019.

¹⁷⁹ Under s 3 of the Corrections Act, an “offender” does not include a person who is under control or supervision (of Corrections) by reason only that the person is in custody awaiting trial. A “Prisoner” means any person for the time being in the legal custody under the Corrections Act of the Chief Executive of Corrections or the Commissioner of Police.

¹⁸⁰ Although he had been convicted of five criminal offences on 29 June 2018, he received a community-based sentence of Supervision in September 2018 and was subsequently remanded back in custody on other active charges.

¹⁸¹ Section 78.

¹⁸² Section 80.

¹⁸³ [REDACTED]
[REDACTED]

263. On 6 January 2020, Mr Samsudeen filed a PC.01 complaint form about the Prison Chaplaincy Service. He accused the Prison Chaplaincy Service of being biased, racist and prejudiced against Muslim prisoners. The PC.01 complaint form recorded that "9(2)(a) and they still didn't appoint another [one]". Mr Samsudeen went on to record that:

*We want to see a Muslim Chaplin to get som[e] spiritual help. 9(2)(a) and I know some other Muslim prisoners because of lack of spiritual help 9(2)(a). I want a Muslim Chaplin to be appointed immediately...*¹⁸⁴

264. A week later Mr Samsudeen was visited by Contractor and it was acknowledged that he had received inadequate support from the Contractor in the past year. Mr Samsudeen was informed that during 2018 the Chaplaincy Service had worked with representatives of the Muslim community but had not been able to identify a suitable replacement for the previous volunteer. Mr Samsudeen was told that Contractor representative had held meetings with other Muslim leaders and it was "looking likely" that there would be new initiatives put in place "in the next 2-3 months, including having at least one Muslim volunteer available to meet with inmates."¹⁸⁵ Mr Samsudeen was informed that the Chaplaincy Service team worked hard to provide relevant support for prisoners of all faiths and that representatives from the Sikh, Jewish and Buddhist community were available to attend MECF in light of this.

265. In March 2020, Mr Samsudeen again raised the issue of not having Muslim volunteers in MECF for himself and other members of the Muslim community in custody. He complained that he had spoken to Contractor but that nothing had been done. On 10 March 2020, a Principal Inspector from the Office of the Inspectorate wrote to Mr Samsudeen after having reviewed his complaint laid in January. The letter recorded:

Contractor has worked very hard to provide support to all prisoners of faiths and are mindful of the 'gap' that currently exists for Muslim prisoners.

They advise there are 10 new Muslim volunteers from South Auckland who will be inducted next week and should be able to provide assistance to Muslim prisoners within the next few weeks.

Given the information available to me, I am satisfied that your complaint has been addressed appropriately.

266. Sixteen days after the date of the Inspectorate's letter, the country went into a national lockdown to manage the spread of COVID-19.
267. In May 2020, Mr Samsudeen again raised the issue about not having Muslim volunteers at MECF, expressing his dissatisfaction with the Inspectorate's response dated 10 March 2020. On 27 May 2020, the principal Inspector wrote to Mr Samsudeen again. The letter recorded:

¹⁸⁴ PC.01 Form #9(2)(a) Part A Complaint.

¹⁸⁵ PC.01 Form #9(2)(a) Part C Response.

The Inspector responded to your complaint on 10 March 2020 and advised that the Chaplaincy has worked hard to provide support to all prisoners of all faiths and are mindful of the 'gap' that currently exists for Muslim prisoners.

Ten new Muslim volunteers were to be inducted to the site in March 2020, however, given the COVID-19 National State of Emergency, this was unable to occur.

Until these volunteers are able to come on site, you should submit a request via staff to speak to the site Chaplain.

268. Mr Samsudeen was advised of the right to seek an investigation and review by an Ombudsman of this decision. By the time the programme led by the group of volunteers was permitted to commence later in 2020, Mr Samsudeen had been transferred to Auckland Prison.
269. MECF Support Meeting notes from 21 May 2020 recorded a recommendation that Mr Samsudeen's request to see an Imam was followed up. This was after the first national COVID-19 Level 4 lockdown between 26 March and 27 April 2020.¹⁸⁶ However, there is no documented evidence of this recommendation being actioned.
270. On 1 July 2020, Mr Samsudeen was transferred from MECF to Auckland Prison. A MDT meeting convened on 14 July 2020 recorded that Mr Samsudeen had asked about the availability of an Imam at Auckland Prison. No Imam was available onsite. It was determined that there needed to be a follow up with MECF to establish why a suitable Imam had not been identified during Mr Samsudeen's time there. It is unclear whether this follow up ever occurred.
271. On 28 July 2020, Mr Samsudeen made a further verbal request to see an Imam. The request was raised and discussed at an operational meeting a day later where it was considered that locating an Imam for Mr Samsudeen would "create a protective factor upon release".¹⁸⁷
272. By 12 August 2020, the Police were also engaged in attempting to source an Imam to provide religious and spiritual support for Mr Samsudeen. On 18 August, it was noted at an MDT meeting that Mr Samsudeen had been practising his faith and praying in the yard. Options for an Imam to attend onsite had been explored but nothing was confirmed. The process of identifying and meeting with an Imam was further impeded by the COVID-19 Level 3 lockdown in Auckland from 12 August – 30 August 2020.
273. On 3 and 9 September 2020, MDT meeting notes record that Police had been unable to source an Imam to visit Auckland Prison. Corrections National Intelligence staff also noted that it may not be suitable for Corrections to create specific disengagement programmes for prisoners who were remand accused.¹⁸⁸
274. On 15 September 2020, MDT meeting notes record that Mr Samsudeen was regularly asking for an Imam. Throughout the remainder of September 2020, Corrections records indicate that staff had

¹⁸⁶ During the lockdown, no in-person visits were permitted at MECF.

¹⁸⁷ Auckland Prison Operational Review Meeting notes, 29 July 2020.

¹⁸⁸ The PERD MDT Management notes 3 September 2020 and Auckland Prison Operational Review Meeting notes 9 September 2020.

contacted the Ministry of Social Development (**MSD**) and individual contacts in the Muslim community to address the issue. On 8 October 2020, Mr Samsudeen filed a further PC.01 complaint, which stated:

I want to make complaint on prison chaplainry service for Not Appointing Muslim Chaplin for PERD unit. when I asked the Corrections staff member to see Muslim Chaplin they said they don't have a chaplain for this Unit and the Muslim chaplin they have for this prison Not allowed to visit this Unit. (PERD). Corrections Staff are Soo useless they should have appointed Muslim Chaplin for this Unit Long time ago. I want to see a Muslim Chaplin AS soon as possible. Past 3 Months I was asking to see a Muslim Chaplin (sic)

275. Corrections' "Agreed Action" in response recorded that: "A Muslim Chaplin is still being sourced. Once one becomes available and approved to enter site, visits may occur. No further action required."¹⁸⁹ It was also noted that whilst under COVID-19 restrictions no church groups or chaplain service had been visiting the prison.
276. In late September 2020, Police contacted the NZMA seeking its assistance. As discussed earlier, Corrections staff were invited to a meeting on 12 October 2020 at the Avondale Islamic Centre.¹⁹⁰ Representatives from NZMA, Police and 9(2)(a) were present. At the suggestion of MSD, a local Muslim community leader, 9(2)(a), was also included in the meeting to provide expert cultural advice. The notes prepared by Corrections in advance of the meeting referred to successful rehabilitation programmes put in place internationally for extremist offenders involve a religious component, aimed at dismantling of harmful understandings of religious texts and concepts. Part of the purpose of the meeting was to discuss potentially sourcing religious instruction for Mr Samsudeen while in custody, and to prepare him for his longer-term release into the community. No specific information regarding Mr Samsudeen's identity was discussed but it was noted that Mr Samsudeen would need a social network when released, due to not having any family or community support in Auckland.
277. The Inspectorate has seen no evidence that, after the meeting, Corrections followed up with the other attendees about sourcing and providing religious and cultural support for Mr Samsudeen. No notes were taken at the meeting and no action points recorded. There appears to have been lack of ownership of the next steps to be taken by Corrections. The Corrections Intelligence staff member was under the impression that after the meeting, the PERD Commissioner would take the lead following up with the NZMA.¹⁹¹ It was not until 19 November 2020 that the Corrections Intelligence staff member contacted the President of NZMA requesting a follow-up on the 12 October 2020 meeting and asking about the risks that NZMA saw in working with Mr Samsudeen.¹⁹²
278. On 23 November 2020, the President of NZMA emailed Corrections and advised that "We are happy to support Corrections in supporting with the rehabilitation process".¹⁹³ The biggest risks identified by

¹⁸⁹ PC.01 Complaint form #9(2)(a) Part C Agreed Action Response.

¹⁹⁰ Email dated 30 September 2020 from Corrections Intelligence staff member to the PERD Commissioner, the Corrections Staff about proposed meeting between Corrections, Police and NZMA.

¹⁹¹ Emails between Corrections Intelligence staff member and Corrections Intelligence staff member, 28 October 2020.

¹⁹² Email from Corrections Intelligence staff member to NZMA President, 19 November 2020.

¹⁹³ Email from NZMA President to Corrections Intelligence staff member, 23 November 2020.

NZMA were to its reputation, the community's wellbeing and the drain on its resources. The President asked for guidance on proposed next steps and dates that Corrections had in mind to commence visitations for Mr Samsudeen.¹⁹⁴

279. On 3 December 2020, an Imam from the Avondale Islamic Centre visited Mr Samsudeen at Auckland Prison.¹⁹⁵ Auckland Support Meeting notes record that the Imam's initial view was that the meeting had gone well and there was the potential to redirect Mr Samsudeen to a more pro-social view in the context of his faith. The Inspectorate notes that there are conflicting accounts as to the reported feedback on this first meeting. A number of Corrections staff recorded in their interviews with inspectors their understanding that the Imam and Mr Samsudeen did not wish to meet again.¹⁹⁶
280. Mr Samsudeen apparently changed his mind several times about whether he wanted to see the Imam from the Avondale Islamic Centre again. When Corrections officers approached Mr Samsudeen a fortnight after the visit to ask if wanted to see the Imam again, he refused to engage with them. Meeting notes on 22 December 2020 indicate that Mr Samsudeen had declined the offer to have the Imam from the Avondale Islamic Centre visit again.¹⁹⁷ On 25 December 2020, Mr Samsudeen told a Corrections staff member that he would like to see the Imam on a regular basis.¹⁹⁸ On 6 January 2021, Auckland Support Meeting notes record that Mr Samsudeen was yet to advise whether he would like to see the Imam again. On 5 February 2021, it was noted that an Imam could provide more support in terms of community and release, but that Mr Samsudeen *"keeps changing his mind about engaging"*.¹⁹⁹
281. On 15 February 2021, Corrections documents indicate that prison staff were tasked with setting up another visitation by the Imam from the Avondale Islamic Centre. On 1 March 2021, the Corrections staff member emailed the Imam from the Avondale Islamic Centre informing him that Mr Samsudeen had requested an interview and enquiring as to his availability to visit Auckland Prison. He received no response. File notes made on 29 March 2021 indicated that staff were of the view that the Imam had declined to work further with Mr Samsudeen but there is no clear evidence to support this view.
282. On 26 February 2021, Corrections staff member confirmed that Mr Samsudeen's Corrections staff member had requested Muslim cultural support for him, and that there was at least one volunteer from 9(2)(a) willing and able to attend Auckland Prison to provide this support to Mr Samsudeen. That volunteer had already undergone an Auckland Prison induction on 4 February and had been visiting another Muslim prisoner in Unit Corrections staff member was advised of the request.
283. File notes dated 1 March 2021 state that the Corrections staff member had asked Mr Samsudeen if he would like to see an Imam. Mr Samsudeen confirmed that he did. File notes advised

¹⁹⁴ Email from NZMA President to Corrections Intelligence staff member, 23 November 2020.

¹⁹⁵ The Imam had been nominated by members of the community-led Countering Violent Extremism (CVE) forum.

¹⁹⁶ Auckland Prison Operational Review Meeting notes, 9 December 2020.

¹⁹⁷ The PERD MDT Meeting notes, 22 December 2020.

¹⁹⁸ IOMS Offender File Note, 25 December 2020.

¹⁹⁹ Auckland Prison Support Meeting Notes, 6 January 2021.

that the Corrections staff member then sent an email to the Imam who had visited Mr Samsudeen previously on 3 December 2020 stating that Mr Samsudeen had requested an interview and asking if he was available to visit him.

284. On 2 March 2021, the Contractor booked a non-contact interview room to see Mr Samsudeen. Contractor saw it as an opportunity to establish a relationship between the Contractor and Mr Samsudeen - the visit was not initiated because of a request from Mr Samsudeen. When Contractor arrived at the unit, he learned that Mr Samsudeen was only allowed visits from those approved by senior management, so the meeting did not go ahead.
285. On 15 March 2021, the Corrections staff member asked the Corrections staff member and Corrections staff member if they were happy for them to progress the 26 February 2021 request. The Corrections staff member advised that they would seek permission from the Auckland Prison Director.
286. A 29 March 2021 Intel Priority Person Profile Report recorded that plans for Mr Samsudeen to meet with the Imam from the Avondale Islamic Centre were ongoing. It noted that Mr Samsudeen had enquired with staff about the Imam's name and ethnicity, suggesting that it is possible Mr Samsudeen 9(2)(a) would be more relatable and able to understand his needs. The Report recorded that ongoing religious support from an Imam would be likely to positively impact Mr Samsudeen's well-being and possibly moderate his interpretation of Islam.
287. Internal staff notes from April 2021 record that the Imam from the Avondale Islamic Centre had still not responded to the Corrections Officer's request from 1 March 2021 and that efforts were again being made to source an alternative Imam. A Corrections Intelligence report circulated at the time recommended that:²⁰⁰

...appropriate community based religious support, such as a mosque and/or Imam, is identified to ensure Mr Samsudeen has access to ongoing religious support in the community. It is recommended an appropriate cultural advisor or group is identified to assist Mr Samsudeen with added support, education and a sense of belonging in the community.

288. 9(2)(a)

289. On 14 April 2021, the Corrections staff member contacted the 9(2)(a) Corrections staff member, requesting approval from the Prison Director to bring the volunteer from 9(2)(a) into Unit for induction and to begin coordinating visits for Mr Samsudeen. A subsequent request for approval to the Prison Director for the volunteer to access Unit was lodged on 14 April 2021, and Mr Samsudeen was advised that arrangements were being made to grant access to him.²⁰¹

²⁰⁰ The PERD Priority Person Profile Report, 29 March 2021.

²⁰¹ IOMS Offender File Note, 15 April 2021 created by Corrections staff member

290. On 15 April 2021, the Prison Chaplaincy Service advised the Auckland Prison Director and a **Corrections staff member** in Mr Samsudeen's unit of the name of an Imam who had been cleared to enter the prison under the Chaplaincy.²⁰² **Contractor** request asked for: "Authority to access your prisoner in Unit is necessary before a booking can be initiated for a visit on Sunday 25th April 2021. Are you prepared to grant access?" The request was referred to senior management involved in managing Mr Samsudeen. The Commissioner of the PERD was told of this request and informed other members of senior management that, given Mr Samsudeen's specific risks and beliefs, it had been decided that the only Imam that should meet Mr Samsudeen was the Imam from the Avondale Islamic Centre. The **Corrections staff member** advised senior management that there was significant confusion over the issue and that there were different stories going around as to whether Mr Samsudeen wanted to see the Imam from the Avondale Islamic Centre, or what had been organised for him to secure a different Imam.
291. The request for volunteer cultural support dated 14 April 2021 and the request from the Prison Chaplaincy on 15 April 2021 were declined, on the basis that there was no compelling reason why either the Muslim volunteer or the Chaplain should be allowed to visit Mr Samsudeen.
292. On 16 April 2021, the **Corrections staff member** sought clarification of the PERD expectations around contacting the same Imam who had previously visited Mr Samsudeen in December 2020. On 16 April 2021, the **Corrections staff member** responded as follows:
- Late last year a lot of effort went in to identifying the appropriate cultural support for Mr Samsudeen. His first visit went without a hitch and was very positive for all involved. Due to the sensitivity around this issue the expectation from PERD is that the same Imam is used for any subsequent meetings.*
- I have attached the contact details to this email but please note these details have been passed on before with the same explanation.*
293. Although Mr Samsudeen was being managed under the responsibility of Auckland Prison Director and management staff, it is clear that the PERD was influential in decisions that affected his day-to-day management.
294. On 19 April 2021, the **Corrections staff member** contacted the Imam from the Avondale Islamic Centre to arrange a second visit with Mr Samsudeen, saying that Mr Samsudeen had expressed interest in seeing him again. On 29 April 2021, the Imam visited Mr Samsudeen at Auckland Prison for approximately 90 minutes.
295. After the visit, Mr Samsudeen told the **Corrections staff member** that it went "all good" and that he had discussed the possibility of the Imam supporting him when he was released into the community. Mr Samsudeen indicated that he would like to see the Imam from the Avondale Islamic Centre again but would wait until Ramadan was over and it was convenient to the Imam. The Imam observed that Mr Samsudeen was different from his last visit in December 2020 and appeared to be

²⁰² Email from **Contractor** to Prison Director Auckland Prison and **Corrections staff member**, 15 April 2021.

building up anger and frustration. He described Mr Samsudeen as articulate but aggressive, and that he regarded Mr Samsudeen's religious views as "extreme".²⁰³

296. On 5 May 2021, the [Corrections staff member] wrote to the Imam asking if the Avondale Islamic Centre would be willing to consider supporting Mr Samsudeen after his release in the form of accommodation and community support.²⁰⁴ The Imam indicated that the mosque would be content to assist with mental and academic support, but recommended the previous mosque that Mr Samsudeen had stayed at the Masjid al Maktoum as potential accommodation.
297. Eight days later, the [Corrections Intelligence staff member] at Corrections wrote to the NZMA President, informing him that Mr Samsudeen's High Court trial was approaching and there was likely to be media coverage. He noted that Mr Samsudeen would remain in custody until mid-June and specifically that it was "a shame [that Mr Samsudeen] was not willing to engage with the religious and cultural support as we had hoped. At this stage we are not sure of his intent to engage with the Muslim community". The NZMA President acknowledged the email and added: "Please let us know if we can be of any further assistance."²⁰⁵
298. On 28 June 2021, Mr Samsudeen was visited by his assigned [Corrections staff member] and a support person from Masjid-e-Bilal. Mr Samsudeen was said to be looking forward to his release and living at the mosque with his support person.
299. A meeting was scheduled for 30 June to discuss developing a bespoke programme for Mr Samsudeen with a community-based organisation, 9(2)(a). A Muslim support worker was subsequently engaged and was scheduled to meet Mr Samsudeen in person after his release from custody.

Summary

300. After first meeting with an Imam in December 2020, Corrections records indicate that Mr Samsudeen asked to see the Imam again and that this was regarded internally at Corrections as a positive response. It is unclear why a second visit did not occur until four months later although there is some indication that Mr Samsudeen became reluctant to see the Imam again. An [redacted] 29 March 2021 recommended that the best chance at disengaging Mr Samsudeen from his extremist views was through reintegrative support and rehabilitative programmes, and that an appropriate cultural advisor or group could assist Mr Samsudeen with added support, education and a sense of belonging in the community. On the balance of material reviewed by the Inspectorate, Mr Samsudeen's behaviour in custody seems to have deteriorated markedly between the visits and he was observed to be much less engaged by the time the Imam visited again on 29 April 2021.²⁰⁶

²⁰³ Meeting at Avondale Islamic Centre 30 November 2021 between Coordinated Review team and President of NZMA, including the Imam.

²⁰⁴ Email from [Corrections staff member] to NZMA President, 5 May 2021.

²⁰⁵ Emails between [Corrections Intelligence staff member] and NZMA President, 13 May 2021.

²⁰⁶ Coordinated Review Meeting at Avondale Islamic Centre, 31 November 2021 and comments from the Imam.

301. Regardless of Mr Samsudeen's attitude after 3 December 2020, it is evident that he had repeatedly asked for religious and cultural support over a period of 967 days at three separate Corrections' prisons.²⁰⁷ These requests were significant considering Mr Samsudeen spent much of his time in custody isolated from other people, when he was either under a penalty of cell confinement or a segregation direction. 9(2)(a)

302. Each time the question of support was raised by a staff member or Mr Samsudeen himself, there were insufficient available options, a lack of coordinated follow up, and/or delays in fulfilling the request. Corrections' failure to respond to those requests within a reasonable time can be attributed to several factors including a change in, or lack of, case management, a dearth of appropriate resource in the community, Mr Samsudeen's high-risk status, and the impact of COVID-19.

303. It is unknown what the impact of engaging an Imam much sooner might have had on Mr Samsudeen's cultural and religious psyche while in custody. While efforts were certainly made to provide access to an Imam, the Inspectorate views this as a missed risk mitigation in respect of Mr Samsudeen's evolving faith-based ideologies. While acknowledging the difficulties faced by Corrections, the Inspectorate also concludes that Corrections did not meet its statutory obligations to provide for Mr Samsudeen's religious, spiritual and cultural needs.

Impact of COVID-19 on treatment and management

304. Corrections' operational response for its prisons under different COVID-19 Alert Levels resulted in significant restrictions in access to prisons and non-critical resources. The Inspectorate understands that Corrections applied the operational framework at **Appendix 7** in response to Alert Levels at all relevant times.

305. Mr Samsudeen remained in custody for much of the period when New Zealand was impacted by COVID-19 restrictions. Visitations and face-to-face contact (including for the purposes of rehabilitative efforts) whilst remanded in custody and later when supervised by Community Corrections in Auckland would have been restricted for Mr Samsudeen as a result of Alert Levels 4, 3 and 2 for the following periods:

- a) 21 March 2020 - 8 June 2020 (when Mr Samsudeen was in MECF)
- b) 12 August 2020 - 7 October 2020 (when Mr Samsudeen was in Auckland Prison)
- c) 14 February 2021 - 22 February 2021 (when Mr Samsudeen was in Auckland Prison)
- d) 17 August 2021 - 3 September 2021 (when Mr Samsudeen was released into the community to serve a sentence of Supervision whilst monitored by Community Corrections).

²⁰⁷ Rimutaka, MECF and Auckland Prison.

²⁰⁸ 9(2)(a)

306. This had a number of flow-on effects for his remand duration and treatment including:

- a) Prolonged remand status in custody due to longer waits for trial dates. Mr Samsudeen's High Court trial in May 2021 was in relation to charges arising from events that occurred in July-August 2018.
- b) Restricted access to community-based resources, including religious and cultural support. COVID-19 restrictions also inhibited Corrections staff from accessing community-based resources on Mr Samsudeen's behalf, including Muslim volunteers and an Imam.²⁰⁹
- c) Restricted face-to-face contact with the probation officers once released into the community in July 2021, including Level 4 restrictions in Auckland from 17 August 2021 until the date of the attack on 3 September 2021.

²⁰⁹

By way of example, a number of new Muslim volunteers who had been inducted into MECF and were preparing to commence visits to prisoners in February/March 2020 were interrupted by COVID-19 restrictions under Alert Levels 2- 4. Alert Level restrictions commenced from 21 March 2020 (Level 2) and continued through to 8 June 2020 when New Zealand moved to Alert Level 1.

MONITORING ON RELEASE FROM CUSTODY

Community Corrections' functions and powers

Legislative and Corrections framework

307. Section 5 of the Corrections Act states that the purpose of the Corrections system is to improve public safety and contribute to the maintenance of a just society by, amongst other things, ensuring that community-based sentences and related orders that are imposed by the courts are administered in a safe, secure, humane, and effective manner.²¹⁰ This includes assisting in the rehabilitation of offenders and their reintegration into the community, where appropriate, through the provision of programmes and other interventions.

308. Section 6 of the Corrections Act states that the principles that guide the operation of the corrections system include that:

- (a) the maintenance of public safety is the paramount consideration in decisions about the management of persons under control or supervision:

...

- (c) in order to reduce the risk of reoffending, the cultural background, ethnic identity, and language of offenders must, where appropriate and to the extent practicable within the resources available, be taken into account—

- i. in developing and providing rehabilitative programmes and other interventions intended to effectively assist the rehabilitation and reintegration of offenders into the community; and

- ii. in sentence planning and management of offenders:

309. Section 24 provides that Probation officers are to be appointed by the Chief Executive of Corrections and are *“Persons with powers and functions in relation to administration of community-based sentences, sentences of home detention, conditions of release, or parole”*. Section 25 sets out a Probation Officer's functions as an employee of Community Corrections:

- (a) It is the function of every probation officer—

- i. to supervise all persons placed under the officer's supervision under a sentence of supervision or intensive supervision or community detention or home detention, and to ensure that the conditions of the sentence or of the release are complied with.

²¹⁰ Section 5(1)(a) Corrections Act.

310. A Probation Officer's functions include arranging, providing, and monitoring rehabilitative and reintegration programmes or related services for offenders, where appropriate, if directed to do so by a controlling officer in the relevant probation area.²¹¹

Monitoring Mr Samsudeen in the community

311. Between 23 May 2017 and 3 September 2021, Mr Samsudeen was released from custody on two occasions. The first was when he was remanded on bail between 29 June 2018 and 9 August 2018;²¹² the second was when serving his sentence of supervision (whilst also remanded on bail for other active charges) between 13 July and 3 September 2021.²¹³ Community Corrections assumed responsibility for supervising Mr Samsudeen on the second of these two occasions.

312. In the short period of time between Mr Samsudeen being released on bail on 29 June 2018 and his remand in custody, he was not subject to any sentence or order that involved Corrections' oversight. Therefore, this investigation has focused on Mr Samsudeen's time in the community from 13 July 2021 to 3 September 2021.

313. The key aspects of Community Corrections' monitoring of Mr Samsudeen upon release involved:

- a) Release planning;
- b) Accommodation support; and
- c) Active management during Mr Samsudeen's days in the community whilst subject to a sentence of supervision.

Release Planning

314. A Corrections Priority Person Profile Report for Mr Samsudeen released by the Corrections Intelligence staff member [REDACTED], on 2 October 2020 recorded that:²¹⁴

9(2)(a)

[REDACTED]

...

²¹¹ Sections 25 and 27 of the Corrections Act.

²¹² On 9 August 2018 he was arrested by Police and remanded back in custody at MECF on 10 August, facing three new charges.

²¹³ Mr Samsudeen was a "person under control or supervision" of Corrections under s 3 of the Corrections Act, since he was the subject of a community-based sentence on the second occasion. Mr Samsudeen had received a sentence of 12 months supervision imposed by Fitzgerald J in the High Court on 6 July 2021. Section 25(1) provides that it is the function of a Probation Officer to supervise all persons placed under the officer's supervision under a sentence of supervision or intensive supervision or community detention or home detention, and to ensure that the conditions of the sentence or of the release are complied with.

²¹⁴ Priority Person Profile report, 27 September 2020 – [REDACTED]

*Mr Samsudeen has been identified as **likely** posing a risk to the safety of staff, specifically when he disagrees with aspects of his management. Upon his release from prison, Mr Samsudeen will be required to report to Community Corrections. It is recommended that consideration is given to how to best manage the risk posed by Mr Samsudeen, ensuring public safety is managed, he meets requirements of his sentence, and staff safety is maintained.*

315. In March 2021, Corrections documents indicate that planning was underway for Mr Samsudeen's release into the community despite there being no certainty as to when that release date would be. At the time, Mr Samsudeen was preparing for a High Court jury trial on charges filed by Police in mid-2018. However, Corrections records indicate that staff were preparing for the possibility that he might plead guilty to the charges on the day of trial and potentially be sentenced and released into the community shortly thereafter.
316. This is because it was likely that any sentence of imprisonment imposed would result in 'time served' (thereby necessitating his immediate release), or alternatively, that he would be given a community-based sentence. Moreover, Mr Samsudeen had other unrelated active charges (stemming from his alleged assaults of Corrections officers in MECF on 23 June 2020),²¹⁵ and it was unknown whether he was preparing a further bail application pending resolution of those charges.
317. Given the length of time Mr Samsudeen had already spent remanded in custody by early 2021, the prevailing view was that his release into the community was imminent.
318. In early 2021, Mr Samsudeen was referred to the High and Complex Needs (**HCN**) Panel. HCN panels have responsibility for ensuring the oversight of and supporting the management of HCN cases. 'High Risk' cases include those:²¹⁶

Where the person presents as being at high risk of harm to others, which may include a high risk of further serious reoffending (an offence that involves very serious physical injury, emotional or psychological trauma or death). The case may be considered very high risk if the risk of further serious reoffending is considered to be imminent.

319. "Complex Needs" cases are those that, due to the risks they present and complexity of their individual needs, require more intensive management. HCN cases can be in custody or in the community.
320. The HCN panel first discussed Mr Samsudeen at a meeting on 18 March 2021, where the reason for his case being on the agenda was recorded as:

[Mr Samsudeen]'s extremist views and violent behaviour in custody is of concern, so too is his attitude towards authority which makes him very difficult to engage with generally. This will present a problem for release planning. There is a concern that [Mr Samsudeen] will change his not guilty plea and receive time served. If

²¹⁵ Detailed in full at **Appendix 3**.

²¹⁶ Regional High Risk Panels Overview document. The Inspectorate understands that MDT team meetings would occur every week and discuss pre-release, pre-sentencing and post-release for Mr Samsudeen. The group would share advice and information. Northern Region High Risk members attended because they were responsible for Countering Violent Extremism as a portfolio matter.

sentenced to under two years this will not provide sufficient time to prepare for his release. Should his sentence be over two years imprisonment he will have an accelerated Parole Eligibility Date.

321. Mr Samsudeen's background information was noted at the March HCN meeting, including his "limited but concerning criminal history" and that he had been assessed by the Provision of Advice to Court (PAC) report writer in July 2018 as posing a risk of carrying out an unsophisticated knife attack.²¹⁷ It was recorded that Mr Samsudeen had limited community support and did not have an address he could propose as accommodation on his release from custody. This meant that referrals for accommodation would need to be canvassed and gaining Mr Samsudeen's cooperation to do so "may be difficult". The panel also observed that Mr Samsudeen 9(2)(a) when speaking to the PAC report writer. However, he had not gone into further detail with Corrections staff about this.
322. Key steps discussed at the March HCN meeting regarding Mr Samsudeen's release planning included:
- a) Multi-Disciplinary Team meetings would commence weekly from 15 March 2021 and involve multiple key stakeholders, including: Police; Corrections Intelligence; Departmental psychologists; the High Risk Team; Corrections Staff
 - b) 9(2)(a)
 - c) A joint visit with the Corrections Staff and Mr Samsudeen was to be arranged, to build rapport and discuss release accommodation/applying to Housing New Zealand. Police were noted as being involved in assisting with this process.
 - d) Special conditions for his release in draft form were being circulated for input and feedback.
323. A final note in the March HCN meeting minutes recorded that "an Imam had been to see him however, he declined to see that specific Imam (prison thought it may have been because 9(2)(a)) so they are looking for other options." In respect of this final comment, the Inspectorate has been unable to substantiate its accuracy or veracity.
324. The HCN panel met again on 19 April 2021. The meeting agenda and minutes record that the panel had previously discussed a similar case to Mr Samsudeen's in the 9(2)(a) and specifically how that individual had been managed. It was suggested that the Corrections Staff managing Mr Samsudeen's release discuss the applicable learnings with the Corrections Staff and implement that management style if appropriate. However, it is unclear whether that was ever done by the Corrections Staff. In respect of MDT meetings since 15 March 2021, the key points arising were:

²¹⁷ Regional HCN Panel Minutes, 18 March 2021.

- a) Mr Samsudeen had met with **Corrections Staff**. The meeting went well initially but Mr Samsudeen's behaviour changed when discussing potential release conditions. The meeting was terminated due to his aggressive behaviour – Mr Samsudeen was described as “kicking off” suddenly: “(he) became just very rapidly angry and started ... kicking at the doors, screaming and yelling and threatening to **9(2)(a)**”²¹⁸
- b) Police had attempted to visit Mr Samsudeen. He had refused to engage.
- c) Mr Samsudeen's primary risk at the time was “...linked to him being sentenced (time served) and being released on Parole immediately with only standard conditions.” Corrections were liaising with the **Parole Board staff** to limit this risk.
- d) **9(2)(a)**
- e) The **Corrections staff member** had reported that Mr Samsudeen had remained elevated and his behaviour heightened recently.

Accommodation Support

- 325. Given Mr Samsudeen's lack of family and community-based support, he was unable to propose an appropriate accommodation prior to his release into the community. Corrections was accordingly tasked with finding accommodation that matched Mr Samsudeen's specific needs, taking into account his risk profile.
- 326. In June 2018 Mr Samsudeen had been bailed to the Masjid al Maktoum where he lived for a short period of time until he was arrested again on 9 August 2018. However, Community Corrections records from March to May 2021 showed that the same mosque was deemed unsuitable for his release because:²¹⁹

- a) **9(2)(a)**
- b) The mosque had no permanent rooms available for Mr Samsudeen;
- c) Police had indicated that they did not regard the mosque as a suitable option and would rather have him at a mosque that was less crowded;²²⁰

²¹⁸ Interview with **Corrections staff member** on 6 January 2021), 19 January 2022; Interview with **Corrections staff member**, 16 December 2021.

²¹⁹ Weekly Teleconference meeting notes, 23 March 2021 and 3 May 2021, and emails between participants; **Regional HCN Panel Minutes**, 19 April 2021; **9(2)(a)**

²²⁰

d) There were concerns about Mr Samsudeen's past behaviour when on bail at the mosque, including purchasing a knife and having it couriered to the mosque's address where he was living,²²¹ and

e) Community Corrections information suggested that 9(2)(a)

327. On 4 December 2018, Mr Samsudeen indicated to his Corrections staff member in custody that he had no accommodation available for his eventual release.²²² He remained in custody throughout 2019 and 2020. In October 2020, discussions were held between 9(2)(a), Corrections, Police, and the NZMA who expressed support for helping Mr Samsudeen with his reintegration into the community once he was released. NZMA's offer extended to providing religious instruction, preparing Mr Samsudeen for community support pre-release, and creating social networks for him.²²³ The Inspectorate understands that it did not include offers to accommodate Mr Samsudeen.

328. On 5 February 2021, internal support meeting case notes observed that Corrections staff were having difficulty sourcing appropriate accommodation in the community for Mr Samsudeen.²²⁴ On 15 March, Mr Samsudeen attended an introductory meeting with his assigned Probation Officer to assess support options including release accommodation. Case manager file notes of the meeting describe Mr Samsudeen as *"friendly and polite initially, becoming angry, pacing and kicking the door when discussing special conditions [of his release]"*.²²⁵

329. On 24 March 2021, Mr Samsudeen refused to meet with Police to discuss planning logistics for his trial commencing on 17 May and pre-release planning.

330. On 15 April 2021, Police representatives visited Masjid-e-Bilal in Glen Eden to assess its suitability for accommodating Mr Samsudeen. Masjid-e-Bilal appears to have been proposed as a possible community placement for Mr Samsudeen by Police. Correspondence between Police and Corrections following that meeting recorded that the mosque's President was given minimal background on Mr Samsudeen but had been informed that Mr Samsudeen's charges related to a *"skewed view of Islam and involved the use of the internet"*.²²⁶ 9(2)(a)

331. When asked whether Masjid-e-Bilal would be open to accommodating Mr Samsudeen, the President indicated that this would likely be acceptable subject to a meeting with him in person first. However,

²²¹ These events gave rise to fresh charges. Mr Samsudeen was tried and acquitted of possession of a knife in a public place in May 2021.

²²² Corrections staff member file notes, 4 December 2018.

²²³ This occurred at a meeting on 12 October 2020 discussed at [242] and [276], the same meeting where discussions were held regarding sourcing of an Imam to visit Mr Samsudeen in custody and Corrections' plans for rehabilitation and reintegration.

²²⁴ Auckland Support Meeting case notes.

²²⁵ Corrections staff member file notes 15 March 2021.

²²⁶ Email from Police to Corrections

if he was to stay at Masjid-e-Bilal it was recorded that “there would be no requirements for [Mr Samsudeen] to take part in any programs set by the Mosque. However, they would try to encourage him to attend their ‘Tablighi’ program and any prayers / group events.”²²⁷

332. On 19 April 2021, a meeting of the High and Complex Needs Panel recorded the following:

[Mr Samsudeen] is currently remanded at Auckland Prison. His extremist views and violent behaviour are of concern, as is his attitude toward authority which makes him difficult to engage. Community Corrections are preparing for the possibility he is released on time served ... His upcoming hearing is on 12 May 2021.

Accommodation is a concern; several scenario’s [sic] and options have been considered regarding this issue. Police had made enquiries with a mosque in Glen Eden, Auckland, and they have confirmed they would support him however, they would like to meet/speak with him first. 9(2)(a)

Should he consent to going to the mosque, Corrections staff member 9(2)(a) will speak to the relevant people at the mosque. There is a room available at present. Intel and local Police are working with Kainga Ora about another property that is available in approximately three weeks; if [Mr Samsudeen] cannot be released into this property in three weeks, it would likely be given to someone else. If these two options do not proceed, there is an alternative plan to canvass a mosque he has previously lived at in the past, however, there are reservations due to his past behaviour at the mosque.

9(2)(a) If [Mr Samsudeen] is sentenced to over two years, he will be immediately released on parole without special conditions to mitigate his risk. An application for special conditions has been drafted. Liaison with the NZPB [New Zealand Parole Board] has taken place and advice provided to discuss the application with [Mr Samsudeen] to determine if he would like to appear before the Board. Ongoing MDTs [Multidisciplinary Team meetings] continue to share information, collaborate on release plans/options, and discuss risk mitigation.

333. On or about 3 May 2021, during a weekly teleconference to discuss release planning for high-risk individuals,²²⁸ 9(2)(a)

Mr Samsudeen was recorded as being “not keen” on that proposal as he did not want to be on an electronically monitored bracelet and attract negative publicity to the mosque as a consequence. He was recorded as saying he would be more open to his own accommodation.²²⁹ The notes from the meeting recorded difficulties in securing accommodation due to his unknown release date, and that Auckland Prison staff had been asked to discuss the mosque option with Mr Samsudeen again “due to [it] offering good support in the community.”²³⁰

334. On 3 May 2021, Corrections were notified that the Ministry of Social Development would undertake an assessment for housing accommodation for Mr Samsudeen. This is because Mr Samsudeen had

²²⁷ Email from Police to Corrections

²²⁸ These meetings were typically led by Corrections’ senior management from Operations and included community probation staff responsible for planning/managing individual(s) in the community, and input from prison management, Corrections Intelligence, senior advisors, psychologists and Police.

²²⁹ Email Corrections staff member to senior management.

²³⁰ Weekly Teleconference meeting notes, 3 May 2021 - Corrections Staff and Police.

said that if he was to be electronically monitored as part of any sentence, he would prefer his own single accommodation. A day later, Mr Samsudeen's **Corrections staff member** noted that he still had no clarity about where he would reside upon his release.²³¹

335. On 5 May 2021, the **Corrections staff member** at Auckland Prison contacted the Imam from the Avondale Islamic Centre and asked if the mosque would be willing to lend support to Mr Samsudeen in the form of potential accommodation. The Imam said that he hoped to be able to provide mental and academic support but referred Corrections back to Masjid al Maktoum in respect of potential accommodation options.²³² On the same day, the Residential Manager met with Mr Samsudeen to discuss potential accommodation at the Masjid-e-Bilal and the alternative option of an assessment with MSD for a housing application. File notes of the meeting indicate that Mr Samsudeen's only response to the staff member's release planning questions was: "You will need to speak to my lawyer."²³³

336. **9(2)(a)**
9(2)(a) Mr Samsudeen appears to have consented to this on 6 May 2021 and a referral was made for an urgent Social Housing Accommodation Assessment. However, the assessment was delayed due to Mr Samsudeen being in court for his trial from 17 – 27 May 2021.

337. On 7 May 2021, the **Corrections staff member** involved in Mr Samsudeen's release contacted other Corrections' staff advising:

*In relation to Mr Samsudeen it would be great if you can contact **9(2)(a)** about their **9(2)(a)** and Community liaison. I have heard really great things about this service and they could provide some independent support for him on release.*

338. On 13 May 2021 the **Corrections Intelligence staff member** at Corrections contacted the President of NZMA, informing him that:

We continue to work to find suitable accommodation for him upon release. It was a shame he was not willing to engage with the religious and cultural support as we had hoped. At this stage we are unsure on his intent to engage with the Muslim community. I wanted to say thanks for your efforts and willingness to assist – we are of course open to any further suggestions you may have as we will continue to explore options to support him.

339. The NZMA President responded on the same day: "Please let us know if we can be of any further assistance."

340. On 6 June 2021, Corrections recorded that Mr Samsudeen had indicated to staff that he was no longer interested in the possibility of residing at a mosque and Community Corrections were now looking at social housing options for him.

²³¹ **Corrections staff member** notes 4 May 2021.

²³² Email chain between **Corrections staff member** and Imam, 5 May 2021.

²³³ IOMS Offender File Note **Corrections staff member**, 5 May 2021.

²³⁴ **9(2)(a)**

341. On 8 June 2021 it was noted that Mr Samsudeen had declined to engage with his MSD Social Housing assessment.
342. Two days later, MSD advised senior Corrections officials responsible for Mr Samsudeen's release planning that although Mr Samsudeen was now on the housing register, he could not be offered any public housing while in custody and with no income. Further, Mr Samsudeen had been advised that he was not eligible for emergency or transitional housing. It was noted that *"...it could be some time before a suitable public house becomes available for [Mr Samsudeen]. We can give no guarantee on the outcome, or the timeframe of a public house being offered."* ... *"He will need to seek alternative accommodation upon release."*²³⁵
343. At a weekly teleconference on 14 June 2021, Community Corrections notes record that Mr Samsudeen had engaged in the Provision of Advice to Courts process with his Corrections staff member but had not presented as open to the possibility of supported accommodation (for example living at a mosque) in the community. The potential for a mosque as short-term release accommodation was raised with him again, and later that day his Corrections staff member confirmed that Mr Samsudeen had expressed willingness to reside at Masjid-e-Bilal.²³⁶ Police, the PERD and Community Corrections all subsequently confirmed the suitability of that address.
344. On 18 June 2021, Corrections met with a community organisation, 9(2)(a),²³⁷ to discuss developing a longer-term bespoke accommodation option for Mr Samsudeen. A week later, Corrections documents indicate that planning was *"well underway for when Mr Samsudeen is released from prison"* including finalising Masjid-e-Bilal as short-term accommodation with a view to confirming a longer-term option via Creating Positive Pathways,²³⁸ Kāinga Ora, or 9(2)(a).
345. On or about 21 June 2021, Corrections representatives visited Masjid-e-Bilal for the first time and met with its President. The meeting was arranged by Mr Samsudeen's Corrections staff member.²³⁹ An email circulated amongst senior management staff three days later, recorded that the mosque representatives were *"aware of the risk involved and the type of offending and were willing to work with him. They have asked to visit him in prison and this is being arranged through PERD. There will be on going conversations with them."*²⁴⁰
346. On 28 June 2021, Mr Samsudeen was visited at Auckland Prison by representatives of Masjid-e-Bilal, including a designated support person. Records show that Mr Samsudeen had had previous contact

²³⁵ Email MSD to Corrections Staff, 10 June 2021.

²³⁶ Email Corrections Staff, 14 June 2021.

²³⁷ 9(2)(a) provides community mental health services including providing culturally appropriate 9(2)(a).

²³⁸ Creating Positive Pathways is an initiative co-designed by Corrections and MSD to provide additional public housing places so that people exiting prison with an unmet housing need are able to access stable accommodation. Corrections staff who have CPP roles are tasked with liaising with MSD to assess a prisoner's eligibility criteria and source potential accommodation in the community.

²³⁹ Email correspondence between Corrections Staff, 18 June 2021.

²⁴⁰ Email Corrections staff member to senior management, 24 June 2021.

with the mosque personnel and was happy to see them. He was said to be looking forward to his release to the mosque.²⁴¹

347. On 6 July 2021, Mr Samsudeen was sentenced in the High Court to 12 months supervision. As part of his conditions of supervision, he was required to reside at an approved address. Despite Community Corrections' recommendation to the court, he was not made the subject of electronic monitoring. On the same day, Corrections documents record: "*Room at mosque confirmed. Ready to receive him upon release.*"²⁴² Interviews with senior Corrections personnel indicated that by this stage, Community Corrections considered that there was no workable alternative for Mr Samsudeen's accommodation in the community.
348. On 12 July 2021, the day before his release, emails between Corrections and 9(2)(a) indicate that ongoing support 9(2)(a) and accommodation were still being canvassed. 9(2)(a) signalled that support 9(2)(a) would be available, but that assistance would need to be sought from Kāinga Ora for a longer-term accommodation solution.²⁴³

Release from Auckland Prison

349. As part of Corrections' release planning, staff from Auckland Prison, the PERD and Community Corrections considered how Mr Samsudeen would be transported from Auckland Prison to his release address at the Masjid-e-Bilal.
350. Corrections Staff offered to drive him, but senior management advised that they were not supportive of Corrections staff transporting Mr Samsudeen anywhere, given the risks to staff.²⁴⁴ Police offered to transport Mr Samsudeen, but Mr Samsudeen refused this offer.²⁴⁵ 9(2)(a) Mr Samsudeen's Corrections staff member also offered to contact another person from the Muslim Community about driving him, but Mr Samsudeen declined the suggestion.²⁴⁷ Community Corrections contacted taxi companies, who offered the option of the fare between Auckland Prison and the release address being paid in advance with a credit card.²⁴⁸ Despite the risks Mr Samsudeen posed, Corrections were aware that they had no remit to control how he was transported to his release address.²⁴⁹

²⁴¹ Weekly Teleconference meeting notes, 29 June 2021: Corrections Staff, and Police.

²⁴² Weekly Teleconference meeting notes, 6 July 2021: Corrections Staff, Police, Corrections.

²⁴³ Emails between Corrections staff member and 9(2)(a) on 12 July 2021.

²⁴⁴ Emails between Corrections Staff, Auckland, 22 and 24 June 2021; Weekly Teleconference meeting notes dated 6 July 2021; Interview with Corrections staff member, 16 December 2021.

²⁴⁵ Operation Review Meeting notes, 6 July 2021; Interview with Corrections staff member, 16 December 2021.

²⁴⁶ Email from the PERD Commissioner to National Commissioner, 13 July 2021.

²⁴⁷ Interview with Corrections staff member, 16 December 2021.

²⁴⁸ Email from Corrections staff member to staff, 12 July 2021.

²⁴⁹ Interview with Corrections staff member, 16 December 2021; Interview with the Corrections Intelligence staff member, 25 November 2021.

351. IOMS file notes showed that on the days preceding his release, Mr Samsudeen was anxious about how he would get to his release address.²⁵⁰ He asked staff for the bus and train route map to his release address, the bus numbers and the location when he could take the bus from. These requests were forwarded to his **Corrections staff member**.²⁵¹ His **Corrections staff member** told the Inspectorate that Mr Samsudeen had said he would walk to the release address.²⁵²
352. On 13 July 2021, it was confirmed that Mr Samsudeen was granted bail and would be released from Auckland Prison. A pre-paid taxi was booked by Community Corrections to collect Mr Samsudeen from Auckland Prison at 1.30pm to transport him to the Masjid-e-Bilal.²⁵³ Prior to his release, Mr Samsudeen was issued with his Steps to Freedom payment loaded on to a bank debit card,²⁵⁴ his stored property, and **9(2)(a)**. Mr Samsudeen was read his bail conditions and acknowledged the conditions of his supervision order.²⁵⁵ Four staff were involved in escorting Mr Samsudeen in restraints in a secure vehicle to the gate.²⁵⁶
353. Mr Samsudeen left Auckland Prison in the pre-booked taxi as planned. His stored property, consisting of a number of boxes, were placed into the taxi.²⁵⁷ Mr Samsudeen asked the taxi driver to take him to **9(2)(a)** instead of to the mosque. After dropping Mr Samsudeen at **9(2)(a)**, the taxi left. Mr Samsudeen later contacted the President of Masjid-e-Bilal and asked him for a ride to the mosque. The President arranged for one of the other residents at the mosque **9(2)(a)** to collect Mr Samsudeen from **9(2)(a)**.²⁵⁸
354. In their interview with the Inspectorate, the **Corrections staff member** advised that it was unusual for someone to be released straight from the PERU into the community.²⁵⁹ They had found it challenging when Mr Samsudeen was released from the gate and into a taxi because they knew the risks. They stated that they did not consider there was anything else they could have done to help with the release plan, and that it was unusual for the community and prison to come together to help with a person's release to that extent. They stated that they knew the Police would follow Mr Samsudeen in the taxi, so "*when it came down to it*", it was the safest option.
355. The Inspectorate acknowledges that Corrections had limited options for arranging transport for Mr Samsudeen, because of the risks he posed and his refusal of other options. However, it is evident that the transport used was not ultimately satisfactory.

²⁵⁰ IOMS Offender File Note, 12 July 2021.

²⁵¹ IOMS Offender File Note, 4 July 2021.

²⁵² Interview with **Corrections staff member**, 16 December 2021.

²⁵³ Interview with **Corrections staff member**, 15 December 2021, email from **Corrections staff member** to staff, 13 July 2021, emails between **Corr** **9(2)(a)**, 13 July 2021.

²⁵⁴ Steps to Freedom is bank debit card, which is pre-loaded with an MSD grant payment up to \$350.00 provided to released prisoners who have been in prison or on remand for 31 days or more to assist with initial set up costs, for example: housing, living expenses or other essential costs.

²⁵⁵ IOMS Offender File Note, 13 July 2021.

²⁵⁶ Interview with **Corrections staff member**, 14 December 2021.

²⁵⁷ Email from **Corrections staff member** to staff, 13 July 2021; interview with **Corrections staff member**, 16 December 2021.

²⁵⁸ Email from **Corrections staff member** to relevant staff, 13 July 2021.

²⁵⁹ Interview with the **Corrections staff member**, 1 December 2021.

356. The plan prepared for Mr Samsudeen in the community provided that:²⁶⁰

- a) Mr Samsudeen would report to the 9(2)(a) Community Corrections Main Reporting Centre 9(2)(a);
- b) Community Corrections would be in regular contact with the President of Masjid-e-Bilal;
- c) 9(2)(a)
- d) 9(2)(a) to be engaged to provide Mr Samsudeen reintegrative support;
- e) MDT meetings would be maintained to assess the management of Mr Samsudeen in the community; and
- f) Any concerns regarding his behaviour or risk to be appropriately escalated.

357. Internal Corrections correspondence indicates that Mr Samsudeen was regarded internally as receiving the “*platinum standard*” of post-release support in the community; even more so than offenders serving the highest-level community-based sentences.²⁶¹ Despite his low risk profile when viewed in light of his criminal record; at the time of his release into the community Corrections and Police regarded his risk of reoffending as high. He had a comprehensive near-final Release/Management Plan in place by mid-2021, together with an “*Action Points Response Plan*”, designed to track key action points surrounding his High Court trial in May 2021 and preparation for his release into the community. Mr Samsudeen had Corrections Staff assigned to him²⁶² and numerous stakeholders providing input into management plans for his safe return to the community.

358. When interviewed by the Inspectorate, senior Community Corrections employees described Mr Samsudeen as being managed as if he was an extreme risk, despite being subject to a low-level sentence of supervision. Information regarding his risk was filtered through Corrections Intelligence and Police, and it was understood that Police would take the lead regarding elements of his release including suggesting Masjid-e-Bilal as suitable accommodation.

359. Although significant parts of the release and management planning were conducted as a joint exercise with Police, there were material aspects of Mr Samsudeen’s monitoring that Corrections were not privy to. 6(c)

²⁶⁰ 9(2)(a) – Plan for the first weeks of Mr Samsudeen being in the community.

²⁶¹ Interview with Operations, 17 December 2021.

²⁶² 9(2)(a).

6(c) In addition, most Community Corrections staff involved with Mr Samsudeen in the community did not have the full details of his risk profile for the same reason.

360. This led to a number of Corrections employees describing their work with Mr Samsudeen as being somewhat “*in the dark*” in relation to key aspects of his offender profile.²⁶³ Despite this, others commented on having never seen such intense oversight of an individual in the community before, and that all agencies were preparing for every eventuality. Moreover, the difficulties managing such a high-risk offender on a low-level community-based sentence meant that Community Corrections’ focus appears to have been primarily on monitoring his risk to its employees and the public and identifying ways to impose more rigorous conditions akin to a sentence of intensive supervision.
361. The Inspectorate notes the lengths that Corrections went to in order to protect its own staff and fulfil its health and safety obligations towards its employees. Comments made in interviews with the Inspectorate highlight the difficulty Community Corrections had with managing someone of Mr Samsudeen’s risk profile on one of the lowest possible community-based sentences.
362. This extended to strategy decisions about designating Mr Samsudeen’s reporting locations to probations offices and how security could be managed if he decided to act aggressively towards Corrections staff. Corrections and Police worked together to implement a safety plan to counter this scenario. Prior to COVID-19 restrictions in August 2021, Mr Samsudeen was reporting in person on a fortnightly basis at the 9(2)(a) 6(c) [REDACTED]
[REDACTED]
[REDACTED]
363. On 14 July 2021 Mr Samsudeen reported to his Corrections Staff [REDACTED] as directed at 9(2)(a) [REDACTED]. An induction was completed to make sure Mr Samsudeen understood his supervision sentence standard/special conditions, and consequences of non-compliance.²⁶⁵ When the complaints procedure was discussed, Mr Samsudeen advised his Corrections staff member [REDACTED] to print lots of complaint forms as he would be making lots of complaints.²⁶⁶
364. During the face to face meeting with Corrections Staff [REDACTED], Mr Samsudeen informed them that his accommodation was good and his sponsor, the President of the mosque, was a good man. Mr Samsudeen was advised of his reporting instructions.

²⁶³ Mr Samsudeen’s Corrections staff member [REDACTED] after his release from Auckland Prison reported that there was initial confusion regarding whether Mr Samsudeen was going to be released, what sentence would be imposed on him, and what conditions he would be subject to. The Corrections staff member [REDACTED] first meeting with Mr Samsudeen was in a non-contact booth at Auckland prison on 15 March 2021 as part of pre-release planning. At that point, the Corrections staff member [REDACTED] was aware that Mr Samsudeen had a limited criminal history but was viewed as a high-risk offender. Further, the Corrections staff member [REDACTED] had reviewed file notes of Mr Samsudeen’s time in prison and noted that Mr Samsudeen had been abusive, intimidating and hostile towards Corrections staff.

²⁶⁴ Community Corrections are not permitted to search any person for weapons when they present for reporting visits.

²⁶⁵ Induction documentation acknowledged and signed by Mr Samsudeen, 14 July 2021.

²⁶⁶ DRAOR Historical Assessment Report 14 July 2021, completed by Corrections staff member [REDACTED].

365. On 19 July 2021, Community Corrections provided Mr Samsudeen with a cellphone without internet access. On 22 July 2021 Mr Samsudeen received approval to get a cellphone with internet access, so that he could communicate with his family overseas and his lawyer. Mr Samsudeen's Corrections staff member described him as being demanding and upset about the type of cellphone he would receive.²⁶⁷ Mr Samsudeen submitted a complaint the next day, stating that his Corrections Staff were not doing their job properly.²⁶⁸ On 29 July 2021, at his next reporting date at the 9(2)(a), he refused to discuss the complaint with the Corrections Staff and threatened to lay a complaint against them.
366. Mr Samsudeen's Corrections Staff gave positive reports about meeting him Mr Samsudeen on 29 July, 5 August (reporting over the telephone due to COVID restrictions) and 12 August. He was described as engaging well and enjoying staying at the mosque.²⁶⁹
367. On 12 May 2021, a Violent Extremism Risk Assessment was completed for Mr Samsudeen.²⁷⁰ His risk was assessed to be in the Moderate-High category. His risk continued to be evaluated on assessed information after his release. On 12 August 2021 a further Violent Extremism Risk Assessment was completed, which assessed his risk to be in the High Risk category. 9(2)(a)
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
368. From 17 August 2021, Mr Samsudeen was unable to access any in-person support in the community due to COVID-19 restrictions. His contact with Community Corrections was chiefly by way of reporting to his Corrections staff member by telephone. On 19 August 2021, Mr Samsudeen reported in by telephone. His Corrections staff member said he was not in a good mood.²⁷³ On 26 August, Mr Samsudeen reported in by telephone and was described as being verbally abusive, blaming probation and Police for not approving the return of his laptop. Mr Samsudeen also advised his Corrections staff member that he did not attend his rescheduled 9(2)(a) meeting because of lockdown (after he had rescheduled his initial 9(2)(a) meeting himself)²⁷⁴

²⁶⁷ DRAOR Historical Assessment Report 22 July 2021, completed by Corrections staff member.

²⁶⁸ Community Corrections Complaint Form submitted by Mr Samsudeen, 22 July 2021.

²⁶⁹ DRAOR Historical Assessment Report 29 July 2021, completed by Corrections staff member; DRAOR Historical Assessment Report 5 August 2021, completed by Corrections staff member; DRAOR Historical Assessment Report 12 August 2021, completed by Corrections staff member.

²⁷⁰ The Violent Extremism Risk Assessment 2 Revised (VERA-2R) is an evidence-based risk assessment instrument specifically designed to assess risks related to terrorism and violent extremism.

²⁷¹ Interview with Corrections staff member, 16 December 2021.

²⁷² 9(2)(a).

²⁷³ DRAOR Historical Assessment Report 19 August 2021, completed by Corrections staff member.

²⁷⁴ DRAOR Historical Assessment Report 26 August 2021, completed by Corrections staff member.

369. 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED] [REDACTED]
[REDACTED]
371. On 2 September 2021, Mr Samsudeen made his final report in over the telephone. 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The Corrections staff member described Mr Samsudeen as being demanding and verbally abusive.²⁷⁷ When the Corrections staff member asked Mr Samsudeen why he was wiping history from his cellphone, Mr Samsudeen said he had no condition preventing him from wiping his history.
372. On the morning of 3 September 2021, Mr Samsudeen rang his Corrections staff member to discuss 9(2)(a) [REDACTED]. His Corrections staff member explained the reasons 9(2)(a) [REDACTED] to him. His Corrections staff member [REDACTED] described him as being hostile and abusive.²⁷⁸ 9(2)(a) [REDACTED]
[REDACTED]
[REDACTED]
373. This was Mr Samsudeen's last interaction with Corrections. That afternoon, seven weeks after his release from custody, Mr Samsudeen attacked shoppers at the LynnMall Countdown supermarket. He seriously injured five people with a knife and another person sustained injuries whilst trying to stop the attack. Mr Samsudeen was shot by Police and died at the scene.

²⁷⁵ 9(2)(a) [REDACTED]
²⁷⁶ Direction made in writing under s 49(1)(h) of the Sentencing Act 2002.
²⁷⁷ DRAOR Historical Assessment Report 2 September 2021, completed by Corrections staff member.
²⁷⁸ Northern Region Incident Briefing document, 3 September 2021, and interview with 16 December 2021.
²⁷⁹ Northern Region Incident Briefing document, 3 September 2021, and interview with 16 December 2021.

Appendix 1: The Inspectorate's response to FIANZ's submission

1. The Inspectorate has carefully considered FIANZ's detailed submission made to the three agencies involved in the Coordinated Review.²⁸⁰ The Inspectorate considers it appropriate to comment certain matters that relate to this report, and the Chief Inspector's statutory remit. There are numerous matters contained in the FIANZ submission that fall outside the scope of this investigation or the Inspectorate's areas of expertise or knowledge (for example, chapter 15: "What happened on 3 September 2021").

FIANZ Findings

1: The tragedy was completely avoidable had the NZ Police and Corrections NZ followed the successful rehabilitation and reintegration practices of previous, virtually identical cases.

2. The Inspectorate notes that Corrections has previously dealt with prisoners holding extremist views. However, the circumstances of those prisoners can be distinguished from Mr Samsudeen's case because of the support available to them.
3. An Intelligence Report dated 5 May 2021 detailed a comparative case study analysis of Mr Samsudeen and another subject in terms of the key variables affecting their reintegration prior to their release from prison.²⁸¹ 9(2)(a)

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

²⁸⁰ Federation of Islamic Associations of New Zealand (Inc.) *Uncovering the Tragedy at Countdown, Lynn mall, Auckland: an Evidence-Based Submission*, May 2022.

²⁸¹ Corrections Intelligence Report, 5 May 2021 Comparative Case Study: [other subject] and Ahamed Aathill Mohamed Samsudeen.

²⁸² The Six Pillar Model identifies the areas of intervention that facilitate successful reintegration and lower the risk of reoffending: accommodation; education and training; employment; skills for life; oranga; family/whānau and community support.

5. From the evidence available to the Inspectorate, it is not clear that using similar cases as a blueprint for managing Mr Samsudeen (in custody or in the community) would have resulted in successful rehabilitation or reintegration upon his release into the community.
6. As described at earlier in this report, many of Corrections' rehabilitation courses are designed for convicted and/or sentenced prisoners. However, the Inspectorate has found that Corrections should have taken a broader approach to reintegration options, and planned more actively for his release and reintegration into the community.

9(2)(a)

7: Corrections NZ disregarded its own regulations and guidelines with respect to the treatment of Mr Samsudeen.

8. The Inspectorate has made certain findings in respect to Corrections' shortcomings and/or failings in this report.

9: Mr Samsudeen was a remand prisoner awaiting trial and Corrections NZ wrongly placed him in solitary confinement 9(2)(a).

9. Mr Samsudeen was placed under penalty of cell confinement on occasions when he committed offences whilst in custody at Auckland Prison and/or presented a threat to the health and safety of others (in particular, Corrections staff).²⁸³ Cell confinement in this context means confinement in a cell as a penalty imposed under s 133(3)(c) or s 137(3)(c) of the Corrections Act.²⁸⁴ On other occasions, Mr Samsudeen was placed on directed segregation, or was voluntarily segregated.

²⁸³ "Solitary confinement" in the UN Standard Minimum Rules on the Treatment of Prisons (the Nelson Mandela Rules) GA Res 70/175 (2015) means: "the confinement of prisoners for 22 hours or more a day without meaningful human contact." "Prolonged solitary confinement" means: "solitary confinement for a time period in excess of 15 consecutive days." Under the Corrections Regulations 2005, cell confinement penalties are aligned with the Nelson Mandela Rules.

²⁸⁴ Regulation 3, Corrections Regulations 2005.

10. In respect of a penalty imposed by a hearing adjudicator in relation to offences against discipline,²⁸⁵ a penalty of cell confinement must not exceed 7 days; penalties imposed by a Visiting Justice must not exceed 15 days.
11. Between 2018 and 2021, Mr Samsudeen had a total of 9(2)(a) laid against him for various disciplinary offences. 9(2)(a) were laid in the first half of 2021, arising from an escalation in reported incidents. The Inspectorate notes that Mr Samsudeen was placed under penalty of cell confinement following the conclusion of misconduct proceedings as follows:²⁸⁶

Offence date	Misconduct Offence	Hearing closure date	Penalty of cell confinement
9(2)(a)			

12. The Inspectorate has seen no evidence that the applicable statutory provisions and regulations were not complied with regarding Mr Samsudeen's time in cell confinement.²⁸⁸ It is noted that Mr Samsudeen's first period of cell confinement did not occur until 11 May 2021 following the outcome of a disciplinary hearing against him. His period of cell confinements for hearing of charges on 2 June 2021 were to end on 15 June 2021.

13. 6(c), 6(d), 9(2)(a)

²⁸⁵ Subpart 5 of the Corrections Act.

²⁸⁶ The proceedings were heard by a Visiting Justice, except for the April 2021 charge which was heard by a Hearing Adjudicator (usually a person who holds a senior managerial role at the prison).

²⁸⁷ All penalties of cell confinement imposed on 2 June 2021 were handed down by a Visiting Justice and were served concurrently.

²⁸⁸ Regulations 154 – 157 Corrections Regulations 2005.

6(c), 6(d), 9(2)(a)

14.

6(c), 6(d), 9(2)(a)

10: Corrections NZ was unethical in releasing personal and medical information concerning the deceased and in the process ignoring the basic religio-cultural tikanga of the deceased person.

15. The Inspectorate has expressed the view that certain comments immediately following the death of Mr Samsudeen were premature and unhelpful.

Appendix 2: Chronology of key events

Date	Summary
19.05.2017	Mr Samsudeen is arrested by Police at Auckland International Airport and is charged with possessing objection publications and dishonesty offences.
23.05.2017	Mr Samsudeen is remanded in custody at MECF.
27.05.2017	First File Note related to Mr Samsudeen is created on IOMS.
12.06.2017	At the District Court, Mr Samsudeen enters a not guilty plea to his charges and is remanded in custody.
01.09.2017	Mr Samsudeen declines to meet with Corrections staff member .
01.12.2017	Mr Samsudeen is given a telephone call to volunteer support person from Muslim community.
19.12.2017	Mr Samsudeen's bail application is declined at the High Court due to risk of reoffending on bail.
26.01.2018	Mr Samsudeen is transferred to Waikeria Prison.
19.02.2018	Mr Samsudeen has initial interview with allocated Corrections staff member in East Wing, Waikeria Prison.
27.03.2018	Mr Samsudeen is transferred to Rimutaka Prison.
12.04.2018	Mr Samsudeen requests to see an Imam. No Imam is available for him to see. 9(2)(a)
14.04.2018	Mr Samsudeen requests a Muslim Prayer timetable, and is provided a copy.
25.05.2018	Mr Samsudeen meets with a Corrections staff member as part of drop in clinic for remand prisoners who have not yet been allocated to a Corrections staff member . Mr Samsudeen is not interested in any courses while on remand and he has no address to go to when released.
31.05.2018	9(2)(a)
07.06.2018	Mr Samsudeen is transferred to MECF and requested VPS 9(2)(a) . The request is approved.
25.06.2018	Mr Samsudeen's bail application is declined at the High Court due to risk of reoffending on bail.
29.06.2018	Mr Samsudeen enters guilty pleas to amended charges in the High Court.
29.06.2018	Mr Samsudeen's bail application at the High Court is granted. Mr Samsudeen is released on bail.
09.08.2018	Mr Samsudeen is arrested for possession of objectionable material and possession of weapons charges.
10.08.2018	Mr Samsudeen is remanded in custody at the District Court.
13.08.2018	Mr Samsudeen's bail application is declined at the District Court (no plead is entered to the new charges).

18.09.2018	Mr Samsudeen has initial contact with assigned [Corrections staff member] and declines to be interviewed or take part in case management plan. File notes record that he is suspected of holding extremist beliefs and considered a High Risk Person of Security Interest.
19.09.2018	At the High Court, Mr Samsudeen is sentenced on his older charges to one year of supervision. Mr Samsudeen is directed to attend community-led rehabilitation programmes.
04.12.2018	Mr Samsudeen is seen by a case manager and is referred to Driver's Licence programme.
31.12.2018	Staff recorded in a file note that Mr Samsudeen is "... quiet, compliant, no trouble and will be made unit cleaner soon". An offender Plan for Mr Samsudeen is completed.
16.02.2019	Mr Samsudeen has an altercation with another prisoner. A mediation is conducted between the prisoners. Both are given a warning.
26.03.2019	Mr Samsudeen is interviewed about an incident where he was threatened and verbally abused by three other prisoners. Mr Samsudeen asks to go super segregation and is relocated to another unit.
07.12.2019	Mr Samsudeen is placed on DPC under s 59(1)(b).
18.12.2019	Mr Samsudeen's DPC status is extended for three months.
06.01.2020	Mr Samsudeen makes a PC.01 complaint about Prison Chaplaincy Service.
13.01.2020	Mr Samsudeen is visited by [Contractor] regarding his PC.01. It is acknowledged that there has been inadequate support by [Contractor] for prisoners of all faiths. The complaint response indicates that progress is being made on this issue.
17.01.2020	Mr Samsudeen is moved to Management Unit under DPC to ensure his safety from other prisoners.
22.01.2020	Mr Samsudeen's DPC is revoked.
05.02.2020	The first file note is made indicating that Mr Samsudeen has a behaviour issue and noting that staff are getting fed up with his "demanding attitude".
24.02.2020	Corrections' intelligence disclosure records a concern that Mr Samsudeen is actively encouraging prisoners to follow Islam, because Mr Samsudeen holds extremist views about Islam this is considered to be a risk as "those he engages with may also be encouraged to adopt his extremist interpretation."
26.02.2020	Mr Samsudeen is placed on DPC based risk to his safety from the other prisoners. Mr Samsudeen's file notes record that he is showing compliant behaviour.
28.02.2020	Mr Samsudeen is formally referred to the PERD by Regional Commissioner based on "current intelligence holdings and active charges and overall concern regarding the high extremist risk this person poses".
09.03.2020	File note states that Mr Samsudeen has raised concerns about having no Muslim volunteers at MECF and nothing been done by the [Contractor] on this issue.
13.03.2020	At an operational support meeting, it is agreed that Mr Samsudeen falls under the scope of the PERD but that his placement at MECF is to continue until further indicated charges are laid.
21.03.2020	COVID - Government announces New Zealand is at Alert Level 2.
23.03.2020	COVID – New Zealand moves to Alert Level 3.

26.03.2020	COVID – New Zealand moves to Alert Level 4.
28.04.2020	COVID – New Zealand moves to Alert Level 3.
14.05.2020	COVID – New Zealand moves to Alert Level 2. Mr Samsudeen is interviewed by the Corrections staff member regarding his IR.07 complaint about the Corrections staff member . There was insufficient evidence to support the allegation. Mr Samsudeen is not happy with the outcome and said that he would refer his complaint to the Inspectorate.
08.06.2020	COVID – New Zealand moves to Alert Level 1.
23.06.2020	Mr Samsudeen assaults three staff and is the subject of Use of Force. Mr Samsudeen is placed on directed segregation under s 58(1)(b).
24.06.2020	9(2)(a) [REDACTED]
25.06.2020	9(2)(a) [REDACTED] On return to MECF his is put in management unit.
26.06.2020	Mr Samsudeen is referred by Regional Commissioner for oversight by the PERD at Tier 2 level.
27.06.2020	9(2)(a) [REDACTED]
01.07.2020	Transferred from MECF to Auckland Prison.
06.07.2020	Auckland Prison PD decides to continue Mr Samsudeen's initial segregation. This is approved by the Corrections staff member .
07.07.2020	At MDT Meeting it is noted that: Mr Samsudeen has been compliant with no management issues since his transfer to Auckland Prison; he has been overheard telling other prisoners that he is a terrorist or a member of ISIS; he has been issued a prayer mat and copy of the Quran.
14.07.2020	At MDT Meeting it is noted that: Mr Samsudeen has been reasonably compliant; he has put in an IR.07 complaint allegation against staff; Mr Samsudeen has again asked about the availability of an Imam; he requested copy of a Quran in Arabic; he requested a case manager (it was advised that Auckland Prison do not usually provide remands with a case manager).
15.07.2020	Mr Samsudeen is interviewed by a Visiting Justice regarding his directed segregation status following recommendation for continuation of directed segregation under s 58(1)(b). Decision for continuation is approved by Visiting Justice.
16.07.2020	High Court declines Crown application to charge Mr Samsudeen under the Terrorism Suppression Act.
23.07.2020	Mr Samsudeen contacts Office of the Inspectorate about his directed segregation status.
28.07.2020	Mr Samsudeen makes a verbal request to see an Imam again.
28.07.2020	At MDT Meeting locating an Imam/Muslim volunteer for Mr Samsudeen is discussed.
30.07.2020	Letter from Office of the Inspectorate is sent to Mr Samsudeen regarding his complaint about his directed segregation status. A Principal Inspector advises Mr Samsudeen that

	he was satisfied that the reason for his initial placement on segregation was appropriate in the circumstances, as is the continuation.
04.08.2020	At MDT Meeting it is noted that: Mr Samsudeen said he is happy to remain on remand and 9(2)(a); staff report that Mr Samsudeen is a generally quiet, compliant prisoner.
06.08.2020	Mr Samsudeen calls the Office of the Inspectorate requesting that the Chief Inspector undertake an investigation of his complaints.
12.08.2020	COVID – Auckland Region moves to Alert Level 2.
12.08.2020	At MDT Review Meeting it is noted that: Police are helping to source an Imam.
13.08.2020	Mr Samsudeen is interviewed by Corrections staff member about outcome of his complaints against staff at MECF.
18.08.2020	At MDT Meeting it is noted that: options for Imam to come on site are being followed up, but the process has been slow due to Covid-19 Lockdown.
19.08.2020	At MDT Review Meeting it is noted that Mr Samsudeen has requested to see an Imam.
21.08.2020	File notes indicate around this time there were difficulties placing a call to 9(2)(a) as no one on site at that time spoke 9(2)(a).
28.08.2020	Mr Samsudeen calls the Office of the Inspectorate regarding matters raised in his PC.01.
02.09.2020	At MDT Review Meeting it is noted that unit staff are concerned that Mr Samsudeen is starting to escalate his behaviour.
03.09.2020	At MDT Meeting it is noted that: Mr Samsudeen has been acting out over past week and argumentative with staff; Police have not been able to provide a contact for an Imam; the Intel Manager would see if he could find someone suitable; and “...it may not be suitable for corrections to create an “Engagement Programme” for a prisoner who is remand-accused.”
04.09.2020	Mr Samsudeen is sent a letter from the Inspectorate responding to matters raised in his telephone call. Mr Samsudeen is referred to the previous response dated 11.08.20.
09.09.2020	At MDT Meeting it is noted that Police have not been able to provide a contact for an Imam
14.09.2020	Mr Samsudeen asks again about seeing an Imam.
15.09.2020	At MDT Meeting it is noted that Mr Samsudeen is regularly asking for an Imam; the correction will discuss this with his Muslim contacts.
16.09.2020	At MDT Review Meeting it is noted that Mr Samsudeen continues to ask for an Imam.
23.09.2020	At MDT Review Meeting it is noted that work is underway to get an Imam.
29.09.2020	At MDT Meeting it is noted that Mr Samsudeen has been compliant and easy to deal with; it is suggested that someone from a religious/cultural perspective should be included in the MDT meetings.
30.09.2020	At MDT Review Meeting it is noted that Corrections Intelligence staff member is working with Muslim Association around organising an Imam.
06.10.2020	Visiting Justice approves continuation of directed segregation status.
07.10.2020	COVID – Auckland Region moves to Alert Level 1.

12.10.2020	A meeting is held at Avondale Islamic Centre with representatives from Corrections, Police, and NZMA to discuss the provision of religious instruction for Mr Samsudeen, preparing Mr Samsudeen for community support upon release and creating some social networks.
13.10.2020	At MDT Meeting it is noted that Mr Samsudeen has been compliant and easy to deal with; and that Mr Samsudeen had made a request via a Visiting Justice that he be given a 30 minute call on Fridays rather than 15 minutes, which was to be raised at the Operational Team meeting. [REDACTED] [REDACTED]
14.10.2020	At MDT Review Meeting it is noted that two Imams will visit Mr Samsudeen after being vetted by site for a preliminary engagement.
27.10.2020	At MDT Meeting it is noted that Mr Samsudeen has been compliant with a positive demeanour and no issues; Mr Samsudeen again requested an extension of time for his calls.
28.10.2020	At MDT Review Meeting it is noted that there has been no further communication with the Islamic Centre.
04.11.2020	At MDT Review Meeting it is noted that Mr Samsudeen has been compliant; staff were continuing to try and organise a call with 9(2)(a) [REDACTED]; Mr Samsudeen again requested an extension of time for his calls.
10.11.2020	At MDT Meeting it is noted that Mr Samsudeen has been compliant; staff have not been able to contact 9(2)(a) [REDACTED]; Mr Samsudeen is now permitted 30 minute telephone call with 9(2)(a) [REDACTED].
12.11.2020	Mr Samsudeen discharged without conviction for two of his possession of an offensive weapon charges by the District Court.
23.11.2020	President of NZMA confirmed to Corrections Intelligence staff member [REDACTED] that NZMA was happy to support Corrections in supporting with the rehabilitation process.
24.11.2020	At MDT Meeting it is noted that Mr Samsudeen has been unsettled this week and complaining about having been moved to a new cell due to work being done on his old cell door.
03.12.2020	Mr Samsudeen is visited by an Imam.
08.12.2020	At MDT Meeting it is noted that Mr Samsudeen has been argumentative and difficult with staff; and that Mr Samsudeen's meeting with the Imam seemed positive.
16.12.2020	Mr Samsudeen is asked if he would like to see the Imam again and he refused to engage.
22.12.2020	At MDT Meeting it is noted that Mr Samsudeen has been continually on his cell intercom and has been abusive to staff; his behaviour has 'ramped up' since being placed in Unit [REDACTED] near other prisoners; Mr Samsudeen has declined the offer to have the Imam visit again. 9(2)(a) [REDACTED] [REDACTED]
25.12.2020	Mr Samsudeen is asked by Corrections staff member [REDACTED] if he would like to see the Imam on a regular basis, Mr Samsudeen says he would.
29.12.2020	Mr Samsudeen calls Office of the Inspectorate regarding his allegations against staff and about his misconduct charge.
06.01.2021	A case manager allocated to Mr Samsudeen.

06.01.2021	The Auckland Support Meeting notes that Mr Samsudeen has yet to advise whether he would like to see the Imam again.
12.01.2021	Visiting Justice approves continuation of Mr Samsudeen's directed segregation status.
21.01.2021	Mr Samsudeen is seen by Corrections staff member , who notes he is polite and compliant.
05.02.2021	At Auckland Support Meeting it is noted that Mr Samsudeen is showing challenging behaviour, including abuse towards staff, and keeps changing his mind about engaging with the Imam.
15.02.2021	COVID – Auckland Region moves to Alert Level 3.
15.02.2021	At Auckland Support Meeting it is noted that Mr Samsudeen is causing a large amount of fatigue among staff in the unit due to his behaviour and a staff member is tasked with booking a meeting between Mr Samsudeen and an Imam.
18.02.2021	COVID – Auckland Region moves to Alert Level 2.
18.02.2021	Unable to be seen by Corrections staff member for scheduled appointment due to COVID restrictions.
22.02.2021	COVID – Auckland Region moves to Alert Level 1.
28.02.2020	COVID – Auckland Region moves to Alert Level 3.
01.03.2021	The Imam who previously visited Mr Samsudeen is contacted by email seeking further visit to Mr Samsudeen. No response is received.
02.03.2021	Contractor tries to organise meeting with Mr Samsudeen. When the Contractor arrived at Unit , he learned that Mr Samsudeen was only allowed visits by those approved by senior management. Contractor agrees to organise a meeting between Mr Samsudeen and an Imam, but is later told by unit staff that it is not necessary.
07.3.2021	COVID – Auckland Region moves to Alert Level 2.
12.03.2021	COVID – Auckland Region moves to Alert Level 1.
15.03.2021	Community Corrections MDT meetings commences to discuss release plan going forward for Mr Samsudeen.
15.03.2021	Assigned Corrections Staff meet with Mr Samsudeen to assess further his support needs and discuss support upon release into the community. He is described as initially being polite and friendly but becoming angry, pacing and kicking the door. Mr Samsudeen becomes aggressive 9(2)(a) .
23.03.2021	At the Community Corrections MDT meeting, there is discussion around Mr Samsudeen being released to Masjid Al Maktoum, 9(2)(a) and Police would rather have him in another mosque as it is less crowded.
24.03.2021	Mr Samsudeen refused to see Police to discuss logistics for 17 May trial and pre-release planning.
29.03.2021	At the Community Corrections MDT meeting, it is reported that the Imam has declined to work with Mr Samsudeen and a psychologist will arrange a visit with Mr Samsudeen to discuss his release plan.
01.04.2021	In-depth PERD profile report prepared, identifying that it is possible Mr Samsudeen will reoffend or breach his imposed conditions when released into the community.

12.04.2021	Visiting Justice approves continuation of Mr Samsudeen's directed segregation status.
29.04.2021	Mr Samsudeen is visited a second time by the Imam.
30.04.2021	Mr Samsudeen is seen by 9(2)(a) [REDACTED] Mr Samsudeen did not want to talk 9(2)(a) [REDACTED].
04.05.2021	Mr Samsudeen is seen by his [REDACTED] Corrections staff member, he is described as polite and friendly.
04.05.2021	MSD confirms that Mr Samsudeen is eligible for public housing.
05.05.2021	9(2)(a) [REDACTED] [REDACTED] [REDACTED]
06.05.2021	Referral is completed and sent to MSD for housing availability assessment for Mr Samsudeen upon his release. 9(2)(a) [REDACTED] [REDACTED]
10.05.2021	In Community Corrections Weekly teleconference it is noted that Mr Samsudeen is aggravating others on the unit including senior gang members, due to the continual pouring of urine outside his cell, and Mr Samsudeen is refusing to participate in pre-release planning.
12.05.2021	The PERD referral completed seeking review for tier 3 from tier 2 due to his upcoming trial (limited community support and release plan options) and an escalation in his behaviour. A VERA-2R risk assessment completed, Mr Samsudeen's overall risk is assessed to be in the moderate-high category.
13.05.2021	The [REDACTED] Corrections Intelligence staff member emails NZMA President, advising of the work to find suitable accommodation for Mr Samsudeen on his release. The email notes: "It was a shame he was not willing to engage with the religious and cultural support as we had hoped."
17.05.2021	Mr Samsudeen's jury trial commences and he is moved into PERU under the direct management of the PERD (tier three level).
27.05.2021	Mr Samsudeen is found guilty of two charges under the Films, Videos, and Publications Classification Act and a charge of failing to assist a Police Officer exercising a search power. Mr Samsudeen is remanded in custody.
01.06.2021	An interview with NZ Housing is cancelled and rebooked due to Mr Samsudeen's aggressive behaviour.
02.06.2021	In a Visiting Justice Misconduct hearing Mr Samsudeen receives 60 days loss of privileges and 30 days cell confinement (Mr Samsudeen was required only to serve the maximum period of 15 days cell confinement). Mr Samsudeen became very abusive to the Visiting Justice.
06.06.2021	At the High Court, Mr Samsudeen is remanded in custody on his active charges.
06.06.2021	9(2)(a) [REDACTED] [REDACTED] [REDACTED]
08.06.2021	At MDT Meeting it is noted that since his court case has concluded, Mr Samsudeen has been aggressive and abusive towards staff.

10.06.2021	Mr Samsudeen put on the housing register by MSD, with his eligibility to be based on him applying for the job seeker benefit upon release.
14.06.2021	Mr Samsudeen has expresses willingness to Corrections staff member to reside at Masjid-e-Bilal.
14.06.2021	At Community Corrections Weekly teleconference, it is noted that: there is a potential for a mosque to be short term release accommodation; enquiries being made with 9(2)(a) as an accommodation option; Mr Samsudeen's behaviour is noted to be escalating over the last two days – 9(2)(a)
21.06.2021	Community Probations and Police meet at Masjid-e-Bilal to discuss accommodation support for Mr Samsudeen from the mosque.
22.06.2021	At MDT Meeting it is noted that Mr Samsudeen continues to be hostile and abusive towards staff and other prisoners in the unit and 9(2)(a)
28.06.2021	Mr Samsudeen is visited by his Corrections staff member and 9(2)(a), his fixation with Jihad and other strange behaviour was noted.
29.06.2021	At Community Corrections weekly conference it is noted that Mr Samsudeen is looking forward to release and residing in the mosque with the support person and that over the last 4 – 5 days there has been an improvement in his behaviour, which is attributed to a 9(2)(a)
30.06.2021	9(2)(a) attempts to meet Mr Samsudeen, but he refuses.
02.07.2021	9(2)(a)
06.07.2021	Mr Samsudeen is sentenced to one-year supervision, on standard conditions plus imposed special conditions, including that he is to reside at Masjid-e-Bilal.
06.07.2021	In MDT meeting it is noted that Mr Samsudeen continues to be antagonistic and verbally abusive towards other prisoners and pours urine under his door.
06.07.2021	At Community Corrections weekly conference it is noted that there is an issue of the method of travel when Mr Samsudeen is released from prison, as Mr Samsudeen is refusing Police offer of transport and given his risk assessment Corrections staff were not permitted to transport him.
09.07.2021	9(2)(a)
10.07.2021	Visiting Justice approves the PERD Commissioner's recommendation for Mr Samsudeen to continue on direct segregation under s 58(1)(b).
12.07.2021	File note that records that Mr Samsudeen is anxious about his bail release, asking repeated questions about transport to his address and what his entitlements are.
13.07.2021	Mr Samsudeen appears in at the District Court and is granted bail on his active charges. He is released from Auckland Prison. Mr Samsudeen is transported to accommodation Auckland prison in a public taxi.
19.07.2021	Mr Samsudeen is provided a basic cellphone by probation.
22.07.2021	Mr Samsudeen purchases a cellphone that is capable of internet access after being given probation approval.

12.08.21	A VERA-2R risk assessment completed, Mr Samsudeen's overall risk is increased from 'moderate-high' to 'high'.
16.08.2021	A news article is released in the NZ Herald relating to Mr Samsudeen - <i>"Why Isis supporter who allegedly planned 'lone wolf' attack in Auckland could not be charged as a terrorist"</i> .
18.08.2021	COVID - New Zealand moves to Alert Level 4.
26.08.2021	During meeting with Corrections staff member, Mr Samsudeen is advised that the 9(2)(a) wanted to contact him via telephone as an introductory session. Mr Samsudeen advised that 9(2)(a) When asked about 9(2)(a), Mr Samsudeen said due to lockdown he did not visit them.
31.08.2021	9(2)(a)
01.09.2021	COVID - Auckland Region remains at Alert Level 4. Mr Samsudeen's 9(2)(a)
02.09.2021	9(2)(a)
03.09.2021	9(2)(a) Mr Samsudeen seriously injured five people with a knife at the LynnMall Countdown supermarket in Auckland. Another person sustained injuries whilst trying to stop the attack. Mr Samsudeen is shot by Police and died at the scene.

Appendix 3: Summary of Use of Force Incidents at Mt Eden Corrections Facility, 23 June 2020

On 23 June 2020, Mr Samsudeen was housed in Unit [REDACTED] at MECF. Unit [REDACTED] accommodated prisoners on DPC.

First incident

Mr Samsudeen's management plan allowed for him to spend a minimum of one hour in a yard. Around midday, Mr Samsudeen was released from his cell for his recreation time in Unit [REDACTED].

Mr Samsudeen walked to the shut gate of Yard 1 and told staff that he wanted to be placed in Yard 1 (which is bigger and sunnier than Yard 2). Unit [REDACTED], like similar units, followed a routine where prisoners are not placed in the same yard two days in a row. On 23 June 2020, Yard 1 was reserved for another prisoner. Mr Samsudeen was told that he would be having his recreation time in Yard 2, as he had been in Yard 1 the previous day.

Mr Samsudeen became argumentative and refused to follow staff instructions to move to Yard 2, demanding that he be given his recreation time in Yard 1. Mr Samsudeen was given a lawful order to move back to his cell due to non-compliance.²⁹⁰

When he did not comply, a Corrections staff member [REDACTED] used non-threatening physical contact, putting an open palm on Mr Samsudeen's back, to move him back to his cell. Mr Samsudeen pulled away from the Corrections staff member [REDACTED] in a resistant manner. Staff immediately initiated a spontaneous use of force.²⁹¹ Mr Samsudeen resisted, backed himself into the yard corner and struck out with clenched fists towards staff. In response, several staff restrained him.²⁹² Mr Samsudeen was put on the ground. Handcuffs were applied behind his back.

Mr Samsudeen was escorted to a medical room where he was assessed by a nurse. During the assessment, Mr Samsudeen accused staff of breaking his wrist. 9(2)(a) [REDACTED].

Second incident

Mr Samsudeen was escorted under control and restraint procedures to the Management Unit where his handcuffs were removed, and he was placed in a cell.

Mr Samsudeen allegedly made verbal threats to staff, including stating words to the effect that he was in prison for a terrorist attack.

Two Corrections Staff [REDACTED] remained in the cell talking to Mr Samsudeen. One of the Corrections Staff [REDACTED] sat on the bed, encouraging Mr Samsudeen to sit on the bed with him and talk about what had happened. Mr Samsudeen allegedly lunged towards the second Corrections staff member [REDACTED] who

²⁹⁰ Corrections Act, s 40 requires that prisoners must obey lawful orders given by Corrections officers.

²⁹¹ Corrections Act, s 83 governs the lawful use of force by Corrections officers.

²⁹² Corrections Act, s 87 governs the restraint of prisoners.

was leaning against the cell wall, striking the Corrections staff member with a closed fist on the lip. Before lunging towards the officer Mr Samsudeen allegedly said: 9(2)(a)

A spontaneous use of force was initiated. Mr Samsudeen resisted. Responding staff attempted to restrain Mr Samsudeen, and the staff and Mr Samsudeen went to the floor. During this process, Mr Samsudeen's left arm was broken. On the OBC footage of the incident, a loud crack can be heard at this point. The staff present stopped applying force to his arm.

9(2)(a)

Review of incidents

Having reviewed the relevant footage, contemporaneous records and reviews of the incident, the Inspectorate notes the following:

- Mr Samsudeen was assessed by health staff following both incidents. 9(2)(a)
- 9(2)(a)
- Incident reports and Use of Force reports were appropriately completed.²⁹³ Relevant CCTV and OBC footage of both incidents were retrieved and saved for reviewing.
- An application to segregate Mr Samsudeen was made. He was placed on directed segregation under section 58(1)(b).
- Mr Samsudeen was appropriately interviewed by a manager following the incidents and a complaint was received from him. An IR.07 Allegation against Staff was initiated. The IR.07 Allegation against Staff was monitored by an Inspector from the Office of the Inspectorate. The monitoring Inspector noted that MECF prison management had appropriately investigated and reported the allegation. It was the Inspectorate's view that there was no intent on the part of Corrections' staff to break Mr Samsudeen's arm during the second incident.
- The incident where Mr Samsudeen had sustained an injury to his left arm and his complaint was appropriately referred to Police for their own action.
- Misconduct charges were initiated against Mr Samsudeen in relation to both incidents, but they were not prosecuted. The misconducts were closed on 25 September 2020 due to the exceeded timeframe and Mr Samsudeen's movement to Auckland Prison.

²⁹³

Corrections Act 2004, s 88 relates to reporting on use of force, weapons, and mechanical restraints.

- Use of Force Reviews into both incidents were carried out by an appropriate manager. The reviewer considered both were justified, but noted that the Use of Force could have been prevented and the following lessons came from the incident:
 - The staff members should have given priority to their own safety as Mr Samsudeen had already assaulted two staff members in Unit ;
 - The staff members should have secured Mr Samsudeen inside Cell 11 and disengaged; and
 - The staff members should have given Mr Samsudeen more time to settle down before going back to induct and complete a risk assessment of Mr Samsudeen.

It was recommended that the Corrections staff member have a discussion with the two Correcti for failing to disengage and giving Mr Samsudeen more time to settle down.

- An Event Review was commissioned and carried out by an independent Corrections manager into the spontaneous Use of Force where Mr Samsudeen sustained an injury to his left arm. The key findings of that review included:
 - The two Corrections Staff in the management cell initiated spontaneous Use of Force which is supported by other officers who were in the unit and taken to the ground.
 - A loud crack can be heard on the audio of the OBC footage, with the two Corrections Staff assisted by another officer then continuing to restrain Mr Samsudeen, who continues to resist.
 - The Corrections staff member who had been assaulted restrained Mr Samsudeen's left arm for approximately four more minutes. While the Corrections Staff engagement in this period came from a care perspective, this was not considered best practice and could have presented an unintended risk to Mr Samsudeen.
- The Inspectorate also asked the Corrections staff member to review the incident. The key findings of that review included:
 - The force used and the techniques applied by the Officers during the first incident were approved holds and techniques taught by Corrections.
 - The movement of Mr Samsudeen from Golf Unit to the medical area and the subsequent cell where the second use of force incident occurred did not follow best practice. However, at times during the escort Mr Samsudeen was allowed to walk unaided, which does demonstrate best practice. Once a prisoner has had mechanical restraints applied then all controlling holds should be released, and they should be given the opportunity to comply and walk without holds being applied.
 - The second incident in the management unit cell could have been avoided if the officers had left Mr Samsudeen alone and given him opportunity to calm down before trying to talk with him. While the officers were trying to speak with Mr Samsudeen and calm him down, Mr

Samsudeen continued to show signs of being visibly upset and aggressive when suddenly he struck out at the Corrections staff member .

- A spontaneous use of force occurred. A struggle ensued and the Corrections staff member took hold of Mr Samsudeen's left arm when they fell to the ground. Mr Samsudeen fell onto the Corrections staff member . It appears that Mr Samsudeen's arm was wrapped around the Corrections staff member upper body. As the Corrections staff member rotated his body and got to his knees, holding Mr Samsudeen's arm, a lot of pressure was put on the arm. It was the observation of the Corrections staff member that it was during this movement that Mr Samsudeen arm was broken.
 - As soon as the Principal Corrections Officer announced that he believed Mr Samsudeen's arm was broken, staff released all holds and call for medical assistance. It was the Corrections staff member opinion that there was not a deliberate intent or act to try and break Mr Samsudeen's arm. The break was caused by the Corrections staff member holding onto Mr Samsudeen's arm while the Corrections staff member was getting to his knee and the force that was subsequently applied to the arm.
- The Inspectorate reviewed CCTV and OBC footage of both incidents:

Incident Unit - brief overview:

- At approximately 12:00 pm Mr Samsudeen walked across Unit to Yard 1 with staff seen attempting to direct him to Yard 2.
- A Corrections staff member immediately talked with Mr Samsudeen and instructed him that his time out is in Yard 2 and not Yard 1. Mr Samsudeen argued and demanded that he be given his time out in Yard 1.
- At approximately 12:04:25 following multiple requests and refusal to follow instructions, Mr Samsudeen was given a lawful order to move back to his cell due to non-compliance. Upon refusing to move back to his cell, the Corrections staff member placed his palm on Mr Samsudeen's back to move him back towards his cell. Mr Samsudeen immediately pulled away from the Corrections staff member in a resistant manner. A spontaneous use of force was immediately initiated by staff with Mr Samsudeen resisting in an enduring struggle until he was taken to the ground by staff using control and restraint techniques.

Incident Management Cell - brief overview

- At approximately 12:30:10 Mr Samsudeen walked freely into the management cell.
- CCTV footage of the management cell incident showed the time was 12:33:44 when Mr Samsudeen lunged towards the Corrections staff member . A spontaneous use of force occurred immediately.
- At approximately 12:33:57 Mr Samsudeen and responding officers fell to the ground while they were attempting to restrain Mr Samsudeen. Mr Samsudeen struggled and resisted. The

Corrections staff member holding Mr Samsudeen's left arm fell to the ground, with Mr Samsudeen and other responding officers fell on top of him.

- At approximately 12:34:04, the Corrections staff member struggled to lift himself off ground beneath Mr Samsudeen and attempted to stand-up while holding onto Mr Samsudeen's left arm. This is when Mr Samsudeen apparently sustained the injury to his left upper arm.
- Immediately, the Corrections staff member loosened his restraint grip on Mr Samsudeen's left arm and placed his arm down Mr Samsudeen's left-hand side, while supporting Mr Samsudeen's left arm. Another Corrections staff member continued to hold Mr Samsudeen's right arm in a restraint position behind his back after Mr Samsudeen was placed on ground in a face forward position. Mr Samsudeen was held in this position until the arrival of health staff in cell at approximately 12:36:40.
- Police carried out an investigation into the second incident. Police charged Mr Samsudeen with a number of offences against Corrections staff. The charges were set down to be heard in October 2021. 9(2)(a) and Corrections had responded to requests for information. Mr Samsudeen was also given the opportunity to view the CCTV and OBC footage of the incidents.

Appendix 4: Summary of incidents in custody

Prison	Date and time	Incident
9(2)(a)		

9(2)(a)



9(2)(a)



9(2)(a)



9(2)(a)



9(2)(a)



Embargoed until noon Wednesday 14 December

Appendix 5: Summary of Mr Samsudeen's complaints while in custody

Category	Total	Location
Communications	9	6 Auckland Prison 1 MECF 1 Rimutaka Prison 1 Waikeria Prison
Food services	2	2 Auckland Prison
Health Services	3	2 Auckland Prison 1 MECF
Misconduct	1	1 Auckland Prison
Other	7	7 Auckland Prison
Personal and official visitors	1	1 Auckland Prison
Prison Conditions	7	6 Auckland Prison 1 MECF
Prisoner management	1	1 Auckland Prison
Prisoner property	1	1 Auckland Prison
Prisoner requests	11	9 Auckland Prison 1 Waikeria Prison 1 MECF
Prisoner welfare	1	1 MECF
Recreation, exercise and sport	1	1 MECF
Sentence management	1	1 Auckland Prison
Staff conduct and attitude	86	67 Auckland Prison 16 MECF 3 Waikeria Prison
Total	132	

Appendix 6: Summary of Mr Samsudeen's health care records in custody

This is a summary of Mr Samsudeen treatment and interactions for his main health issues in custody. Mr Samsudeen submitted regular Health Request Forms (HRF) and received care for a variety of other minor health concerns.

Date	Narration
9(2)(a)	

9(2)(a)



9(2)(a)



Embargoed until noon Wednesday

Appendix 7: Corrections' COVID-19 operational response framework

Level 4

Only statutory visitors at the approval of the Chief Executive were permitted.²⁹⁴ All other visits including legal visits were stopped.

Level 3

The following were stopped:

- All non-essential workers.
- All visits, including legal.
- Non-essential prison transfers.
- Face-to-face staff activities, such as case management and sentence planning (continued through remote means).
- Prison Industries (non-critical).
- Face-to-Face Programmes.
- Statutory visitors were advised not to attend prisons.

Level 2

The following were stopped:²⁹⁵

- All volunteers/counsellors.
- Temporary Release.
- Guided Release.
- Non-essential temporary removal.
- Release to Work.
- Researchers.
- Non-critical training.

²⁹⁴ V.02.Res.03 POM: Statutory visitors include but are not limited to: an outside agency (e.g. Ombudsman); a security monitor, the Minister for Corrections; the Chief Executive; a Member of Parliament; a Justice of the Peace; a Visiting Justice.

²⁹⁵ Legal and other statutory visits were maintained.

- Contractors and visitors (project work).
- Non-essential maintenance workers.
- Domestic visits.

Embargoed until noon Wednesday 14 December 2022