

Separation and Isolation

Thematic Report

Prisoners who have been kept apart from the prison population



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Office of the Inspectorate

Te Tari Tirohia

Our whakataukī

Mā te titiro me te whakarongo ka puta mai te māramatanga

By looking and listening, we will gain insight

Our vision

That prisoners and offenders are treated in a fair, safe, secure and humane way.

Our values

We acknowledge the values of Ara Poutama Aotearoa (the Department of Corrections): **rangatira** (leadership), **manaaki** (respect), **wairua** (spirituality), **kaitiaki** (guardianship) and **whānau** (relationships).

Office of the Inspectorate values:

Respect	We are considerate of the dignity of others
Integrity	We are ethical and do the right thing
Professionalism	We are competent and focused
Objectivity	We are open-minded and do not take sides
Diversity	We are inclusive and value difference



Foreword

Since my appointment I have been concerned about how prisoners in New Zealand are managed when they are kept apart, for a variety of reasons, from the prison population.

The effects of segregation, solitary confinement, isolation, separation, and any other form of restrictive imprisonment, however this is described, demands the closest of scrutiny by oversight agencies.

Some of the most significant concerns identified include difficulty in accessing reliable data about prisoners who are segregated or unable to associate for any other reason, poor record-keeping, inadequate levels of clinical involvement in placement and ongoing segregation decisions, and the absence of a robust assurance framework for segregated and at-risk prisoners. The consequences of these factors ultimately lead to my lack of confidence in the current system. I have squarely addressed these concerns in my report.

This is not a challenge unique to New Zealand and segregation is, and ought properly to be, a concern for jurisdictions across the world. This report will be of interest domestically and also to international audiences, given New Zealand's obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The work the Office of the Inspectorate | *Te Tari Tirohia* has undertaken in recent years has provided me with valuable insights from the lived experience of staff, prisoners, their family and whānau; and key external stakeholders with knowledge and experience of 'closed environments' and the profound and potentially long-lasting physical and psychological effects on prisoners. I trust this report is testament to my commitment to inquire into this important area.

This report is a call to action to refresh, redesign and reimagine relevant policies, procedures and practices that operate in New Zealand's correctional landscape when managing individuals who need to be separated from the prison population.

However, I recognise that change will take time. Prison environments cannot change easily, or without significant financial investment. Policies need care in their design, and staff must be supported with changes to practices and expectations of them. The first step is the willingness to change because the need for change is acknowledged to be compelling, moral and humane.

I want to acknowledge the assistance provided by Gareth Jones, an international investigative specialist and former Director of the Special Ombudsman Response team at the Office of the Ombudsman of Ontario. His experience and guidance during this investigation has been invaluable.

I acknowledge also Jeremy Lightfoot, Chief Executive of the Department of Corrections | *Ara Poutama Aotearoa*, for his support, open mind and willingness to embrace necessary change.

I intend to publicly report on Corrections' progress on the recommendations and areas for consideration at appropriate periodic intervals.



Janis Adair
Chief Inspector of Corrections

Executive Summary

This report is the outcome of a thematic inspection by the Office of the Inspectorate | *Te Tari Tirohia* into the management of prisoners who have been separated from the prison population and who are unable to mix with others. As part of this investigation the Inspectorate visited all 18 prisons. We interviewed prisoners and staff, and reviewed segregation directions, management plans and other documentation, for the period 1 October 2020 to 30 September 2021.

Over this time approximately 5,655 prisoners experienced a period during which they were unable to associate with other prisoners – 29% of the total number of individuals held in prison during that time. These prisoners had been separated from the mainstream population for a range of reasons, including:

- » to keep the prisoner safe from other prisoners
- » to keep staff and other prisoners safe from the prisoner
- » as a penalty for a disciplinary offence
- » because of the prisoner's mental and physical health, including being at risk of self-harm
- » as part of the response of the Department of Corrections | *Ara Poutama Aotearoa* to the COVID-19 pandemic.

We found that when prisoners had been unable to associate with other prisoners, for any reason, their opportunities for social interaction were generally limited. The physical environment in which these prisoners were housed was likely to be restrictive, and they had little to do. We found that many of these prisoners would likely have experienced solitary confinement, as that term is defined in the Mandela Rules, and some prisoners would have experienced this for a number of months or years.

We have made seven overarching recommendations. These include that Corrections must recognise the profound extent of the isolation experienced by these prisoners, and do more to mitigate it. Accurate data must be collected for all prisoners who are unable to associate, and Corrections must report on this data annually. We have recommended that Corrections implement an assurance framework for prisoners who are confined by themselves, to be led by a senior responsible officer, and that Corrections reports back on progress on our recommendations and areas of consideration in six months and thereafter at six monthly intervals.

We have also recommended that Corrections reviews its response to the COVID-19 pandemic, to ensure that learnings are applied in the event of any future pandemic or any other time prison access is restricted for a prolonged period.

In addition to our overarching recommendations, we have suggested 59 areas for Corrections' consideration, grouped under the following headings:

- » opportunities for social interaction
- » the physical environment for prisoners unable to associate

- » the lack of things to do for prisoners unable to associate
- » data collection
- » the individualisation of management plans
- » the statutory purposes of segregation
- » the oversight of at-risk cells
- » ending a prisoner's period of isolation
- » segregation documentation and processes
- » training and staffing
- » COVID-19 pandemic response measures
- » use of force.

Recommendations and areas of consideration

Overarching recommendations

1. Corrections must recognise the profound isolation experienced by segregated and at-risk prisoners, including that many are likely to be subject to solitary confinement as that term is defined by the Mandela Rules.
2. Corrections must do more to mitigate the extent of the isolation experienced by such prisoners, especially where that isolation is beyond 15 days. Prisoners who are segregated or placed in at-risk cells must be provided with opportunities for meaningful human interaction, with more to do and access to programmes and education to prepare them for release into the community.
3. Corrections must collect accurate data for all prisoners who are unable to associate, for whatever reason. It must be able to easily identify the number of prisoners unable to associate across the prison network at any one time, and the number of prisoners who have been unable to associate for an extended period.
4. Corrections must, at pace, develop and implement a robust assurance framework for prisoners who are segregated or assessed as at risk of self-harm. This assurance framework must be led by a dedicated and independent senior responsible officer with network-wide responsibility reporting to the Chief Executive and Corrections' Audit and Risk Committee. The senior responsible officer must have sufficient suitably qualified staff, with relevant custodial and clinical expertise, independent from Corrections' operations, to discharge their functions including regularly auditing all relevant data and records to assure accuracy and integrity of record-keeping and compliance with statutory requirements.
5. Corrections must report publicly in its Annual Report, on an anonymised basis, the number of occasions, duration and unique individuals who have been managed as segregated or at-risk during their period of imprisonment. This should set out information including, but not limited to, age, gender, ethnicity, physical or intellectual disability or other vulnerability, including pregnancy, and instances of self-harm during period of segregation or death.
6. Corrections must review its response to the COVID-19 pandemic to ensure learnings (particularly in relation to the quarantine of prisoners, the impacts of the restrictions of isolation, lack of contact with family and whānau, access to healthcare, and access

to meaningful and constructive activities) are planned for in the event of a future pandemic, or other significant and prolonged restrictions on access by family and whānau, lawyers and other professionals and volunteers.

7. Corrections must report back on progress on the recommendations and areas of consideration in six months and thereafter at six monthly intervals. The Office of the Inspectorate will report on progress publicly at periodic intervals.

Areas of consideration

Opportunities for social interaction

1. Corrections should consider the quality of staff interactions with segregated and at-risk prisoners, to focus on ensuring regular meaningful human interaction.
2. Corrections should consider reviewing whether the daily prison director visits for segregated prisoners required by regulation 56 are occurring at all sites, and whether the purpose of these visits is clearly understood.
3. Corrections should consider the use of Separates cells that are physically distant from a staff base, and the impact this distance has on the opportunity for staff interactions with prisoners.
4. Corrections should consider how the use of individual yards attached directly to the rear of cells reduces opportunities for interaction between staff and prisoners.
5. Corrections should consider opportunities for providing more unlock time for prisoners in Intervention and Support Units, and whether ISU regimes unnecessarily restrict prisoners' opportunities for social interaction.
6. Corrections should consider the placement of youth and young adult prisoners in management units and ISUs, and the impact such restrictive environments are likely to have on these prisoners.
7. Corrections should consider improving prisoners' access to telephones, so they have better engagement and connectedness to their social supports.
8. Corrections should consider offering to contact family or whānau members when a prisoner is segregated, to ensure they are alerted to the change in circumstances for the prisoner.
9. Corrections should consider the quality of interactions with prisoners when face-to-face engagement is limited due to custodial staff availability, in particular for health staff and case managers.
10. Corrections should consider whether default regimes requiring high numbers of custodial officers to be present to unlock prisoners are always necessary for the safety of staff, given the impact this has on clinical staff needing to engage with prisoners face-to-face.
11. Corrections should consider providing greater access by

volunteers, chaplains and cultural advisors to prisoners who have limited opportunity for social interaction.

The restrictive physical environment

12. Corrections should consider the use of specialised units for vulnerable prisoners who have not been assessed as at risk of self-harm but are likely to find a mainstream unit challenging.
13. Corrections should consider having clinical staff based in the ISUs and leading the care and management of prisoners there.
14. Corrections should consider the use of anti-ligature bedding and clothing in ISUs, especially for prisoners who have not been assessed as at risk of self-harm.
15. Corrections should consider the placement of prisoners in cells with cameras where the prisoner has not been assessed as at risk of self-harm.
16. Corrections should consider the use of segregation directions to support the placement of prisoners in a dry cell where the statutory requirements for segregation have not been established.
17. Corrections should consider whether prisoners in management units are being provided with appropriate items to keep their cells clean, and have adequate provision of toilet covers and shower curtains.
18. Corrections should consider whether segregated and at-risk prisoners are able to see a clock and are provided with relevant information about daily unit routines.
19. Corrections should consider whether prisoners are able to access fresh air and sunlight in all yards in management units, ISUs and any Separates or at-risk cells outside those units.
20. Corrections should consider reviewing the use of Separates cells that require prisoners to shower outside.
21. Corrections should consider reviewing the facilities in ISUs to ensure that strip searches are not conducted in areas covered by CCTV cameras.

Things to do in the management units and ISUs

22. Corrections should consider providing more variety of purposeful activities to segregated and at-risk prisoners in their cells, particularly for prisoners with limited literacy.
23. Corrections should consider reviewing the exercise opportunities available in the yards in management units and ISUs.
24. Corrections should consider how to ensure that prisoners have adequate time to make telephone calls and clean their cells separately from their one hour of physical exercise.
25. Corrections should consider how to ensure that prisoners are not denied access to rehabilitative and educational programmes simply because they are subject to a segregation direction.
26. Corrections should consider implementing a process to prompt staff interventions for prisoners who consistently decline to leave

their cells.

Prisoners who are unable to associate because of a site-specific practice

27. Corrections should consider how to ensure compliance with section 57 of the Corrections Act, including the provision of ongoing training for staff on the statutory requirements for restricting a prisoner's ability to associate.

Management plans

28. Corrections should consider how to ensure that management plans are individualised to the specific prisoner, inform prisoners of the behaviours they need to demonstrate for the segregation direction to be revoked, and are updated during a prisoner's period of segregation.
29. Corrections should consider how to ensure that management plans in ISUs include relevant health information that informs custodial staff about the individual health needs of the prisoners they are managing.

The purpose of segregation

30. Corrections should consider how to ensure that segregated prisoners are not being managed in ways that reflect a punitive response to prisoner wrongdoing, including by providing training to staff in the management units about the purpose of segregation.
31. Corrections should consider how to ensure that the misconduct regime is adequately resourced, and that where a segregation direction is made in response to an incident for which a misconduct charge is appropriate, the misconduct process is completed so prisoners do not experience segregation as the only response to wrongdoing.

The at-risk regime

32. Corrections should consider reviewing the at-risk regime, including whether it is appropriate for prisoners who are in an at-risk cell for more than a short period of time, and for those prisoners waiting for a hospital bed.
33. Corrections should consider reviewing the guidance in the Prison Operations Manual on the use of segregation directions for at-risk prisoners.
34. Corrections should consider whether a statutory mechanism is needed that would trigger a review of the management of an at-risk prisoner, and provide regional and national oversight for prisoners who have been in an at-risk cell for an extended period.
35. Corrections should consider reviewing the training for health centre managers on the application and management of the at-risk regime and section 60 segregation directions.

Transitioning out of the management units and ISUs

36. Corrections should consider what practices can best assist prisoners to transition out of a management unit into a

mainstream unit.

37. Corrections should consider what, and how, information about the care and specific needs of prisoners transitioning out of ISUs is provided to custodial staff in receiving units.
38. Corrections should consider how to ensure that segregation directions are kept under review, and segregated prisoners are not routinely held in management units for 14 days.
39. Corrections should consider how to ensure that practices across the prison network for extending segregation are consistent, including that behaviour at the end of the initial segregation period is taken into account.
40. Corrections should consider how to ensure that directed protective custody directions are not used to continue segregating prisoners if the direction is not otherwise satisfied.

Segregation documentation and processes

41. Corrections should consider streamlining the segregation process, including developing simpler documentation, that can be accessed and decisions authorised electronically.
42. Corrections should consider ensuring that all sites have a designated senior responsible officer accountable for the segregation documentation.
43. Corrections should consider how to ensure that all prisoners receive copies of their segregation documentation.
44. Corrections should consider how to ensure that where a segregated prisoner is transferred, the receiving prison does not continue the segregation direction.
45. Corrections should consider how to ensure that health staff are always notified when a prisoner is segregated and review the health records for any segregated prisoner.
46. Corrections should consider how to ensure that the health centre manager's report is included in any application for section 60 segregation directions.
47. Corrections should consider whether section 60 segregation directions should include a statutory mechanism to trigger a review after a set period.
48. Corrections should consider whether assistant health centre managers should have a formal delegation to make recommendations to support section 60 segregation directions.
49. Corrections should consider whether the establishment of a dedicated whole of Corrections Segregation Review Panel, operationally independent from sites and regions, would provide a more robust platform for Corrections on the use of segregation and at-risk regimes across the prison network.

Training and staffing

50. Corrections should consider providing training to custodial staff in management units and ISUs on behavioural management and mental health and disability presentations.
51. Corrections should consider specific training on segregation to

all custodial staff in management units.

52. Corrections should consider how to assign specifically selected and suitably experienced staff to the ISUs.
53. Corrections should consider reviewing the training provided to health centre managers about their legislative responsibilities.
54. Corrections should consider reviewing the responsibilities and roles of the ISPT and health staff to ensure that health centre managers are able to comply with their legislative responsibilities.
55. Corrections should consider how to ensure that only clinical staff conduct welfare checks.

COVID-19-response measures

56. Corrections should consider how to keep under review all restrictions introduced to manage the risk of COVID-19 in prisons.
57. Corrections should consider how to support sites to return to the business as usual operating framework, as COVID-19-related restrictions ease.

Use of force

58. Corrections should consider whether there are any issues arising from male custodial officers applying control and restraint procedures to female prisoners when female staff are present.
59. Corrections should consider how to ensure that when handcuffs are used, the decision must be made specific to that individual and the circumstances.

NORTHERN REGION

- A. Northland Region Corrections Facility
- B. Auckland Prison
- C. Mt Eden Corrections Facility
- D. Auckland Region Women's Corrections Facility
- E. Auckland South Corrections Facility

CENTRAL REGION

- F. Spring Hill Corrections Facility
- G. Waikeria Prison
- H. Tongariro Prison

LOWER NORTH REGION

- I. Whanganui Prison
- J. Hawkes Bay Regional Prison
- K. Manawatu Prison
- L. Rimutaka Prison
- M. Arohata Prison

SOUTHERN REGION

- N. Christchurch Men's Prison
- O. Christchurch Women's Prison
- P. Rolleston Prison
- Q. Otago Corrections Facility
- R. Invercargill Prison



Introduction

1. In the year to 30 September 2021 approximately 29% of New Zealand prisoners (5,655 individuals) were for a period separated from the prison population, and were unable to mix with other prisoners. We have found that many of these prisoners would likely have experienced “*solitary confinement*” as that term is defined in the Mandela Rules – more than 22 hours a day without “*meaningful human interaction*”. We also found that such prisoners were managed in restrictive physical environments that provided limited sensory stimulation, and that the prisoners had little to do.
2. Solitary confinement is a legitimate tool of prison management. However, where a prisoner’s opportunity for social interaction is limited for an extended period, there is a risk that the prisoner may experience insufficient meaningful human interaction to sustain their health and wellbeing.¹ For this reason, the Mandela Rules prohibit solitary confinement in excess of 15 days.²
3. Most prisoners in New Zealand prisons who are unable to associate will experience this for fewer than 15 days. However, we found there were a significant number of New Zealand prisoners who were unable to associate for longer periods, sometimes for a number of months and in some cases in excess of a year.
4. There is a body of international literature about solitary confinement that has identified a range of psychological and physical effects from isolation, including lethargy, impaired concentration, depression, anxiety, panic attacks, anger and irritability, perceptual distortion, and paranoia.³ The World Health Organisation has

¹ The Istanbul Statement on the Use and Effects of Solitary Confinement, adopted on 9 December 2007 at the International Psychological Trauma Symposium at Istanbul, states that “[t]he central harmful feature of solitary confinement is that it reduces meaningful social contact to a level of social and psychological stimulus that many will experience as insufficient to sustain health and well being”.

² This reflects Juan E Méndez’s conclusion in his *Interim Report by the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* A/66/268 (5 August 2011), that “15 days is the limit between ‘solitary confinement’ and ‘prolonged solitary confinement’ because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible” (at [26]).

³ Organisation for Security and Co-operation in Europe: Office for Democratic Institutions and Human Rights *Guidance Document on the Nelson Mandela Rules* at 105; Penal Reform International Head Office & Human Rights Centre University of Essex *Essex paper 3: Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules* (February 2017) at 86; Sharon Shalev *A sourcebook on solitary confinement* (2008) at 15; Peter Scharff Smith “The effects of Solitary Confinement on Prison Inmates: A brief history and review of the literature” *Crime and Justice* 34 (2006) 441, at 488ff; Stuart Grassian “Psychiatric Effects of Solitary Confinement” *Journal of Law & Policy* 22 (2006) 326. On the physical health effects of solitary confinement, see Louise Hawkey “Social Isolation, Loneliness and Health” in Jules Lobel (ed) *Solitary Confinement: effects, practices and pathways towards reform* (2020); Justin Strong et al “The body in isolation: the physical health impacts of incarceration in solitary confinement” *PloS One* 15 (2020).

observed: *"The majority of suicides in correctional settings occur when an inmate is isolated from staff and fellow inmates. Therefore, placement in segregation or isolation cells for necessary reasons can nevertheless increase the risk of suicide."*⁴ Because so much of an individual's sense of self is socially constructed, the limited opportunities for social interaction can make it challenging for prisoners to maintain their sense of self.⁵ Prisoners can become institutionalised, and may find it challenging to socialise when the period of social isolation ends, or may adopt a 'them and us' mentality, leading to an increase in violence.⁶ What we observed during our site visits and interviews was generally consistent with much of this literature: prisoners spoke about the difficulty of not being able to talk to someone and externalise their thoughts, the challenges of socialising after a period of isolation, and the lethargy experienced.

5. Physical effects of isolation include symptoms such as headaches, heart palpitations and increased heart rate, abdominal and muscle pains, poor appetite, insomnia, and aggravation of pre-existing medical conditions. Within New Zealand prisons, isolation of some prisoners has resulted in them having clinically low vitamin D levels and has required prescribed medication to supplement this.⁷
6. Isolated prisoners are also less likely to be able to engage in rehabilitation and education programmes. This makes it more challenging for prisoners to reintegrate into the community upon release, and may make it more difficult for prisoners to demonstrate progress in any application for parole.⁸
7. Given the impact of solitary confinement, accurate record-keeping for all those prisoners separated from the prison population is vital.⁹ The records kept by Corrections did not enable us to ascertain accurately how many prisoners were unable to associate, nor how many of those prisoners would have been by themselves in excess of 15 days.

⁴ World Health Organisation: Department of Mental Health and Substance Abuse *Preventing Suicide in Jails and Prisons* (2007) at page 16.

⁵ Craig Haney *"Mental Health Issues in Long Term Solitary and 'Supermax' Confinement"* Crime & Delinquency 49 (2003) at 139.

⁶ Craig Haney *"Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement"* Crime & Delinquency 49 (2003) 124, at 140: *"the deprivations, restrictions, the totality of control, and the prolonged absence of any real opportunity for happiness or joy fills many prisoners with intolerable levels of frustration ... Some occupy this idle time by committing themselves to fighting against the system ..."*.

⁷ Vitamin D is essential for healthy bones and muscles, and reducing the risk of cardiovascular disease. The body creates vitamin D from direct sunlight on the skin when outdoors. Some foods provide vitamin D, however, this provides only about 5-10% of vitamin D requirements.

⁸ See User Voice & Queen's University Belfast's report *Coping with Covid in Prison: the impact of the prisoner lockdown* (June 2022) and the discussion of the halting of rehabilitation programmes, at 58 and 59.

⁹ For a discussion of the importance of good record-keeping for segregated prisoners, see the report of the Ontario Ombudsman *Out of Oversight, Out of Mind*, April 2017.

8. There has been some (inconclusive) discussion in the international law jurisprudence and journal articles that solitary confinement may, in some circumstances, contravene the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on the basis that it might amount to cruel or inhuman treatment of prisoners.¹⁰ Were this accepted, New Zealand could have obligations to report under the Convention.¹¹

The purpose of this thematic inspection

9. At the outset of this thematic inspection, we intentionally set terms of reference that included any situation in which prisoners were unable to associate, whether or not a segregation direction had been made. This ensured that the scope of the review included prisoners who were unable to associate after they had been assessed as at risk of self-harm, or subject to a penalty of cell confinement, which do not require a segregation direction under the Corrections Act.
10. Most prisoners who have been segregated at their request under section 59(1)(a) (voluntary segregation) are outside the scope of this review, as they are generally able to associate with other voluntarily segregated prisoners.¹²
11. The terms of reference include consideration of use of force. We deliberately restricted this part of the review to use of force as it applies to prisoners who are unable to associate. Framing it in this way helped to keep the scope of the investigation coherent and manageable, as segregation (and other like regimes) and use of force are each large and important subjects. It is likely that use of force will be the subject of a separate thematic inspection in due course.
12. The terms of reference for this review included:
 - » the practices and procedures of each prison
 - » the experience and treatment of prisoners
 - » the environment in which prisoners experience isolation
 - » the access of such prisoners to health care, including mental health care, trauma counselling and wellbeing support
 - » staff training for prisoners who are unable to associate

¹⁰ Juan E Méndez *Interim Report by the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* A/66/268 (5 August 2011) at [60]; *Torture and other cruel, inhuman or degrading treatment or punishment* (Note by the Secretary-General) A/66/268, at [81]; Committee against Torture *General Comment No 20*, at [6]; Article 7, at [6]: “prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7”; *Resolution adopted by the General Assembly on 18 December 2013 A/RES/68/156*, at [28].

¹¹ See the Committee against Torture *General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted by States Parties under Article 19, paragraph 1, of the Convention*.

¹² However, in rare cases a voluntarily segregated prisoner may be unable to associate with anyone else.

- » compliance with the relevant legislation and policies.
13. Like all our prison inspections, our review was guided by four key principals:
- » **Safety:** prisoners are held safely.
 - » **Respect:** Prisoners are treated with respect for human dignity.
 - » **Rehabilitation:** Prisoners are able, and expect, to engage in activity that is likely to benefit them.
 - » **Reintegration:** Prisoners are prepared for release into the community and helped to reduce their likelihood of re-offending.

Inspection process

14. In order to gain the most complete and accurate picture as to how prisoners become isolated, and what the management of such prisoners looks like in practice, the Inspectorate decided at the outset to conduct site visits of all 18 New Zealand prisons (excluding the Prisoners of Extreme Risk Unit, which was outside the scope of this review). This is the first time the Inspectorate has visited all 18 prisons as part of a single review.¹³
15. Inspectors visited the 18 prisons between 11 January and 30 June 2022. Six inspectors were involved, including a Principal Clinical Inspector and clinical inspectors.
16. Prior to the site visits, data for the period 1 October 2020 to 31 October 2021 was analysed and a sample of prisoners eligible for interviews was identified. At some sites further prisoners were identified, usually because they were segregated or in an at-risk cell at the time of our visit. The data was also analysed to identify any prisoners subjected to use of force immediately prior to being placed on segregation or while subject to a segregation direction.
17. Individuals who agreed gave consent for their information to be included in a report that would later be released and publicly available, and were informed that they could withdraw from the interview at any time. This report includes quotes from the prisoners we met and spoke with for this thematic inspection. Personal details have been anonymised.

¹³ Previous reports have raised concerns about solitary confinement in New Zealand prisons, although not in the context of an inspection of all prisons. The New Zealand Office of the Ombudsman has commented that “prisoners assessed as at risk and managed in safe cells are essentially in solitary confinement”: see *A question of restraint - Care and management for prisoners considered to be at risk of suicide and self-harm: observations and findings from OPCAT inspectors* (2017) at page 16. That report focussed on inspections at five prison sites (Arohata, Manawatu, Rolleston, Invercargill and OCF) and additional visits to five other sites. In *Final report on an unannounced inspection of Auckland Prison under the Crimes of Torture Act 1989* (2020) the Office of the Ombudsman observed that the management of some prisoners at Auckland Prison contravened the prohibition in the Mandela Rules against prolonged solitary confinement, at page 11. For her report on seclusion in New Zealand centres of detention, *Thinking Outside the Box? A review of seclusion and restraint practices in New Zealand* (2017) commissioned by the New Zealand Human Rights Commission, Dr Sharon Shalev visited 13 centres of detention including eight prisons. In her more recent report *First, Do No Harm: Segregation, restraint, and pepper spray use in women’s prisons in New Zealand* (2021), Dr Shalev focussed on prisoners at ARWCF.

18. Inspectors formally interviewed 138 prisoners. A number of national, regional and prison-based staff were also interviewed, as well as stakeholders in the community.

Case studies

19. The following case studies are based on interviews with prisoners who had experience of being separated from other prisoners. We have used case studies to illustrate various elements of this thematic inspection.

Case study 1

We spoke to a prisoner who had been segregated because of her behaviour and mental health. She was unable to mix for around three months during a ten month period.

She talked to us about her typical day while segregated. She would have breakfast at around 7.30am. At around 10.00am she would see a nurse and the Principal Corrections Officer of the unit, who came to *"see how I am"*. She would then be taken to the shower, before returning to her cell to be locked up.

The prisoner said she had few activities and was bored in her cell: *"There is only so much colouring in you can do"*. She said she mostly watched television and slept: *"I sleep my whole lag off, cause I'm bored"*.

She said *"when things get too hard, I wanted to kill myself, I've cut myself so many times ... [there's] no-one to talk to"*.

When the segregation direction was revoked and the prisoner was transferred into a mainstream unit, she initially wanted to return to the unit where she had been segregated: *"I was so used to the pound, I was pushing my button to go back ... it's all I know"*.

Case study 2

We spoke to a prisoner who had been segregated for his own safety for around three years ten months.

He told us that being segregated in the management unit was *"mentally draining"* and it was *"getting worse"*. He wanted to move to a Māori-focussed unit at another site, where he would be unlocked together with other prisoners.

The prisoner worked in the unit as a cleaner, in the laundry and also delivered the meals in the management unit.

He had met with the Mental Health Clinician, the Chaplain and the Māori Liaison Officer. He said these meetings were not regular. He said that *"staff [in the unit] have their moments, but they are good"*. We observed that he had a good rapport with staff.

He kept in contact with his family via telephone calls, and was also able to have video calls.

He wrote in a letter which was shared with us:

"I have been isolated from the mainstream environment and my family, my people and culture for a lengthy period. I feel I need to move on to keep growing as an individual. Being housed in isolation ... has its moments, negative environment, mentally, emotionally, physically and most of all psychologically draining spiritually".

Case study 3

We spoke to a maximum-security prisoner who had been segregated and unable to associate for more than three years during his last segregation direction. Over a period of seven years in custody he had been segregated in a number of prisons, apart from two periods of approximately five months.

He told us that *"solitary confinement is hard, and it's been ages that I have been here"*.

The prisoner had a history of assaulting staff, and acknowledged that being *"alone in my cell for days, used to often lead me to be frustrated which led to anger and in turn led to violence. [I] caused a lot of violence in the cells"*. His management plan stated that six officers were required to move him to the yard, he had to remain in handcuffs when in the unit yard and he had to kneel with his hands on his head before his food was provided through the hatch in his cell door. He said it *"became a habit to assault staff [because of] how they treated me"*.

In the six months prior to our interview, a psychologist and cultural leader from the Intervention and Support Practice Team had begun to work with him. Some of the restrictive conditions were relaxed, and a detailed progression plan had been developed, detailing the behaviours expected of the prisoner. He had enrolled in a correspondence course. He was given use of gym equipment, and the activity officers visited him at his cell door to provide exercise advice. The prisoner also spoke positively of the librarian, who had been helping him to find books.

He had been unable to associate with any other prisoners until recently when he had been unlocked with one other. He told us this was part of his progression plan, and he had enjoyed being able to speak to someone else.

The prisoner said his time with the psychologist and cultural leader had made a *"world of difference"*. The cultural leader organised a cleansing ceremony that the prisoner's family attended, and he described this as *"the best day in my life in the last seven years in jail"*.

Opportunities for social interaction

20. Prisoners who have been segregated, subject to a penalty of cell confinement, or assessed as at risk typically have limited opportunities for social interaction. We found they were unlikely to be able to mix with other prisoners – which was not always reflected in the documentation – and interactions with staff were often infrequent and transactional (i.e. no more than was necessary to deliver food to a cell or to escort a prisoner to a cell). Most prisoners were able to telephone family or whānau, but often this was during times when family members were unavailable.
21. Approximately 5,655 individual prisoners were segregated, subject to cell confinement or placed in an Intervention and Support Unit (ISU) in the year to 30 September 2021. Many of those prisoners would likely have experienced solitary confinement as that term is defined in the Mandela Rules: more than 22 hours a day without “*meaningful human interaction*”.

Opportunities for segregated prisoners to mix

22. In this section we outline the opportunities for social interaction that were available to prisoners segregated under sections 58 and 59 of the Corrections Act during the review period.¹⁴ Our focus is on prisoners who were segregated for one of three reasons: because “*the security or good order of the prison would otherwise be endangered or prejudiced*”,¹⁵ because the safety of other prisoners and staff “*would otherwise be endangered*”,¹⁶ or because the prisoner’s safety had been put at risk by another person.¹⁷ For the year to 20 September 2021 there were 3,103 directions made under sections 58 or 59 restricting or denying a prisoner’s ability to associate.¹⁸

¹⁴ Segregation directions can also be made under section 60 of the Corrections Act for health reasons. These prisoners are usually managed in the same units as at-risk prisoners, and we have therefore addressed those prisoners, separately.

¹⁵ Section 58(1)(a).

¹⁶ Section 58(1)(b).

¹⁷ Section 59(1)(b). Prisoners can also request to be voluntarily segregated under section 59(1)(a), but these prisoners are outside the scope of this investigation because they are usually able to mix with other voluntarily segregated prisoners in a specially designated voluntary segregation unit.

¹⁸ This is the number of directions, not the number of prisoners who were segregated. A number of prisoners were subject to more than one segregation direction. In total there were 823 directions made under section 58(1)(a), 1,854 directions made under section 58(1)(b) and 426 directions made under section 59(1)(b).

23. We found that the opportunities for these segregated prisoners to interact were limited, whether with other prisoners, with staff, or with family and whānau.

Opportunities for segregated prisoners to mix with other prisoners

24. Segregated prisoners are generally confined to a single cell and unlocked for an hour a day in a yard by themselves. We observed that although segregated prisoners were generally unable to mix with other prisoners, this was not always reflected in the segregation documentation.
25. When directing that a prisoner be segregated, the prison director is able under the Corrections Act to direct that a prisoner's ability to associate be "*restricted or denied*". At most sites, unless the segregation is for health-related reasons, segregated prisoners are placed together in a specially designated management unit. All prisoners in the management unit who are of the same security classification and whose segregation direction specifies that their ability to associate is "*restricted*" should be able to be unlocked together.¹⁹
26. However, we found that across most sites little consideration was being given to restricting a prisoner's ability to associate as opposed to denying association entirely. There were examples where the segregation documentation recorded that a prisoner's ability to associate had been "*restricted*", but the prisoner was managed as if their association had been denied.
27. In some instances, the documentation confusingly stated that the prisoner was both "*restricted*" and "*denied*"; we also saw documentation where neither box had been ticked. The lack of care in completing the "*restricted or denied*" part of the documentation reflected that the assumption at many sites was that prisoners in the management units would not be able to mix, and the decision whether to restrict or deny association was not meaningful.
28. Staff at some sites told us that a prisoner's association will always be denied if they have assaulted another prisoner or a staff member. This was based on the risk of the prisoner hurting someone else, and the need to protect the safety of other prisoners or staff on site.
29. Given the inability of most segregated prisoners to mix with other prisoners, segregated prisoners are generally dependent on staff and family and whānau for social interaction.

Opportunities for segregated prisoners to interact with staff

30. We found that staff interactions in management units varied, both in frequency and in quality. Staff interactions were generally sufficiently

¹⁹ There may be other reasons why prisoners are unable to mix, for example a non-association alert in respect of a specific prisoner.

infrequent and transactional that segregated prisoners were likely to be experiencing solitary confinement.

31. Below we set out observations of the interactions between staff and prisoners in the management units and the impact of staff shortages, before describing two opportunities for staff interactions that are specific to segregated prisoners – the prison director’s daily visits and the welfare checks conducted by health staff. The obligation to conduct daily visits and welfare checks is found in the Corrections Regulations 2005.

Interactions between unit staff and segregated prisoners

32. We observed that the main opportunities for prisoners in the management units to interact with staff were when staff were delivering food or escorting a prisoner to the yard for their one hour of unlock each day. There were likely to be few other opportunities for segregated prisoners to engage with staff. As one prisoner told us:

Staff are good here, but you don't see them much. You interact when something needs to be done, like yard movements, meals etc.

33. Some sites have practices that further reduce the frequency and quality of staff interactions. The early provision of dinner at many sites – at some as early as 3.30pm – created a long gap between dinner and breakfast during which segregated prisoners were unlikely to have any engagement with staff. At one site, prisoners were expressly told not to speak to staff when they were being moved to the yards, removing one of the few opportunities they had for social interaction. At two sites, prisoners told us that they kicked their cell doors to get the attention of staff.
34. The physical layout at some sites may also reduce staff interactions. Some sites use cells for segregated prisoners that are at a distance from a staff base. There is little opportunity at such sites for the unscheduled interactions between staff and prisoners that may otherwise occur as staff move around the unit. Some sites place segregated prisoners in cells that have individual yards attached directly to the rear of the cells, which are opened electronically. Staff do not need to open the cell door to move the prisoner into the yard, removing an opportunity for staff to engage with prisoners face-to-face.
35. At some sites, the interactions that were occurring between staff and segregated prisoners tended to be transactional. For example, staff provided food and would escort prisoners to a yard or to have a telephone call, but there was little engagement beyond what was required to achieve this. This was reflected in prisoner interviews, offender notes and our own observations.²⁰

²⁰ See Penal Reform International Head Office & Human Rights Centre University of Essex *Essex paper 3: Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules* (February 2017) at 80: “it does not constitute ‘meaningful human contact’ if prison staff

36. Aside from the health staff's welfare visits that occur at some sites and the prison director's daily visits (addressed below), segregated prisoners are unlikely to be able to engage with staff based outside the unit. The exceptions to this are case managers, who meet prisoners monthly, and cultural support workers (e.g. chaplains or kaumatua). Prisoners told us there was a lack of cultural support available while they were segregated, or they did not request cultural support as they did not know it was available.

Impact of staff shortages on opportunities for social interaction

37. During our investigation there were staff shortages across all prisons. This further reduced the opportunities for, and quality of, staff interactions with prisoners in the management units.
38. Staff shortages were caused in part by COVID-19, as staff were unable to work when unwell, a close contact or because of vaccination policies. Some staff we spoke to described difficulties in recruiting and retaining new staff. Some sites we visited were operating special rosters to manage the ongoing staff shortages.
39. The shortage of staff impacted sites in different ways, including by limiting staff interactions with prisoners and making it more difficult to facilitate unlock hours. Many of the staff we spoke to were fatigued, with many frequently working additional hours. Providing even minimum entitlements for prisoners (including one hour of physical exercise each day) was a challenge.
40. Where there were insufficient officers to staff all units, staff were moved between units or wings, and prisoners in each unit would be unlocked for an hour before staff moved on to a different unit ("*rolling unlocks*"). Of particular concern, we visited one high security unit where the prisoners were locked in their cells and there were no staff present because the unit staff were assisting at another unit. This would likely impact staff response time in dealing with an emergency. And staff would be unlikely to be able to routinely engage with prisoners in these circumstances.
41. Staff were generally less present in the units, and there were often insufficient custodial staff to unlock prisoners to see health staff, who would therefore need to speak to prisoners through their cell doors or reschedule appointments, causing delays in prisoners being assessed or receiving health care.
42. Where staff were working outside their usual unit (e.g. because of rolling unlocks), they were not always familiar with the prisoners in the unit, and vice versa. Both prisoners and staff told us that units ran much more smoothly when staff were available in their own units to engage with and address the needs of the prisoners. Staff who are managing prisoners with whom they are familiar are more likely to notice changes in behaviour, which may not be identified or obvious to staff who are working in an unfamiliar unit.

deliver a food tray, mail or medication to the cell door or if prisoners are able to shout at each other through cell walls or vents".

The prison director's daily visits to segregated prisoners

43. Clause 56 of the Corrections Regulations requires the prison director to conduct daily visits for any segregated prisoner who is not mixing with others. The prison director's daily visits, which in practice are often delegated to the Principal Corrections Officer of the unit, should provide segregated prisoners with an opportunity for daily interaction with a staff member, but we found that the visits were not occurring consistently, and that sometimes the focus of the visits was on primarily recording compliance with clause 56 and the quality of the interaction was limited.
44. Some segregated prisoners told us that they were not seeing the prison director (or a delegate) daily.²¹ The records for the daily visits often had gaps, which may support what some of the prisoners told us, although this could alternatively be explained by poor record-keeping. At some sites daily visits were happening at the management unit, but did not extend to segregated prisoners held outside the management unit, which may occur when the management unit is full.
45. We found that staff did not always understand the purpose of the daily visits. We interviewed a Principal Corrections Officer at one site who indicated that they were not aware of regulation 56 and the requirement for daily visits.
46. At sites where the Prison Director was visiting segregated prisoners daily, the unit staff and prisoners told us they found the visits helpful.²²

Health staff welfare checks

47. At many sites health staff conduct regular checks of prisoners in management units, referred to as 'welfare checks'. This may provide segregated prisoners with an opportunity to interact with health staff, however there is no consistent practice across the prison network.
48. Clause 76(2) of the Corrections Regulations requires the health centre manager to "*ensure special attention is paid*" to prisoners who are unable to associate because of a segregation direction or a penalty of cell confinement. We interviewed health centre managers, and while many were able to discuss welfare checks, many were unaware of clause 76. The Department provides no guidance to health centre managers about what "*special attention*" means, including whether it requires daily visits from a nurse.²³

²¹ One prisoner told us that "*the Principal Corrections Officer should come to visit you daily, but you would be lucky if you see them once a week*".

²² At one site the Prison Director would visit together with the Principal Corrections Officer of the sending unit, to assist with transition back to the unit when the segregation direction ended.

²³ In April 2022 (during this investigation), new guidance for health-related segregation directions under section 60 or for at-risk prisoners was promulgated, but it does not extend to

49. We found that at some prisons, health staff visited the management unit every day to conduct welfare checks, but at other sites this was done sporadically or not at all. Health staff at one site said they would meet with prisoners after the segregation direction was made, because *"they are not doing the usual sports, routines gym [and are] away from their coping strategies, we need to be aware of wellbeing"*. After the initial meeting, however, health staff would not routinely see prisoners in the management unit, unless there was a specific request.
50. The Prison Operations Manual (POM) requires that when a prisoner is segregated, health staff should determine how frequently welfare checks are to be conducted for that prisoner, and that this is documented. We were unable to confirm from the segregation documentation that this was occurring.²⁴
51. Welfare checks provide an important opportunity to monitor a segregated prisoner's mental health and general wellbeing. However, where the welfare check is conducted through the hatch in the cell door, as sometimes occurs, or where multiple custodial staff are present with the nurse, the prisoner is unlikely to be willing to talk about their wellbeing concerns. Some units have interview rooms with a perspex window between the prisoner and staff member, which addresses safety concerns and enables private assessments to be conducted where prisoners can speak more openly.
52. Where sites are not conducting welfare checks daily, this may engage Rule 46(1) of the Mandela Rules: *"[Health-care personnel] shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff."*

Opportunities for segregated prisoners to interact with whānau

53. Given the inability of most segregated prisoners to mix, and the potentially limited opportunities to interact with staff, as set out above, contact with family and whānau in the community provides segregated prisoners with an important opportunity for social interaction. The main opportunity segregated prisoners have to speak with whānau is through telephone calls, especially after visits ceased as part of Corrections' COVID-19 response. Many prisoners told us, however, that they were required to make their telephone calls during their unlock time in the middle of the day, when their families were unavailable.

segregated prisoners in the management units (i.e. those prisoners who are segregated for good order or security, or for their safety, under sections 58 and 59).

²⁴ POM M.07.02.02 states that a registered health professional must visit a segregated prisoner, whose association has been denied, at least once a day, unless the health centre manager is satisfied that it is not necessary in the circumstances.

54. We interviewed a representative from Pillars, a charity that provides support to children of prisoners, who made the same point – that segregated prisoners were required to make telephone calls at times that *“do not coincide with family movements”*. The Pillars representative told us that prisoners’ families were particularly impacted when a prisoner who had previously been calling home regularly was segregated, as the telephone calls usually ceased without the family being made aware of the circumstances:

If your loved one has mental health needs and they are in prison and coupled with no contact, then again there are assumptions forming. Sometimes this can go on for weeks before they touch base. The impact for whānau in the community is that this adds to everyday stress and leads to explosive outbursts in the home, which in turn results in Police, [Oranga Tamariki] becoming involved when really the issue is the lack of knowing that your special someone is OK.

55. One prisoner told us that when they were segregated, *“the lack of ability to contact loved ones felt like a punishment”*.

Opportunities for social interaction when subject to a penalty of cell confinement

56. In this section, we outline briefly the social interaction opportunities of those prisoners who have been convicted of a disciplinary offence and a penalty of *“confinement in a cell”* has been imposed under sections 133 or 137 of the Corrections Act.²⁵ For the year to 30 September 2021, 1,896 penalties of cell confinement were imposed, in respect of 1,388 prisoners.
57. In most respects, the experience of prisoners who are subject to a penalty of cell confinement is identical to that of segregated prisoners in the management units, with limited interactions with staff and whānau.
58. The main difference between cell confinement and segregation is that during cell confinement, prisoners are not required to have access to television or to the radio.²⁶ Television and radio are not a substitute for social interaction, but their absence may exacerbate the isolation experienced during cell confinement, both because the prisoner may have less to do, and because they are less likely to have access to the news and the outside world. However, unlike

²⁵ Section 133 empowers a hearing adjudicator to impose a penalty of cell confinement *“for any period not exceeding 7 days”*; section 137 empowers a Visiting Justice to impose a penalty of cell confinement *“for any period not exceeding 15 days”*.

²⁶ Compare Schedule 6 of the Corrections Regulations 2005, which sets out the mandatory items and features of cells used for penalty of cell confinement, to Schedule 2, which sets out the items and features prescribed for cells for segregated prisoners. Cells for segregated prisoners must have a general power outlet, which enables provision of a television or radio, but this is not included in Schedule 6. See also clause 59, which provides that this is mandatory if the cell is new, and must be included *“so far as is practicable in the circumstances”* if it is an existing cell.

segregation, cell confinement may not be imposed for more than 15 days, and is expressly intended to be punitive, unlike segregation.

Opportunities for social interaction by prisoners who are at risk or segregated for health-related reasons

59. In this section, we set out the opportunities for social interaction experienced by prisoners whose ability to associate has been restricted or denied either through the regime set out in sections 61A-61H of the Corrections Act for prisoners who have been assessed as at risk of self-harm,²⁷ or because a segregation direction has been made under section 60 for health-related reasons.²⁸ Most of these prisoners would be managed together in an Intervention and Support Unit (ISU).
60. We found that the opportunities for social interaction for these prisoners were likely to be infrequent, whether with other prisoners, with staff or with family and whānau, and many of the prisoners in the ISU would likely have experienced solitary confinement.
61. Prisoners who have been placed in an ISU are likely to have poor mental health and be especially vulnerable to the effects of solitary confinement. During the review period most prisoners in an ISU were there because they had been assessed as at risk of self-harm,²⁹ and many were under the care of District Health Board (DHB) psychiatric teams.³⁰ The limited opportunities for social interaction available to some prisoners in the ISUs was likely to have engaged rule 45(2) of the Mandela Rules, which prohibits solitary confinement *"in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures"*.

Opportunities for prisoners in the ISU to interact with other prisoners

62. As with segregated prisoners in the management units, we observed that prisoners in the ISUs were generally unable to mix, whether or not this was reflected in the prisoner's documentation.

²⁷ Under the at-risk regime in the Corrections Act, once the health centre manager has confirmed that the prisoner is at risk of self-harm under section 61C, an at-risk management plan must be established, which under section 61E can include restrictions on the prisoner's ability to associate.

²⁸ For the year to 30 September 2021 there were 589 segregation directions made under section 60(1)(a) to ensure or monitor the prisoner's physical health, and 99 directions made under section 60(1)(b) to ensure or monitor the prisoner's mental health.

²⁹ The Department's record-keeping does not include accurate records of the prisoners placed in at-risk cells, so the most accurate way to collate data for at-risk prisoners is to use the prisoner movement records and collate the number of prisoners in an ISU not subject to a segregation direction. For the year to 30 September 2021, 3,157 prisoners spent time in an ISU, of whom 2,929 did not have a segregation direction.

³⁰ Also known as forensic mental health teams. On 1 July 2022, District Health Boards were replaced by Te Whatu Ora which leads the day-to-day running of the health system across New Zealand.

63. Most of the prisoners in the ISUs were there because they had been assessed as at risk of self-harm. When a prisoner has been assessed as at risk, the Corrections Act requires that an *"at-risk management plan"* be prepared, which may include restrictions on the prisoner's ability to associate.³¹ However, as with the documentation for segregated prisoners, we found that the decision to *"restrict"* or *"deny"* an at-risk prisoner's ability to associate was often not meaningful.
64. The tick boxes for *"restricted"* or *"denied"* in the at-risk management plan were often empty. In practice, some sites had a practice that prisoners in the ISU were unable to associate regardless of the at-risk management plan. There appeared to be little evidence of health input into the plans, despite the requirement in the Corrections Act that the at-risk management plan must be established *"in consultation with"* the health centre manager.³²

Opportunities for prisoners in the ISU to interact with staff

65. We observed that staff in the ISUs generally engaged well with the prisoners; staff interactions in the ISUs were seldom transactional in the way we observed in the management units. However, staff interactions in the ISUs were sufficiently infrequent that many of the prisoners there would likely have experienced solitary confinement.
66. During our site visits we observed that the best opportunities for staff engagement generally occurred during the mornings, when clinical³³ staff would undertake their rounds and speak with prisoners, and custodial staff would escort prisoners to the shower, the yard or the day room (there are no showers in the ISU cells, to mitigate the risk of self-harm).³⁴
67. At some sites prisoners were kept locked in the afternoon, while staff completed administrative tasks, with little consideration given to unlocking them. The prisoners would remain in their cells throughout the afternoon and evenings, with little opportunity for social interaction except when the evening meal was delivered or when the nurses conducted the medication rounds. At one site, the observation flaps on the cell doors were kept closed during the afternoons and evenings. Staff told us this was to avoid over-stimulating the prisoners, although it risked amplifying the sense of isolation experienced by the prisoners.
68. The medication rounds are unlikely to provide much opportunity for social interaction, as Corrections has a policy requiring nurses to limit interactions with prisoners when administering medication to

³¹ Sections 61D and 61E(1)(a).

³² Section 61D(2)(a).

³³ For this report, we have defined 'clinical' staff as health staff (nurses), forensic staff, Intervention and Support Practice Team staff and Improving Mental Health clinicians. 'Health' staff are nurses based in the Health Centre.

³⁴ No clinical staff were based in the ISUs, but they had some presence in the ISUs, especially as many of the prisoners were under the care of the DHB psychiatric (forensic) teams.

avoid errors (this applies across all units). This policy was implemented in response to a pattern of medication administration errors.

69. For prisoners who have been segregated for health-related reasons, the Corrections Act requires that a registered health professional visit the prisoner daily unless the health centre manager is satisfied it is not necessary.³⁵ We found that these visits were generally being done well across the different sites and were likely to provide an additional opportunity for social interaction. The statutory requirement for daily visits does not extend to at-risk prisoners in the ISUs but in practice clinical staff see all prisoners in the ISUs daily.³⁶
70. As with the management units, clinical staff told us they sometimes had difficulties in the ISUs when they wanted to speak to prisoners with the cell door open, which limited their ability to engage with prisoners (and therefore have "*meaningful human interaction*"). There were a number of ISUs where prisoners were required to have as many as six officers present before they were unlocked, and there were often insufficient custodial staff available to do this. As with the management units, the ISUs sometimes lacked appropriate facilities for clinical staff to meet with prisoners.

Access to family and whānau

71. As with the management unit, telephone calls with family and whānau provide prisoners in the ISUs with an important opportunity for social interaction. Generally staff in the ISUs were proactive in facilitating telephone calls, but practices varied across sites.
72. We observed that at one site prisoners in the ISU were able to have only one telephone call per week for up to five minutes.³⁷ Such practices likely increase the risk that prisoners will experience solitary confinement. In contrast, another site used a portable telephone that could be taken to each prisoner's cell. The telephone was fed through the flap in the cell door. Prisoners told us that they could speak on the telephone for up to an hour and were able to make multiple calls to different family and whānau. This was in addition to the prisoners' unlock time in the yard or day room time where a telephone was also available.
73. Given that telephone calls may be one of the few opportunities for meaningful human interaction for segregated prisoners, we consider

³⁵ Section 60(5): "*While a direction under this section is in force, the health centre manager must, unless he or she is satisfied that it is not necessary in the circumstances, ensure that a registered health professional visits the prisoner concerned at least once a day*".

³⁶ As part of the initial steps for assessing whether a prisoner is at-risk, section 61B requires that health centre managers must ensure that a registered health professional visits the prisoner at least twice a day unless the health centre manager is satisfied that the visit is not necessary.

³⁷ It is a minimum entitlement to make "*at least 1 outgoing telephone call of up to 5 minutes' duration per week*" under the Corrections Act 2004, sections 69 and 77.

Corrections should facilitate greater access to telephone calls during periods when they are isolated from other prisoners.

The effect of solitary confinement

74. Solitary confinement is a legitimate tool of prison management. It may be appropriate, for example, to provide a prisoner who has been displaying disruptive or challenging behaviour with a brief period by themselves as an intervention to de-escalate the situation. But solitary confinement may, especially in the long-term, cause a prisoner's mental health to deteriorate.³⁸ This is reflected in the Mandela Rules, which prohibit "*prolonged solitary confinement*", rather than all solitary confinement.
75. Prisoners spoke to us about the challenges of not being able to speak to anyone for long periods of time. One prisoner, who had been segregated for his own safety, told us that: "*even a little conversation will do, it can change a man's whole frame of mind ... Just being able to talk to someone makes a huge difference*". Another prisoner, who had been placed in the ISU because of a suspected internal concealment, said he was "*quite lonely I suppose, no stimulation ... Mentally it reminds me of being forced into a cupboard when I was in foster care. I didn't have any mental health support when I was there – just in my own mind which can be a dangerous place.*" We spoke to an Improving Mental Health counsellor at one prison, who described the anxiety experienced by segregated prisoners who were unable to externalise their thoughts and feelings:

They are unable to socialise, talk, share feelings, emotions etc with other people so they tend to bottle up feelings and emotions to themselves which can become like a pressure cooker. [They] get stuck inside their own head, unable to have banter, humour, touch. So they become somewhat down, not everyone, but [there is the] potential to become withdrawn and depressed – or lower in mood. [This] can lead to anxiety as they start to question their own thoughts as they are unable to share those thoughts with other people which leads to lack of sleep

76. Psychology Professor Craig Haney, in one of the leading articles in this area, made a similar point, that social deprivation can undermine a prisoner's sense of self as "*so much of our individual identity is socially constructed and maintained*".³⁹ As one prisoner said: "*It's not good for my mental health ... when I'm stuck in my mind it would help if someone came to talk with me*".

³⁸ The Istanbul Statement on the Use and Effects of Solitary Confinement, adopted on 9 December 2007 at the International Psychological Trauma Symposium at Istanbul.

³⁹ Craig Haney "*Mental Health Issues in Long Term Solitary and 'Supermax' Confinement*" *Crime & Delinquency* 49 (2003) at 139. Other "social pathologies" identified by Haney included extreme lethargy, despair and inability to focus, and developing a them-and-us mentality and "*committing themselves to fighting the system*".

77. Over time, prisoners can become institutionalised by solitary confinement, and later experience anxiety when forced to be around others. We spoke to a defence lawyer about her experience of acting for prisoners who had been segregated. She told us about one client, who arrived at Court from prison for trial having been segregated for the previous four months:

He was so overwhelmed, his eyes were so wide and he couldn't manage anything. His leg was jiggling. I needed to take final instructions but I did not think he was in the right state of mind to give informed instructions to me. The Judge agreed for me to take instructions at lunch time. My client said that "there was a lot going on," and he seemed overwhelmed by the light, the movement and the number of people. By the end of the first day he was OK, he just needed to acclimatise. I ended up taking instructions at the end of the day when I felt he was calm and focussed.

78. Prisoners who are institutionalised by solitary confinement can develop a 'them and us' attitude. One prisoner we spoke to, who had been unable to associate for a number of years and who had a history of assaulting staff, told us that he would be frustrated at being in a cell by himself and it became a habit to assault staff.⁴⁰

The effect of solitary confinement on youth and young adult prisoners

79. The limited opportunity for social interaction is likely to be especially challenging for youth (18-19) and young adult (20-24) prisoners, both given their age and that they may be new to the prison environment. Youth prisoners are typically managed in special youth units. At the time of writing, there were two youth units (Hawkes Bay Regional Prison and Christchurch Men's Prison), and not all youth prisoners are assessed as suitable for placement in a youth unit.
80. For the year to 30 September 2021, there were 940 segregation directions made in respect of prisoners aged 18-24.⁴¹ Of those directions, 124 were for youth prisoners under the age of 20.
81. We do not have data for the number of youth prisoners who had been assessed as at risk and placed in an ISU. During our site visits, however, we identified that where the site did not have a youth unit, youth prisoners were sometimes being managed in ISUs, although there was no segregation direction or at-risk management plan supporting the restriction of the prisoner's ability to associate.
82. We spoke with youth and young adult prisoners about their experiences of being segregated or placed in an ISU. They talked about feeling bored, having limited time out of their cells and limited access to telephone calls.

⁴⁰ See case study 3.

⁴¹ This is the number of directions, not the number of unique prisoners. It includes health-related segregation directions.

Summary

83. We found that segregated and at-risk prisoners, across the prison network, had limited opportunities for social interaction. They were unlikely to be able to mix with other prisoners, and their interactions with staff were infrequent and often transactional. Opportunities to contact family and whānau were often at times when family were unavailable. Many segregated and at-risk prisoners would likely have experienced solitary confinement, as that term is defined in the Mandela Rules – more than 22 hours a day without “*meaningful human interaction*”.
84. In the year to 30 September 2021, approximately 29% of prisoners were subject to a segregation direction or penalty of cell confinement, or were placed in an ISU at some point. Given our findings on the limited social interaction available in management units and ISUs, there is a risk that some of these prisoners experienced insufficient levels of social interaction to maintain their health and wellbeing. The effect of reduced social interaction was most obvious on those prisoners we interviewed who had been isolated for long periods.
85. These conclusions engage the prohibitions in the Mandela Rules where solitary confinement is either in excess of 15 days, or where the prisoner has a mental disability which would be exacerbated by solitary confinement.
86. In some cases, safety considerations may require prisoners to be managed in isolation from other prisoners, but we consider that in many cases more could be done to mitigate this isolation, including through meaningful staff interactions and by facilitating telephone calls at times when family members are available.

Areas for consideration

1. Corrections should consider the quality of staff interactions with segregated and at-risk prisoners, to focus on ensuring regular meaningful human interaction.
2. Corrections should consider reviewing whether the daily prison director visits for segregated prisoners required by regulation 56 are occurring at all sites, and whether the purpose of these visits is clearly understood.
3. Corrections should consider the use of Separates cells that are physically distant from a staff base, and the impact this distance has on the opportunity for staff interactions with prisoners.
4. Corrections should consider how the use of individual yards attached directly to the rear of cells reduces opportunities for interaction between staff and prisoners.
5. Corrections should consider opportunities for providing more unlock time for prisoners in Intervention and Support Units, and whether ISU regimes unnecessarily restrict

prisoners' opportunities for social interaction.

6. Corrections should consider the placement of prisoners in cells with cameras where the prisoner has not been assessed as at risk of self-harm.
7. Corrections should consider improving prisoners' access to telephones, so they have better engagement and connectedness to their social supports.
8. Corrections should consider offering to contact family or whānau members when a prisoner is segregated, to ensure they are alerted to the change in circumstances for the prisoner.
9. Corrections should consider the quality of interactions with prisoners when face-to-face engagement is limited due to custodial staff availability, in particular for health staff and case managers.
10. Corrections should consider whether default regimes requiring high numbers of custodial officers to be present to unlock prisoners are always necessary for the safety of staff, given the impact this has on clinical staff needing to engage with prisoners face-to-face.
11. Corrections should consider providing greater access by volunteers, chaplains and cultural advisors to prisoners who have limited opportunity for social interaction.

The restrictive physical environment

87. The profound sense of isolation experienced by prisoners who have been confined by themselves arises not only from the limited social interaction available, but from the restrictive physical environment in which they are managed. In our interviews, prisoners emphasised the limited access to fresh air and sunlight in the management units and ISUs, both in their cells and in the yards. This sensory deprivation means the units are not therapeutic, even though many of the prisoners, especially in the ISUs, have poor mental health.

The physical environment in management units

88. Segregated prisoners in the management units spend most of their time in their own cells, which provide limited opportunities for sensory stimulation. The prisoners generally have one hour of unlock time in the yards, either in small yards attached directly to the rear of the cells or in larger yards attached to the units.
89. Most cells in the management units are no different from those in mainstream units. The cells are concrete, with external windows that are unable to be opened but that allow in sunlight. The cells are typically furnished with a bed, a desk and chair, a shower, toilet and basin, and a television. However, unlike mainstream prisoners, segregated prisoners typically spend up to 23 hours a day in their cells, and are therefore more likely to be impacted by the limited sensory stimulation available in the cells.⁴² This was a theme in many of our interviews.

Case study 4

We spoke to a prisoner who had been segregated for his own protection for approximately five years.

He spent his time studying university papers and exercising. He said: *"you either break apart or you can build yourself up"*. He also worked as the cleaner in the unit.

After a number of years, he was moved to a different unit where he was able to go outside onto a grass area. He initially did not leave his cell, and

⁴² Stuart Grassian in "Psychopathological Effects of Solitary Confinement" Am J Psychiatry 140 (1983) 1450 at 1454 observed that "[t]he effects of solitary confinement situations vary substantially with the rigidity of the sensory and social isolation imposed".

later injured himself running in the yard:

"That is why I [injured myself], all those years of only having such a small area to exercise in until the day I was placed in a wide open space. I just couldn't help myself, fresh air, the wind on my face, and the grass under my feet, you can't imagine what that feels like after so many years of being locked in a concrete box."

90. Some prisoners told us they could not see a clock from their cell. Prisoners who do not have a watch may be unable to work out the time, which is likely to exacerbate their sense of isolation, especially if they have no way of ascertaining the date and day of the week. One prisoner said that during segregation she relied on knowing that the television breakfast show was on between 6.00am and 9.00am daily, in order to help orientate herself.
91. The yards in management units provide segregated prisoners with their best opportunity for exercise and for fresh air and sunlight, but the walls of the individual yards at some sites are of solid concrete, which made the yards cold and dark. At one site the yards on the first floor of the management unit prevented the sun from entering the yards on the ground floor.
92. At one site, the showers for segregated prisoners were in small yards attached to the rear of the cells and the prisoners showered outside. It was 3° Celsius when we visited. There were cameras in the yards, and prisoners would have been visible on the monitors in the staff base when they showered.

Cleaning issues in the management units

93. Given the amount of time segregated prisoners spend in their cells, cleanliness is more than usually important.
94. At most sites we observed that segregated prisoners were provided with the necessary cleaning materials to keep their cells clean. However, a number of prisoners told us they had not been provided with adequate or appropriate cleaning materials.
95. At several management units the toilets lacked covers, and we saw cells where prisoners had covered their toilet with a towel. Given the size of the cells and the proximity of the toilets to the prisoner's bed and desk, and the amount of time segregated prisoners spend in their cells, it is important that prisoners are able to cover their toilet.
96. In one management unit the prisoners had not been provided with shower curtains, because previously prisoners had damaged them. Some prisoners were using bedsheets as shower curtains.

The physical environment in ISUs

97. The sensory deprivation in the ISUs is especially profound, as the clothing and bedding provided to the prisoners there is also limited out of concerns about the risk of self-harming. We observed that the physical environment of the ISUs was generally not therapeutic,

- even though most prisoners in the ISU are likely to be there because of a deterioration in their mental health.
98. There have been efforts to make the ISUs a more therapeutic environment, but the physical environment remains restrictive. In 2019, most ISUs received some improvement to their physical environments, including being freshly painted in different colours and large wall decals showing pictures of attractive scenery. However, the fixtures and fittings in the ISUs have remained limited. The ISUs can also be very noisy environments, particularly if mentally unwell prisoners are distressed and calling out. During our interviews, the nurses at one site acknowledged that the environment in the ISU can be damaging to a prisoner's mental health.
 99. While the Health Centres are usually located close to the ISUs, no clinical staff are based in the ISUs. We observed that custodial staff were generally risk-averse in their approach due to the lack of on-the-spot guidance from clinical staff. We found a range of conservative practices intended to mitigate the risk of self-harm, including removing staples from booklets, not allowing jandals, and removing the inner cardboard tube of the toilet rolls.
 100. Given that the physical environment of the ISUs is likely to be non-therapeutic and unnecessarily restrictive for many prisoners, consideration should be given to providing a separate unit for vulnerable prisoners for whom a mainstream unit is not appropriate, but who often end up in the ISUs for want of an alternative.⁴³ A small number of sites have a specific unit for more vulnerable prisoners, and this is sometimes used for transitioning prisoners out of an ISU.
 101. Corrections is building a new facility at Waikeria Prison, which aims to provide a more therapeutic environment for prisoners who might currently be managed in an ISU. While not a replica or replacement for an ISU, Hikitia⁴⁴ will be based in the new purpose-built Waikeria Prison facility and will support prisoners with mental health and addiction needs in Corrections' central region. It is intended that this service will be culturally-led and clinically and custodially supported, and will include an outreach service. Service delivery is being undertaken in partnership with mana whenua – ahi kā⁴⁵ and Te Whatu Ora. The principles of Hikitia are that prisoners will have a choice in utilising the service, it will be welcoming and connect men with those who can help them on their journey. It will focus on the holistic needs, strengths and goals of the individual.

⁴³ This unit would be separate from the voluntary segregation units which already exist. A prisoner can request to be voluntarily segregated for the purpose of protective custody, and a direction may be made if it is considered to be in their best interests (such as removing them from gang members as they rehabilitate). Prisoners on voluntary segregation mix with other similarly segregated prisoners in special units.

⁴⁴ Renamed from Waikeria Mental Health and Addiction Service.

⁴⁵ Ahi kā refers to burning fires of occupation, continuous occupation - title to land through occupation by a group, generally over a long period of time [Te Aka Māori Dictionary].

Dry cells

102. Most ISUs have one or two dry cells, which do not have running water or a toilet. Dry cells can be used to manage prisoners suspected of internal concealment (e.g. swallowing contraband) as the prisoners are unable to dispose of the contraband down the toilet or in the sink. We observed that the dry cells were sometimes being used outside their intended purpose, for example because there were insufficient at-risk cells. This is not appropriate as the dry cells are especially restrictive, even within the context of the ISUs.⁴⁶ The dry cells also have no furniture and the mattress is placed either directly on the floor, or on a low concrete base.
103. POM provides that dry cells can be used for reasons other than internal concealment, but there must be a good reason and the placement should be supported by a segregation direction if the prisoner is in the dry cell for more than three hours.⁴⁷
104. We found that there appeared to be a misunderstanding among some staff that a section 60(1)(b) direction – segregating a prisoner *“in order to assess or ensure the prisoner’s mental health”* – could be used to accommodate a prisoner in a dry cell, even where the grounds in section 60(1)(b) were not met.
105. A section 60(1)(b) direction may only be made if segregation is necessary *“to ensure the prisoner’s mental health”*. If segregation is not required for the prisoner’s mental health then a section 60(1)(b) is not appropriate merely because there was no other cell available in the ISU.
106. We reviewed the management of a prisoner who had been placed in a dry cell after he had swallowed some batteries. A segregation direction under section 60(1)(a) had been made – to *“ensure the prisoner’s physical health”*. However, the reason given in the segregation documentation was not about internal concealment, but about monitoring the risk *“of being poisoned from the battery and so [he] couldn’t swallow anything else”*. The Health Centre Manager was clear when explaining to us that the prisoner was not being managed for internal concealment. It was not clear why a dry cell was used, and it meant that the prisoner was managed in a more restrictive environment than would otherwise have been the case.

The lack of suitable facilities for strip searches

107. All at-risk prisoners are strip searched on arrival at the ISU (to mitigate the risk of self-harm).⁴⁸ Some ISUs had a designated room

⁴⁶ Although the cell requirements to at-risk prisoners in the Corrections Regulations 2005 do not require running potable water, a toilet or a shower.

⁴⁷ See POM W.02. *“If a prisoner is placed in a dry cell for more than three hours or overnight then they are being accommodated in the cell, and this is not permitted, without a segregation direction (see regulation 57 of the Corrections Regulations 2005)”*.

⁴⁸ See section 98(7A) of the Corrections Act and POM S.01.Res.11.01.

for strip-searches, but we found that at some sites prisoners in the ISU were required to be strip-searched in normal ISU cells, which have cameras.

108. Requiring prisoners to be strip-searched in front of a camera is inappropriate, dehumanising and degrading.

Access to clothing and bedding

109. The sensory deprivation experienced by segregated and at-risk prisoners is sometimes heightened by restrictions on their access to clothing and bedding, especially for prisoners in the ISU.
110. At-risk prisoners are usually provided with anti-ligature bedding and clothing, which is made of a thick stiff fabric using a weave that is difficult for prisoners to rip. We observed that at most sites, prisoners arriving at an ISU were provided with anti-ligature gowns and bedding, whether or not they had been assessed as at risk. While the anti-ligature bedding and clothing is an important mitigation tool for at-risk prisoners, it is not appropriate for prisoners in the ISUs who have not been assessed as at risk of self-harm.
111. A number of ISUs have practices that prisoners may only wear underwear under their anti-ligature gowns if they are on less frequent observations, for example they only had to be observed every hour, rather than every 15 minutes or 30 minutes (less frequent observations suggests that the prisoner is at less risk of self-harm). In one case we observed that a prisoner who was in the ISU but had not been assessed as at risk was denied underwear. The anti-ligature gowns and bedding, especially where no other clothing underneath the gown is permitted, can be distressing for prisoners. The fabric is thick and uncomfortable.
112. Several prisoners told us they were cold in the ISUs. Prisoners were issued with a set number of blankets and said they were told they were unable to have any more. Some prisoners told us they used the anti-ligature blankets as pillows and under-blankets, leaving them with a single blanket with which to cover themselves.
113. Some sites had rules restricting the property of segregated prisoners. For example, staff at one site told us that segregated prisoners were not allowed to have their shoes with them, but were unable to provide a rationale for this practice. Clause 62(2) of the Corrections Regulations states that segregated prisoners "*must not be denied access ... to his or her authorised property, simply because he or she is subject to a segregation direction*". Such practices are likely to heighten the feeling of isolation, and prisoners may feel that property has been removed as a punitive measure.

Cameras in management units and ISUs

114. We observed that segregated prisoners were sometimes being placed in cells with cameras, which we considered unnecessary and likely to heighten the prisoners' sense of isolation and feeling watched.⁴⁹
115. Cameras were most likely in those cells that were some distance from a staff base, or in converted Separates⁵⁰ cells. These cells were originally designed for cell confinement and lacked a power point (i.e. there was nowhere to plug in a television).⁵¹ The cells have been "converted" by the addition of a power point and were now able to be used for segregated prisoners.
116. Cameras were present in all ISU cells to enable staff to monitor at-risk cells. However, we found that at sites with no youth unit, youth prisoners had sometimes been placed in ISU cells, with cameras, even though they had not been assessed as at risk.

Case study 5

We spoke to a youth prisoner who had been placed in the ISU, although he had not been assessed as at risk of self-harm. The cells have cameras for monitoring the prisoners, in order to mitigate the risk of self-harm. The prisoner was provided with anti-ligature bedding. It was his first time in custody and he was in the unit for six weeks.

He was seen daily by health staff, who identified that he was underweight and arranged for additional food to be provided. Each day he would have a shower and play basketball in the outside yard. He would return to his cell after about 45 minutes as he would "get bored and start to overthink things. I want to go back to my cell to watch TV to take my mind off things".

He told us: "There is no privacy in here. As soon as I got here I got my dignity taken away from me – but you do what you have to do. The lack of privacy is really embarrassing and I feel ashamed. I love privacy. I try and

⁴⁹ In *Taylor v Attorney-General* [2022] NZHC 3170, Isac J found that placing a prisoner who had not been assessed as at risk of self-harm in a cell with a camera was a breach of section 23(5) of the New Zealand Bill of Rights Act 1990, which provides that "Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the person". The Judge awarded \$1,000 to the prisoner to recognise the loss of privacy (at [384] and [446]).

⁵⁰ Separates generally house prisoners who are serving cell confinement because of a misconduct penalty imposed by a hearing adjudicator or Visiting Justice.

⁵¹ Compare Schedule 6 of the Corrections Regulations 2005, which sets out the mandatory items and features of cells used for the penalty of cell confinement, to Schedule 2, which sets out the items and features prescribed for cells for segregated prisoners. Cells for segregated prisoners must have a general power outlet, which enables provision of a television or radio, but this is not included in Schedule 6. See also clause 59, which provides that this is mandatory if the cell is new, and must be included "so far as is practicable in the circumstances" if it is an existing cell.

turn my back on the camera when I take a piss".

The prisoner became teary as he told us he was missing his friends. He told us he *"loved the officers, [who] are really good to me. They talk to me when I need to talk, but only occasionally"*. Offender notes recorded that staff had played basketball with him on a number of occasions, and he was provided with jigsaw puzzles and board games.

The prisoner's cell had a large chalk board on which he wrote goals for when he was released from prison, and marked off each day.

He was able to associate for a few days with another youth prisoner in the unit, but there was no-one he could mix with at the time of our interview. He told us: *"It's very boring here. I go to the rec room but it is just a room with a TV and cushion couch. When I was with the other guy they would give us some games"*.

117. Cameras are appropriate for monitoring prisoners who are at risk of self-harm in the ISUs. But cameras should not be present or at least clearly not operating in cells housing prisoners who have not been assessed as at risk of self-harm, whether in the management units or the ISUs. Segregated prisoners are already likely to feel isolated, given the restrictive physical environment, lack of things to do and the limited opportunities for social interaction. They are largely dependent on staff for their needs and have limited agency, which may make it challenging for them to maintain their sense of self. The feeling of being watched by staff is likely to amplify the effects of isolation.

Managing at-risk prisoners in management units

118. We observed that at some sites at-risk prisoners were being placed in the management units, because the site lacked an ISU or there were more at-risk prisoners than cells in the ISU. Management units are not appropriate places for mentally unwell prisoners and prisoners at risk of self-harm: custodial staff are less present and are less likely than those in the ISUs to have experience with managing mentally unwell prisoners, and prisoners who have been segregated in response to an incident of violence can be abusive to at-risk prisoners.
119. We observed at-risk prisoners in a management unit where segregated prisoners were shouting to each other across the unit; the environment was very noisy and inappropriate for at-risk prisoners. At another site some of the segregated prisoners were shouting at the at-risk prisoners, telling them to kill themselves, and

one segregated prisoner had used a torn sheet to 'fish' a razor to an at-risk prisoner, who then went on to harm himself.⁵²

Summary

120. The isolation experienced by segregated and at-risk prisoners is likely to be amplified by the physical environment, which offers limited sensory stimulation.
121. Management units and ISUs restrict prisoners' access to sunlight and fresh air. Prisoners who are unable to see a clock may lose their sense of time.
122. ISUs are especially restrictive. There are no clinical staff based in ISUs, and custodial staff are generally risk-averse in their approach due to the lack of immediate guidance from clinical staff. There is a need for a unit for vulnerable prisoners who have not been assessed as at-risk, but for whom the ISUs may be unnecessarily restrictive.
123. Prisoners who have not been assessed as at risk of self-harm are frequently placed in cells with cameras, either in ISUs, or sometimes in Separates cells, especially where the cell has been 'converted' or is some distance from a staff base. There is no need to monitor a prisoner through CCTV if they have not been assessed as at risk, and the feeling of being watched is likely to heighten the isolation experienced by such prisoners.
124. The ISUs provide anti-ligature bedding and clothing, often to prisoners who have not been assessed as at risk. Prisoners commonly reported they found this uncomfortable and distressing.

Areas for consideration

12. Corrections should consider the use of specialised units for vulnerable prisoners who have not been assessed as at risk of self-harm but are likely to find a mainstream unit challenging.
13. Corrections should consider having clinical staff based in the ISUs and leading the care and management of prisoners there.
14. Corrections should consider the use of anti-ligature bedding and clothing in ISUs, especially for prisoners who have not been assessed as at risk of self-harm.
15. Corrections should consider the placement of prisoners in cells with cameras where the prisoner has not been assessed as at risk of self-harm.
16. Corrections should consider the use of segregation directions

⁵² 'Fishing' is the informal term used for the way prisoners pass items between their cells. Generally, a string (usually a ripped sheet) is tied to an object (e.g. a phone card) and slid underneath the cell door across to another to cell. In this way objects can be passed along to various cells.

to support the placement of prisoners in a dry cell where the statutory requirements for segregation have not been established.

17. Corrections should consider whether prisoners in management units are being provided with appropriate items to keep their cells clean, and have adequate provision of toilet covers and shower curtains.
18. Corrections should consider whether segregated and at-risk prisoners are able to see a clock and are provided with relevant information about daily unit routines.
19. Corrections should consider whether prisoners are able to access fresh air and sunlight in all yards in management units, ISUs and any Separates or at-risk cells outside those units.
20. Corrections should consider reviewing the use of Separates cells that require prisoners to shower outside.
21. Corrections should consider reviewing the facilities in ISUs to ensure that strip searches are not conducted in areas covered by CCTV cameras.

Things to do in management units and ISUs

125. Most prisoners in the management units and ISUs have access to limited activities beyond watching television, listening to the radio and reading books. There is little to do in the yards during a prisoner's one hour of unlock time each day. Most segregated prisoners are unable to participate in rehabilitative and educational activities. The prisoners we interviewed consistently described feeling bored, with each day much like the next.

Things to do in management units

126. Across all sites there was a lack of things to do for segregated prisoners in the management units, beyond watching television, reading library books, and walking around their cell and yard. The boredom experienced by most segregated prisoners is likely to heighten the effect of solitary confinement. The inability of most segregated prisoners to participate in rehabilitation and education programmes may make it harder for them to reintegrate into the community on release, especially where they have been segregated for a lengthy period. We interviewed a prisoner who had been segregated for more than two years, during which he had tattooed his legs and face. He described the monotony of his daily routine to us:

I really don't watch TV much during the day, just turn the music on, walk up and down, walk up and down heaps, lie down for a bit, do some more walking around, listen to music, change the CD, see what is on TV, flick through the channels.

127. The main activity available in the management units is watching television. We found that most segregated prisoners had access to a television, with some isolated exceptions:
- » Some sites had issues with television stocks, sometimes because prisoners had damaged televisions.
 - » One site had a policy that prisoners were not provided with a television on their first day in the management unit. One prisoner told us that when he arrived at the management unit he told staff he was at risk of self-harm in order to be transferred to the ISU where he knew he would have access to a television. After three days in the ISU he returned to the management unit, at which point he was provided with a television.

- » One site was using unconverted Separates cells for segregated prisoners, which did not have a power point. The site used an extension cord to plug in a television that could be used in the cells, however only one prisoner at a time was able to use it.
128. Prisoners in the management units have access to books, although some prisoners have limited literacy skills. One prisoner said that *"I was given magazines and books, I told staff I don't know how to read ... Staff always asked if I [was] at risk [of self-harm] but ... I was just lonely"*.
129. Some sites provided activity books to segregated prisoners, with colouring in and puzzles, although some prisoners we spoke to were unaware that these were available.

Inability to participate in rehabilitation and educational programmes

130. We observed that most segregated prisoners were unable to participate in rehabilitative or education programmes – despite clause 62(2) of the Corrections Regulations, which requires that segregated prisoners *"must not be denied access to activities consistent with the fulfilment of his or her prisoner management plan ... simply because he or she is subject to a segregation direction"* We found that segregated prisoners were generally not being provided with interventions to address the behaviours that had led to the segregation direction.
131. Those prisoners who were able to participate in education or individual counselling had usually been segregated for their own safety (known as directed protected custody or DPC). Examples of programmes that DPC prisoners were able to access included: an art course through the Learning Connexion (distance learning), which required them to complete a number of hours of artwork each day in their cell; a one-day driver licence course (for this they would have been taken out of their cell to a classroom); and one-on-one counselling with an ACC counsellor. These examples were exceptions to the practices that we observed generally in the management units, that segregated prisoners were not participating in education.

Things to do in the ISUs

132. As with the management unit, prisoners in the ISUs generally had limited access to activities, although this varied from site to site. The lack of things to do often reflected staff concerns that at-risk prisoners might harm themselves.
133. At most sites there was little provided beyond television, library books, or colouring in and puzzle booklets. At one site activity books were only given to prisoners who were on 60-minute observations, out of a concern that some prisoners might use the staples in the activity booklets to self-harm.
134. However, at some sites more was provided, including jigsaws, yoga mats, bean bags, arts and craft materials and, at one site, a keyboard

- that prisoners could request to play music. one site provided prisoners in the ISU with access to a small garden area.
135. The day rooms in the ISUs sometimes provided prisoners with access to a wider range of activities and a less restrictive physical environment, but they varied across sites. One day room had a soft chair for prisoners to watch television, although the day room was not available for prisoners whose at-risk management plans required them to be unlocked with three or more officers present.⁵³ Staff at one site told us there had previously been puzzles in the day room, but they had been damaged by prisoners and not replaced. At one day room, prisoners had hidden items in the chairs, which were subsequently removed, and there were no books because of a concern that prisoners might swallow the paper. We observed a prisoner walking around the edge of the day room for want of anything better to do.
136. Some ISUs have sensory modulation rooms, and all ISUs have been provided with a basic sensory modulation tool kit. Sensory modulation involves supporting and guiding people in using senses such as sight, sound, smell, touch, taste and movement to self-manage and change their emotional state. Tools can include music, essential oils, rocking chairs, weighted items and massage chairs. Some key staff on site were given training on using sensory modulation, but staff told us this was only for a couple of hours and not all staff had attended. Custodial staff in the ISUs told us that although sensory modulation tools were available, they were not confident to use them, and were concerned that prisoners may destroy them. While sensory modulation has the potential to decrease the distress caused by solitary confinement, the feedback from staff suggests that this potential has not yet been realised.

Opportunities for exercise

137. The Corrections Act prescribes that prisoners *"may, on a daily basis, take at least 1 hour of physical exercise"*, which *"may be taken by the prisoner in the open air if the weather permits"*. This reflects Rule 23 of the Mandela Rules, that *"Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits"*.
138. The yards in the management units and ISUs provide few opportunities for exercise. Some yards in the men's prisons have pull up bars, and some prisoners told us they did press ups and pull ups in the yards. But during some of our visits we observed prisoners lying on the yard floor for want of anything to do.
139. We found prisoners in the management units and ISUs were generally given a full hour out of their cells. In some cases prisoners were given considerably more, especially in the ISUs and in those management units which had individual yards attached directly to

⁵³ A 3-man unlock requires that three officers accompany the prisoner whenever they are out of their cell.

the rear of the cells. However, prisoners were often required to make their telephone calls or clean their cells during their unlock time, decreasing the time they had available to exercise.

140. Where yard time was in a larger external yard (i.e. one utilised by all prisoners within the unit), there were practical limitations in facilitating yard time. Each prisoner had to be moved between their cell and the yard, and if none of the prisoners in the unit were able to associate with others, they would need to be moved one at a time.
141. Where a prisoner was in one of the management unit cells with an individual yard, it was easier to facilitate more time in the yard, as it did not impact on other prisoners' yard time. Some prisoners said their individual yard was kept unlocked for most of the day. However, the opportunities for exercise in the smaller individual yards were very limited.

Record-keeping for prisoners who decline their yard time

142. Prisoners sometimes decline to leave their cell to go to the yards. We found that most sites kept records showing when prisoners had declined their yard time, but there was little intervention or engagement when prisoners were consistently declining to leave their cell. We spoke to a Residential Manager at one site who told us that prisoners who were choosing not to associate were discussed regularly at multi-disciplinary team meetings.
143. At most sites, a spreadsheet was maintained in the management units recording each time a prisoner declined their yard time. This information was sent to the Residential Manager and the regional office's Operational Performance team. A weekly report was prepared for the National Commissioner.
144. We found no evidence of interventions where a prisoner had declined to leave their cell on consecutive days. When a prisoner consistently does not want to leave their cell this may indicate their mental health is declining or deteriorating, and it should trigger an intervention.

Summary

145. There is little to do in the cells in the management units and ISUs, beyond watching television, listening to the radio and reading. ISUs are sometimes especially restrictive out of concern that prisoners may self-harm. For short periods this may be less problematic, but some prisoners may experience this for lengthy periods. This can heighten the sense of isolation experienced by those prisoners.
146. Segregated prisoners are unlikely to be able to participate in rehabilitative and educational programmes, which may make it challenging for them to reintegrate into the community upon release.
147. We observed that prisoners were generally given their full hour of unlock time, but opportunities for exercise in the yards was limited

and sometimes prisoners were also required to make telephone calls or clean their cell during their yard time.

148. When a prisoner consistently declines to come out of their cell, this may indicate declining or deteriorating mental health. While most sites keep records of prisoners who decline their yard time, we saw limited evidence of staff providing interventions in response.

Areas for consideration

22. Corrections should consider providing more variety of purposeful activities to segregated and at-risk prisoners in their cells, particularly for prisoners with limited literacy.
23. Corrections should consider reviewing the exercise opportunities available in the yards in management units and ISUs.
24. Corrections should consider how to ensure that prisoners have adequate time to make telephone calls and clean their cells separately from their one hour of physical exercise.
25. Corrections should consider how to ensure that prisoners are not denied access to rehabilitative and educational programmes simply because they are subject to a segregation direction.
26. Corrections should consider implementing a process to prompt staff interventions for prisoners who consistently decline to leave their cells.

Prisoners who are unable to associate because of a site-specific practice

149. In this section we describe site-specific practices that we observed during our prison visits, in which prisoners had their ability to associate restricted, although they had not been assessed as at risk, and there was no segregation direction or cell confinement penalty. These practices, while potentially well-intended, are likely to be contrary to the Corrections Act.

Statutory requirements for restricting a prisoner's ability to mix

150. Under section 57 of the Corrections Act, a prisoner's opportunity to associate with other prisoners "*must not be denied or restricted, except in accordance with this Act*". The effect of section 57 is that a prisoner's ability to mix may only be restricted if there is a segregation direction, a penalty of cell confinement, or the prisoner has been assessed as at risk of self-harm and been placed in an at-risk cell.
151. Despite section 57, during our site visits we identified a small number of prisoners whose ability to associate had been restricted or denied, although they had not been assessed as at risk, and there was no segregation direction or cell confinement penalty.
152. Sometimes these practices reflected 'out-of-the-box' thinking from staff who were trying to find ways to avoid formally segregating prisoners. In some cases the prisoners themselves preferred not to mix. However, there are risks to restricting or denying a prisoner's ability to associate without a formal direction:
- » the checks that would usually be undertaken where there is a segregation direction, for example daily visits from the prison director and three monthly reviews by a Visiting Justice or Senior Advisor, are unlikely to occur;
 - » there is a lack of transparency, because without a segregation direction these prisoners fall outside the usual reporting mechanisms;

- » ultimately, the lack of oversight and transparency may lead to regimes that depart in significant ways from appropriate prison management.⁵⁴

Site-specific practices

“Bed only” prisoners

153. One site had what it referred to as a “*bed only*” arrangement, where prisoners occupied a cell in the management unit although no segregation direction had been made (i.e. they were occupying a “*bed only*”). Although staff at the site perceived this practice as different from segregation, the consequence was that the prisoner was unable to associate, as if a segregation direction had been made.
154. We reviewed the files for two prisoners who were “*bed only*”. One was a high security youth prisoner.⁵⁵ The other (adult) prisoner had previously been segregated for his own safety, but the segregation direction had been revoked after advice that the prisoner would be transferred to another site if the direction continued in force.

Using a management plan to restrict a prisoner’s association

155. We reviewed the management of a prisoner whose ability to associate was restricted: they were able to mix in the yards but not in the unit. The restrictions were included in a management plan, but there was no segregation direction.
156. The site had developed the regime to assist prisoners to avoid ending up in the management unit; it was intended as an intermediate step between a full unlock regime in a mainstream unit and the restrictive regime of the management unit. Prisoners exhibiting challenging behaviours would have their unlock time restricted: they were still able to mix with other prisoners in the yards, but were unable to freely mix in the units as they usually would.
157. These restrictions may well have assisted in preventing some prisoners ending up in the management unit with a much more restrictive regime. However, the legislation is clear that any restriction on association must be supported by a segregation direction, a cell confinement penalty or through an at-risk management plan.⁵⁶

⁵⁴ See for example the Inspectorate’s previous report *Special investigation into the management of three wāhine at ARWCF*.

⁵⁵ There may have been other reasons why this prisoner was unable to associate, including potentially that there were no other youth prisoners at that site.

⁵⁶ Section 57 of the Corrections Act 2004.

The "23-1" regime

158. One site has a long-standing regime for one of its high security units, in which smaller groups within each wing were able to mix, rather than unlocking all prisoners within the wing to associate together.
159. Each wing had between three to six different groups of up to six prisoners mixing. The prisoners were generally unlocked for one hour each day. The site had a lot of gang tensions, and the regime was intended to manage this issue. This prison also has a panel which meets to discuss mixing, but the decision is ultimately made by the prison director.
160. We spoke to a defence lawyer who has acted for prisoners subject to the "23-1" regime (i.e. 23 hours locked, one hour unlocked). She observed that clients who had been managed on the 23-1 regime found court difficult to manage, and there were times when she concluded that the client was unable to give instructions:

One client was so excited to see his family. He had not seen them for over a year due to COVID-19 lockdown and then staffing shortages. He got to court and he couldn't even look at his partner or family, he was absolutely frozen. It was a wasted opportunity because it was the first opportunity he had to see his family and child since August the previous year [when in-person visits ceased].

Another client was completely panicked and refused to get on the bus to come to prison. In the end he appeared by VMR [virtual meeting room used by the Courts]. He was pacing in the VMR room, I arranged to speak to them in private. I eventually got him to sit down but he was panicked. He needed a communication assistant who was with me in Court. He was appearing to enter a guilty plea and I had signed instructions, but I wasn't prepared to do it because I didn't feel that the client had any agency in the appearance or any meaningful ability to understand what was happening.

Transition unit

161. Some sites designate specific units for prisoners transitioning out of management units or the ISUs. We reviewed the management of a prisoner who was in a transition unit and who was unable to associate, although there was no segregation direction. Other prisoners in the transition unit were associating in the yards (but not in the units).
162. Staff told us the prisoner was unpredictably violent and had an intellectual age of 11 or 12 years. The prisoner had non-association alerts in place (these inform staff that a prisoner is not to associate with certain other prisoners) and his involvement with gangs made it challenging to identify appropriate prisoners with whom he could mix. The prisoner had assaulted a staff member.
163. The Residential Manager provided us with a copy of a management plan for the prisoner. The prisoner had not signed it and we were unable to confirm whether they had received a copy of the plan.

When we interviewed the unit Principal Corrections Officer, the Officer was not aware of any management or transition plan.

Transgender prisoners

164. The ability of transgender prisoners to associate can be delayed by as long as six weeks when they first arrive at a site, while the decision confirming that they are able to associate with female or male prisoners is confirmed. Such prisoners are unable to associate without any segregation direction being made.

Summary

165. We found that a number of sites had practices where some prisoners were unable to associate, without a formal segregation direction or having been assessed as at risk. Such practices are likely to be contrary to the Corrections Act, which prohibits restrictions on a prisoner's ability to associate unless there is a segregation direction, a penalty of cell confinement or the prisoner has been assessed as at risk.
166. Where a site restricts a prisoner's ability to associate outside of the available statutory regimes, there is a risk that the prisoner could become subject to solitary confinement without oversight.

Area for consideration

27. Corrections should consider how to ensure compliance with section 57 of the Corrections Act, including the provision of ongoing training for staff on the statutory requirements for restricting a prisoner's ability to associate.

Data collection

- 167. We were unable to obtain accurate and complete data for all prisoners who were unable to associate during our review period.
- 168. The Department should be able to identify how many prisoners have been unable to mix, for any given period, and for how long. It is not otherwise possible to accurately identify the prevalence of isolation in New Zealand prisons, whether it is increasing or decreasing, and whether it is more likely for specific demographics.
- 169. This reflects Rule 10 of the Mandela Rules:

Prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence-based decision-making.

- 170. Staff at the regional and national levels should be able to quickly identify those prisoners who have been unable to associate for an extended period, for example all prisoners who have been unable to associate for more than six months (whether segregated or at risk) in order to examine whether this is appropriate, and to allocate resources to assist those prisoners to reintegrate into the mainstream prison population.
- 171. After 15 days, solitary confinement becomes “prolonged solitary confinement” and is prohibited in the Mandela Rules. We were not provided with the total number of prisoners who were unable to associate in excess of 15 days. As set out earlier in this report, we have found that many segregated and at-risk prisoners will likely have experienced solitary confinement, some in excess of 15 days, but we are unable with the data we have been provided to conclude how prevalent prolonged solitary confinement is within New Zealand prisons.

The total number of separated prisoners

- 172. The data provided to us by Corrections is set out in Appendix C.
- 173. We were able to obtain data showing the total number of segregated and at-risk prisoners, and those subject to cell confinement, for the year ending 30 September 2021. However, as explained below, this data cannot be broken down by length of the period of isolation and there are issues with the accuracy of the data.

Reason prisoner unable to associate	Number of periods	Number of unique prisoners
Segregation directions	3,791	2,823

Periods in an at-risk cell	4,690	2,929
Penalties of cell confinement	1,896	1,388

174. The “*number of periods*” column shows how many times a segregation direction was made during the review period, or how many times a prisoner spent a discrete period in an at-risk cell. We have assumed based on our observations (set out earlier in this report) that all segregated prisoners and all prisoners in the ISU were unable to associate.⁵⁷ Some prisoners would have spent more than one period segregated or in an ISU, so the figures in the “*unique prisoners*” column are smaller than the figures for the periods of isolation (i.e. there were 3,791 segregation directions, but 2,823 prisoners were subject to a segregation direction during the review period).
175. It is not possible to aggregate the number of prisoners for segregation, at risk and cell confinement to give a total number of prisoners who were confined by themselves during the review period, as some prisoners would have experienced more than one form of isolation (e.g. time in both an at-risk cell and subject to a cell confinement penalty). However, Corrections was able to provide us with the total number of prisoners who experienced one or more of these three kinds of isolation during the review period, which came to 5,655.
176. We were also provided with a breakdown of the total number of segregation directions (3,791) by age, ethnicity, gender, type of segregation direction (e.g. under section 58(1)(b)), length of segregation direction, and number of times segregated.
177. We were not provided with a similar breakdown of the data for individual segregated prisoners. For example, we know that 67% of segregation directions during the review period were made in respect of Māori prisoners. However, Corrections was not able to provide us with the percentage of segregated prisoners who identified as Māori.

No breakdown by length of isolation

178. We were advised that it was too difficult to provide a breakdown of the 5,655 prisoners by length of isolation. Instead we were provided with breakdowns of both segregated prisoners and those in the ISU (whether or not they were at risk). For example:
- » Of the 2,823 prisoners who were subject to a segregation direction for the year to 30 September 2021, 1,981 were segregated for no more than 14 days in total.

⁵⁷ A small number of segregated and at-risk prisoners may have been able to associate, so this figure may be slightly inflated. However, this is the best data available, and as it does not capture prisoners in at-risk cells outside the ISUs it is possible that the true number is in fact higher.

- » Of the 2,823 prisoners who were subject to a segregation direction for the year to 30 September 2021, 22 were segregated for more than nine months.
 - » Of the 3,157 prisoners who spent time in an ISU for the year to 30 September 2021, 2,707 were in an ISU for no more than one week at one time.
 - » Of the 3,157 prisoners who spent time in an ISU for the year to 30 September 2021, six prisoners were in an ISU for more than six months.
179. This data excluded prisoners who were segregated or in an ISU at the end of the review period, because at that point it is not clear how long in total such prisoners will spend unable to associate, either segregated or in an ISU. We were provided separate data on prisoners who were segregated at the end of the review period. For example, there were 227 prisoners who were subject to an ongoing segregation direction as at 30 September 2021. Fifteen of those prisoners had been segregated in excess of nine months. We were not provided with similar data for the prisoners in the ISU.
180. Because of the limitations of the data, we were unable to ascertain how many of these 5,655 prisoners were isolated for more than 15 days, the threshold at which solitary confinement – and it is likely that many of these prisoners would have experienced solitary confinement – becomes “*prolonged solitary confinement*” under the Mandela Rules.
181. Nor were we able to identify those prisoners who only spent one or two days unable to associate. We know that of the 5,655 prisoners who experienced isolation, 2,335 spent time in an ISU cell but experienced no other form of isolation (segregation or cell confinement). Some of those 2,335 prisoners would only have been in an at-risk cell for one or two days before being reassessed as not at risk of self-harm. But we were unable to ascertain how many prisoners would fall into this category.⁵⁸

Problems with relying on alerts for segregation data

182. Because segregation directions are paper-based, data collection for segregation relies on electronic alerts that are activated when the direction is made, and de-activated when the direction expires or is revoked. We found that the alerts were not always activated and deactivated in a timely way, and this is likely to have impacted the data.
183. Corrections’ policy is that whenever a segregation direction is made, an alert should be added to the prisoner’s record in the Integrated Offender Management System (IOMS). Segregation alerts are activated by the principal corrections officer, and the custodial

⁵⁸ During the review period, 2,707 prisoners spent a period of one week or less in an ISU, but some of these prisoners would have spent other, longer, periods in the ISU, and/or been unable to mix for other reasons, e.g. segregated in the management unit.

systems manager maintains an oversight of this process. However, we found many instances across a number of prisons where alerts were either not activated at the commencement of segregation, or not deactivated at the end.

184. Examples included prisoners being transferred between sites with segregation alerts still active, the alert being entered into IOMS the day after verbal approval was given for segregation, and the alerts being deactivated weeks after the segregation direction had been revoked (in one instance almost a month later).
185. The alerts should provide a simple tool for identifying how many prisoners are subject to segregation directions across the prison network, but the errors in the alerts limit the accuracy of the data.
186. Inaccurate alerts can also impact prisoners, because Corrections staff may determine that a prisoner is not an appropriate candidate for education, programmes or employment because of alerts that should have been de-activated. This is particularly true at prisons that are short-staffed (which was true at most sites at the time of this report) as staff may not have personal knowledge of the prisoner, and may be reliant on alerts. Medical escorts also rely on the alerts when an assessment is completed to escort a prisoner off site.

Limitations on the data for at-risk prisoners and cell confinement

187. Obtaining data for at-risk prisoners was especially difficult. The alerts for at-risk prisoners are too unreliable to use for data collection. We were able to obtain data on the number of discrete periods spent in ISU cells, and there is a good assumption that prisoners who were in an ISU and not subject to a segregation direction were there because they had been assessed as at risk. This provides a good basis for ascertaining the approximate number of at-risk prisoners during the review period (2,929), and based on our observations during our site visits, it is likely that very few if any at-risk prisoners would have been able to associate.
188. However, this data does not capture prisoners who spent time in at-risk cells outside the ISUs. There is no central register for at-risk cells, and we observed during our site visits that there are a small number of at-risk cells located outside the ISU at some sites.
189. For cell confinement, we relied on the records from the misconduct charges. However, we observed that at some sites there is a backlog in entering penalty decisions into IOMS, and therefore this data may underrepresent the number of prisoners who were unable to associate because of a penalty of cell confinement.
190. The data we relied on also excluded any prisoners who were isolated without a segregation direction, who were not in an ISU and not subject to a cell confinement penalty. This would include ad hoc regimes, such as "bed only" prisoners who were being managed in one management unit without a segregation direction, or youth

prisoners who were confined by themselves in an ISU at a prison with no youth unit.

The effect of COVID-19 on the data

191. We considered whether the data we obtained may have been impacted by the quarantine regime that was introduced in response to the COVID-19 pandemic, as more prisoners than usual may have been isolated during the review period. However, we concluded that the effect of the COVID-19 pandemic on the data we obtained was limited.
192. The Department's quarantine regime required sites to make a section 60(1)(a) segregation direction – to monitor or ensure a prisoner's physical health – in support of a prisoner's quarantine. During the review period, there were only 156 prisoners subject to a section 60(1)(a) direction. Some, but not all, of those directions may have related to a COVID-19-quarantine. However, that is not a significant number in the context of the 5,655 unique prisoners who were managed in isolation during the review period. The small number of segregated prisoners may reflect the fact that sites were able to "bubble" together prisoners who arrived within a few days of each other, and in some instances entire wings were quarantined together. These prisoners did not require a segregation direction and are outside the scope of this review as they were able to associate.
193. We observed that when Corrections first introduced the quarantine regime, prisoners were sometimes being quarantined without a section 60(1)(a) direction. If those prisoners were quarantined in the ISU, they may have been included in the 2,929 prisoners who were in an ISU but not subject to a segregation direction, who we have assumed were in an ISU because they had been assessed as at risk. However, not all sites used their ISUs as quarantine units. We consider that the number of prisoners who may have been quarantined in an ISU and unable to associate without a segregation order would be small, and the effect on the data we obtained would be minimal.

Summary

194. The data provided by Corrections did not enable us to obtain an accurate picture of the number of prisoners who experienced isolation during the review period. We were provided with the total number of prisoners who were subject to a segregation direction or cell confinement penalty or who were in an at-risk cell, but there are limitations with the accuracy of the data.
195. We were not able to obtain data breaking down the total number of isolated prisoners by length of isolation, including the total number of prisoners who experienced isolation during the review period in excess of 15 days, which may amount to "prolonged solitary confinement" as defined in the Mandela Rules. Corrections must be able to easily identify those prisoners who have been unable to associate for an extended period in order to review whether the

extended isolation is necessary, and to allocate resources to assist those prisoners to reintegrate into the mainstream prison population.

196. We have made a specific overarching recommendation about data collection.

Management plans

197. All segregated and at-risk prisoners should have a management plan, individualised to the specific prisoner. The plans should set out how the prisoner is to be managed. For prisoners in the management unit the plans should include provision for transition back into a mainstream unit.
198. If done well, management plans have the potential to change a person's experience of segregation and to assist them to implement changes in their behaviour. However, most of the management plans we reviewed were generic: prisoners in the management units and ISUs were generally managed according to the rules of the unit rather than having individualised plans specific to their needs. Management plans in the ISUs seldom included relevant or specific health information.

Management plans in the management units

199. When the prison director signs a segregation direction, the documentation includes a management plan for the prisoner. The plan sets out how the prisoner will be managed while segregated and should also set out the expected behaviours for the segregation direction to be revoked and for the prisoner to return to a mainstream unit.
200. Management plans should be tailored to the individual prisoner. When done well, management plans can improve a prisoner's experience of segregation.⁵⁹ We found some examples of individualised management plans, which clearly set out expected behaviours and consequences under the headings:
 - » What progression looks like for me
 - » What regression looks like for me
 - » How staff will support me.
201. However, most of the plans we reviewed were generic, with conditions which bore little relationship to the behaviour that had prompted the segregation direction.
202. For example, we reviewed the documentation for a prisoner who was segregated⁶⁰ after he exposed himself to a female officer when the hatch in the cell door was opened. Although the prisoner had not been involved in an incident of physical violence. His management plan included the same generic requirements as other prisoners in the management unit. These included that he was to

⁵⁹ For example, we spoke to a prisoner about their most recent experience in a management unit, which had adopted a new more individualised approach that the prisoner described as "helpful".

⁶⁰ Corrections Act 58(1)(b) "for the purpose of the safety of another prisoner or another person would otherwise be endangered".

stand at the back of the cell while his meal was provided, one hour of yard time each day, no access to programmes or education, handcuffs to be used when he was moved within the unit. The *"Actions (to be measured) to transition prisoner into general population"* did not include anything about addressing staff appropriately, but included that he was to *"Comply with dress code requirements"* and there was to be *"No tagging"*. We saw no evidence that clothing or tagging were issues for this prisoner. He was charged with a misconduct and given a warning. This was arguably the more appropriate response, as the purpose of segregating this prisoner from the mainstream population was unclear.

203. The lack of tailoring to the prisoner's specific behaviour is contrary to the express guidance in POM, which states: *"The development of the management plan must have as the main focus the particular prisoner's behaviour which resulted in the prison director approving the direction and what changes the prisoner need[s] to demonstrate in order to return to the general population"*.⁶¹
204. POM also requires that management plans facilitate the prisoner's return to the mainstream population,⁶² but we found little evidence of this. In most cases management plans did not inform prisoners of the behaviours they were expected to demonstrate.
205. There was little evidence of management plans being updated during the period of segregation, including to show an easing in restrictions to reflect any improvement in the prisoner's behaviour.
206. At one site, we could not locate management plans for all segregated prisoners and asked unit staff to explain how they were aware of the specific details of each prisoner's management. The unit staff said that because management plans were generic, they knew how segregated prisoners were to be managed without the need to refer to individual management plans, and if there were any changes in a prisoner's management this would be set out in an email from the Principal Corrections Officer or Residential Manager.
207. The generic nature of management plans was reflected in our interviews with prisoners across the different sites. Prisoners were familiar with the regimes in the management units, which generally applied to all segregated prisoners, despite the expectation in POM that management plans would be individualised.
208. We observed that the management plans were usually completed by the principal corrections officer of the unit where the prisoner was segregated (i.e. the management unit), without input from others. The principal corrections officer of the management unit is unlikely to have much knowledge of the prisoner, unlike the principal corrections officer of the sending unit, especially in a larger prison. A generic one-size-fits-all management plan is more likely

⁶¹ M.07.02 Management of segregated prisoners.

⁶² M.07.02.01 Management Plan.

where there is no input from corrections officers who have previously been involved in the prisoner's management.⁶³

209. Management plans are provided to the Senior Advisors to the Regional Commissioners as part of the segregation process,⁶⁴ but the generic nature of management plans across most sites suggests that sending the plans to the Senior Advisors does not provide a robust quality assurance process.

Management plans in the ISUs

210. In the ISUs, management plans are required both for prisoners who have been assessed as at risk of self-harm, and for prisoners segregated under section 60 - to "assess or ensure" their physical or mental health. We found similar issues when reviewing the management plans in the ISUs to those we identified in the management units: the plans were generic, with little tailoring to the individual prisoner. The plans seldom included clinical information, so the custodial staff in the ISUs lacked access to health information relevant to the prisoners in their care (there are no clinical staff based in the ISUs). Often the only information that was updated in the at-risk management plans was the frequency with which staff were required to observe the prisoner.
211. For example, we reviewed one at-risk management plan that recorded that the prisoner's association was denied, but did not include any reasons for this restriction. We were told by staff that the prisoner was at risk of harming others, but this was not reflected in the health notes. The plan recorded that the prisoner would be seen by health staff daily and receive counselling by specialist staff, but there were no health notes in the health section or forensics (psychiatric) notes in the forensics section. The prisoner was not taking his medication and forensics had written in their clinical letters "to continue to encourage him to consider medication compliance", but this information was not in the plan and the clinical letters would not have been available to custodial staff in the ISU. The management plan documented how frequently the prisoner would be observed, and that three custodial officers should be present when unlocking him.
212. Health staff have limited input into at-risk management plans, contrary to the express guidance in POM.⁶⁵ Corrections has provided

⁶³ In a small number of sites there was a discussion between the principal corrections officers of the sending and receiving units before the management plan was prepared. One staff member suggested to us that it would be useful to have a section in the management plan where information from the sending unit could be added, which would include how the prisoner is to transition out of segregation back to the sending unit.

⁶⁴ Section 58(3)(b) provides that a segregation direction "may be revoked at any time by the chief executive or a Visiting Justice". This power is delegated to the senior advisors to the regional commissioners. The senior advisors therefore need to be provided with the documentation to consider whether the segregation is appropriate.

⁶⁵ POM requires that the at-risk management plan must be "developed in consultation with appropriate support personnel, including input from health services." M.05.03.05.

an "Advice of Prisoner Health Status Form", which should be completed by health staff, describing behaviour or signs of illness that custodial staff should be monitoring. The at-risk management plan form includes a section that is intended to capture information from the Advice of Prisoner Health Status Form, but we found that only some sites were completing the form, with varying degrees of information provided.

213. We observed similar issues for management plans for section 60 segregation directions, with limited input from health staff.

Summary

214. Few of the management plans we reviewed were tailored to the prisoner's specific behaviour. They generally failed to include any interventions that addressed the behaviour that led to the segregation direction. In most cases they failed to inform prisoners what behaviours they needed to demonstrate to come out of segregation. We found little evidence of management plans being updated during the period of segregation, for example showing a relaxation of restrictions as the prisoner's behaviour improved.
215. Management plans in the ISUs were similarly generic, and seldom included information from health or forensics services, so custodial staff lacked health information relevant to managing the prisoners in their care. Often the only information that was updated in the at-risk management plans was the frequency of the prisoner observations.

Areas for consideration

28. Corrections should consider how to ensure that management plans are individualised to the specific prisoner, inform prisoners of the behaviours they need to demonstrate for the segregation direction to be revoked, and are updated during a prisoner's period of segregation.
29. Corrections should consider how to ensure that management plans in ISUs include relevant health information that informs custodial staff about the individual health needs of the prisoners they are managing.

The purpose of segregation

216. Most segregated prisoners in the management units arrive there after an incident or threat of violence.⁶⁶ However, segregation is not intended to punish prisoners. There is a separate disciplinary process under the Corrections Act under which prisoners may be charged for misconduct and which includes the imposition of penalties, including loss of privileges and cell confinement.
217. Nevertheless, many prisoners we spoke to described segregation as a punishment. This may reflect the restrictiveness of some of the regimes we observed in the management units, especially where a regime is applied generically to prisoners who have been segregated for different reasons.

Prisoners' experience of segregation as a punitive response to wrongdoing

218. Several prisoners we spoke to said they felt that the regime in the management unit was imposed as a punishment. For example, we spoke to a prisoner who had been segregated for his own safety, who described the management unit as a "*punishment unit*" where prisoners went "*because they have assaulted people*". The prisoner was unhappy at being subject to the same restrictive regime as prisoners who were in the unit after an incident of violence.
219. Although segregation is often a consequence of a prisoner being involved in an incident of violence, punishment is not one of the statutory purposes for which segregation may be directed under the Corrections Act. The Act provides that segregation may be imposed for one of three reasons (excluding health-related segregation, where a prisoner would not usually be placed in a management unit):
- » "the security or good order of the prison would otherwise be endangered or prejudiced" (section 58(1)(a));
 - » "*the safety of another prisoner or another person would otherwise be endangered*" (section 58(1)(b); – this is by far the most common reason and usually indicates that the segregation is in response to prisoner violence;

⁶⁶ 59% of segregation directions are made for the safety of others (excluding health-related segregation directions and voluntary segregation directions). These directions are usually made after an incident or threat of violence.

- » the “safety of the prisoner has been put at risk by another person” and “there is no reasonable way to ensure the safety of the prisoner otherwise than by giving [a segregation direction]”.
220. Under the Corrections Act there is a separate disciplinary regime for misconduct charges, which follows fair trial processes with a prosecutor and adjudicator and provides, if a charge is proved, a range of available penalties, including loss of privileges and cell confinement. Segregation directions, which do not follow an adjudication process, should not be used in lieu of a cell confinement penalty.
221. When we asked staff about their understanding of segregation, they told us that the purpose of segregation was for the management of a prisoner, distinct from the misconduct regime, which is for the punishment of a disciplinary offence. Disappointingly, that understanding was not reflected in the practices we observed. Prisoners may experience segregation in the management units as a punishment, imposed in response to wrongdoing, given both the restrictiveness of the regimes in place in some of the management units, and that the regimes in the management unit are sometimes applied consistently to different prisoners and are unrelated to the behaviour that led to the segregation direction.
222. We found that although there is a separate statutory misconduct regime for prisoner wrongdoing, this process is not always completed, and segregation directions may be the only response from the site to prisoner wrongdoing. There were many instances across all sites where misconduct charges were filed in response to an incident that had also prompted a segregation direction, but there was no outcome recorded for the misconduct charge. At some sites staff told us they did not have enough prosecutors and adjudicators to prosecute the misconduct charges. The charge could not be heard within the required timeframe and was therefore withdrawn (or not filed in the first place). As a consequence, prisoners may experience segregation as the only response to an incident, and infer that the restrictive conditions of the regime in the management unit were intended as punishment. As one prisoner said about segregation, *“you have done wrong, so you have to do the time”*.
223. A punitive purpose can also be inferred from the way the sites manage segregated prisoners in the management units:
- » At a number of sites, the segregation direction remained in place for 14 days, at which point the initial order expired without any consideration as to whether segregation was justified prior to the 14th day of segregation. The 14 days is treated as a period of segregation to be served after an incident of violence, like a penalty of 14 days’ cell confinement.
 - » A Senior Advisor to the Regional Commissioner told us that the implementation of Corrections’ focus on *“violence and aggression”* may have led in some instances to a *“zero tolerance”*

approach, which led to an increase in segregation directions.⁶⁷ At two sites we visited there was an explicit “zero tolerance to violence” policy, which was referred to in some of the management plans.

- » Segregated prisoners are generally managed according to the regime in the management unit, rather than individualised management plans as contemplated by POM. Prisoners may view the rules of the management unit as part of a punitive regime that is applied to all prisoners who have engaged in violence or other wrongdoing. The regimes in the management units may restrict prisoners to their minimum entitlements, for example one hour of unlock time for physical exercise, or include restrictive measures such as handcuffs for all movements within the unit. Where a prisoner is required to comply with restrictions not related to the behaviour for which the segregation direction was made, such restrictions are likely to appear punitive because they cannot be explained as assisting the prisoner to change their behaviour.
224. Some staff told us that prisoners were sometimes given a punishment of cell confinement even when they had already been segregated. The consequence was that the prisoner’s inability to associate was extended beyond the 14 days. At one site the principal corrections officer allowed prisoners to retain their televisions during cell confinement if they had already been segregated, as the principal corrections officer considered the prisoners had “*already been punished*” and they did not “*want to punish them twice*”.
225. Prisoners who had been segregated for reasons not related to violence may also perceive placement in the management unit as punitive. Prisoners who had been segregated for their own safety (directed protective custody prisoners) described the management unit regime as punitive.

Summary

226. Segregated prisoners are being managed in ways that may imply that the purposes of the segregation direction include a punitive response to wrongdoing.
227. Where the misconduct process is not working well (i.e. charges are not being laid or are being withdrawn), and segregation is the only response to wrongdoing, prisoners may view segregation as a punishment, especially given the restrictive and generic regimes that operate in the management units.

⁶⁷ The Senior Advisors are responsible for approving extensions to segregation directions.

Areas for consideration

30. Corrections should consider how to ensure that segregated prisoners are not being managed in ways that reflect a punitive response to prisoner wrongdoing, including by providing training to staff in the management units about the purpose of segregation.
31. Corrections should consider how to ensure that the misconduct regime is adequately resourced, and that where a segregation direction is made in response to an incident for which a misconduct charge is appropriate, the misconduct process is completed so prisoners do not experience segregation as the only response to wrongdoing.

The at-risk regime

228. The Corrections Act provides that the “*at-risk management plan*” may include conditions restricting or denying the at-risk prisoner’s opportunity to associate, without requiring a segregation direction. Avoiding the formal segregation process may be useful when a prisoner is placed in an at-risk cell for a short period. However, when an at-risk prisoner has been unable to associate for an extended period, the lack of a more formal process may not be appropriate, especially given the restrictive environment of the ISUs.
229. Without a segregation direction, there is no statutory mechanism to trigger a review of an at-risk prisoner – unlike section 58 or 59 segregation directions, which must be reviewed at least every three months by a Visiting Justice or the chief executive.⁶⁸ POM requires sites to escalate the management of at-risk prisoners who have been in an ISU for 30 and for 60 days. However, this (non-statutory) process relies on site staff notifying the regional commissioner. There is no mechanism by which regional or national staff are able to easily identify those prisoners who, at any specific time, have been in an at-risk cell for a specified period, for example for more than six months. Inquiries would need to be made with each site separately.
230. As explained above in relation to data collection, we were unable to obtain accurate data about the number of at-risk prisoners.

Managing at-risk prisoners outside the segregation regime

231. The statutory regime for at-risk prisoners is separate and different from the statutory process for health-related segregation directions:
- » Section 61B of the Corrections Act requires the prison director and health centre manager to place a prisoner who has been assessed as at risk of self-harm in a specially designated at-risk cell, and “*the prison manager must ensure that the prisoner is observed by an officer at the intervals that the prison manager specifies*”.
 - » Within 24 hours of the initial at-risk assessment, the health centre manager must advise whether they confirm the at-risk assessment or consider that the prisoner is not at risk of self-harm (section 61C).⁶⁹

⁶⁸ In practice, the chief executive’s delegate. There is no statutory review mechanism for a section 60 segregation direction, although the alerts for section 60 directions provide some transparency (they are more reliable than the at-risk alerts).

⁶⁹ Clause 63 of the Corrections Regulations 2005 requires the health centre manager to prepare a written report on the prisoner, to record any advice given under section 63C and place a copy on the health record. The health centre manager must also recommend whether the

- » If the at-risk assessment has been confirmed, then the prison director must ensure that an *“at-risk management plan”* is made, in consultation with the health centre manager (section 61D). The at-risk management plan may specify that the prisoner’s ability to associate is restricted or denied, without the need for a segregation direction.
232. The at-risk regime was introduced by the Corrections Act Amendment Bill 2019. The Regulatory Impact Assessment for the Bill suggested that the existing legislative regime for segregation was *“inadequate to properly safeguard the best interests of prisoners vulnerable to self harm”*⁷⁰ and that a legislative framework outside the segregation regime would better enable staff to respond promptly to at-risk prisoners.
233. Under the at-risk regime, at-risk management plans are critical: they provide the legal basis for restricting the prisoner’s ability to associate. However, hard-copy at-risk management plans do not facilitate either the collation of data about the length of time prisoners are subject to the at-risk regime, or the escalation of the management of prisoners who have been subject to the regime for a prolonged period. While the informality of the regime may assist monitoring of prisoners assessed as at risk for a short period, the regime may not be appropriate for prisoners who are spending a long period unable to associate but without the formality of the segregation process.

Prisoners who are waiting for psychiatric (forensic) hospital in-patient admission

234. A consistent issue across the sites was that a number of mentally unwell prisoners were in an at-risk cell, without a segregation direction, while DHB psychiatric staff waited for a hospital bed to become available.
235. Section 45 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 provides that prison directors may make an application for a prisoner to be assessed and cared for in a hospital. In practice, Corrections does not generally make a section 45 application until a hospital bed has become available, which may take a number of months.
236. Two issues arise from the detention of mentally unwell prisoners in at-risk cells while awaiting a hospital bed:
- » Because the legal basis for restricting the prisoner’s association is the at-risk management plan, not a formal segregation direction, there is a lack of formal oversight for mentally-unwell prisoners who are being isolated in the ISUs.

prisoner should be denied any minimum entitlements and access to any other item such as clothing.

⁷⁰ Regulatory Impact Assessment: Enhancing the Legislative Framework. July 2019.

- » At-risk cells are not therapeutic environments. Because of the lack of hospital beds, prisons are forced to choose between managing mentally unwell prisoners in mainstream units with the general prison population, or in an at-risk cell in an ISU (or possibly the management unit). While placement in the ISU should keep the prisoner safe, when the placement is prolonged it is likely to come at the cost of further deterioration in the prisoner's mental health.
237. Given that a segregation direction is unnecessary for at-risk prisoners, and that the alerts for at-risk prisoners are not reliable, there is a lack of transparency around the number of prisoners not associating because they are at risk, and the length of that period of isolation. POM requires that when prisoners have been in at-risk cells for 30 days and 60 days, the prison director is to email the regional commissioner, who must refer the prisoner to the Regional High Risk Panel at 30 days and to the National High Complex Needs panel at 60 days.⁷¹ This does at least provide a (non-statutory) mechanism for the site to elevate the management of an at-risk prisoner who has not been associating for prolonged periods (although we do not consider that the process is working well at most sites).
238. Corrections' record-keeping does not facilitate the collation of data across sites at a regional or national level, making it difficult to gain an accurate picture of prison practices generally for at-risk prisoners. The process for elevating long-term at-risk prisoners to the regional or national panels is also dependent on the site: there is currently no mechanism by which the National Office could easily identify those prisoners held in at-risk cells in excess of 30 days, in order to examine the management of such prisoners with the site.
239. We made enquiries with the National Office as to what reporting it receives about prisoners waiting for admission to in-patient care for treatment, and how long they have been waiting. We were told that the DHBs provide this information verbally to the clinical manager mental health (from the ISPT) and the health centre manager, and some DHBs provide weekly waitlists, but only one does this consistently. National Office did not have an overview of wait times across the prison network. It is therefore difficult to gain a clear picture of the extent of the problem of using prisons to manage individuals who should otherwise be in hospital.
240. At the time of this review, Corrections was developing an 'ISU dashboard', which it intended would collate data about prisoners in the ISUs, including the details of any segregation directions that apply to ISU prisoners. This should enable staff at the national and regional levels to group prisoners across different sites by the total number of days they have been in the ISU. Prisoners could also be grouped according to ethnicity, gender, age and legal status (e.g. remand or sentenced) to identify trends in how ISUs are being used.

⁷¹ M.05.03.02.

The overlap between section 60 and the at-risk regime

241. Health staff told us they had little training on the applicable legislation, and generally lacked confidence as to when a section 60(1)(b) segregation direction - *"to ensure a prisoner's mental health"* - was necessary, as opposed to when an at-risk management plan was sufficient to restrict a prisoner's ability to associate.
242. The confusion arises from the legislation. Section 57 states that *"the opportunity of a prisoner to associate with other prisoners must not be denied or restricted, except in accordance with this Act"*. This suggests that a segregation direction is necessary to restrict a prisoner's ability to associate, but the at-risk regime provides that an at-risk prisoner's ability to associate can be restricted through the at-risk management plan. One interpretation might be that, where a prisoner has been assessed as at risk, no section 60(1)(b) direction is necessary, and that was a common understanding across sites. But health staff had difficulty identifying situations where a section 60(1)(b) might be necessary, and one health centre manager acknowledged that a section 60(1)(b) direction had never been made at that site (during their time) to their knowledge.⁷² One health centre manager had no knowledge of the section 61A to 61H at-risk regime.
243. The guidance in POM provides that a segregation direction is necessary to restrict or deny an at-risk prisoner's ability to associate, contrary to the practices we observed.⁷³ If Corrections is relying on the at-risk management plans to deny association, then POM should be amended to reflect this interpretation of the legislative scheme.
244. We reviewed the management of a prisoner who should have been subject to a section 60(1)(b) segregation direction. He had not been assessed as at risk, and there was no segregation direction, although the prisoner was placed in the ISU and was unable to associate. He was on the waitlist for admission to the DHB mental health inpatient unit. From the health notes, it appeared the prisoner was not associating because of his mental health. There should have been a section 60(1)(b) segregation direction to provide a legal basis for the restrictions on his ability to associate.⁷⁴

⁷² The total number of section 60(1)(b) directions made during the period 1 October 2020 to 30 September 2021 across all prisons was 87.

⁷³ M.07.02.04: *"A direction for segregation is only required when a prisoner is either denied association with other prisoners altogether or is subject to a more restrictive routine (in terms of ability to associate with other prisoners) than the unit's regular routine"*.

⁷⁴ The principal corrections officer told us that the prisoner was in the ISU because they were at risk of harming others, and that there was a section 58 segregation direction, but we were unable to find it.

Summary

245. Through the statutory at-risk regime, prisoners can remain in the ISU unable to associate for extended periods of time without a segregation direction. The at-risk regime is useful to isolate prisoners who have been assessed as at risk of self-harm for a short period of time, without the formality of the segregation process. However, the informality of the at-risk regime may be inappropriate for prisoners who are unable to associate for extended periods. There is no statutory mechanism to trigger a review of the management of a prisoner who has been in an at-risk cell for an extended period, or to enable national and regional staff to easily identify the numbers of prisoners across different sites who are being managed in at-risk cells for extended periods of time.
246. Some of the prisoners being managed in an at-risk cell for extended periods were waiting for psychiatric (forensic) hospital in-patient admission. From the data we were provided, we were not able to ascertain the number of prisoners in at-risk cells because of the shortage of hospital beds. The at-risk regime is not an appropriate way of managing prisoners who should be in hospital, but staff are required to place such prisoners either in the restrictive ISU environment or in a mainstream environment, which may be equally inappropriate.
247. The training for health staff on the at-risk regime and section 60 segregation directions is inadequate. Not all health centre managers were able to identify when a section 60(1)(b) direction – to monitor or ensure a prisoner’s mental health – would be appropriate.

Areas for consideration

32. Corrections should consider reviewing the at-risk regime, including whether it is appropriate for prisoners who are in an at-risk cell for more than a short period of time, and for those prisoners waiting for a hospital bed.
33. Corrections should consider reviewing the guidance in the Prison Operations Manual on the use of segregation directions for at-risk prisoners.
34. Corrections should consider whether a statutory mechanism is needed that would trigger a review of the management of an at-risk prisoner, and provide regional and national oversight for prisoners who have been in an at-risk cell for an extended period.
35. Corrections should consider reviewing the training for health centre managers on the application and management of the at-risk regime and section 60 segregation directions.

Transitioning out of management units and ISUs

- 248. We found that across most sites insufficient consideration was given to transitioning segregated prisoners out of a management unit and into a mainstream unit. In contrast, most sites had good practices in place for prisoners transitioning from an ISU to a mainstream unit.
- 249. At a number of sites we found that prisoners were routinely segregated for 14 days, with no evidence of any consideration given to revoking the segregation direction earlier.

Transitioning out of the ISUs

- 250. At most sites staff discussed the transition of prisoners out of the ISUs at daily or weekly multi-disciplinary team meetings. We observed good examples of staff proactively managing the transition to ensure that prisoners were able to adjust to the new environment in the mainstream unit. Some sites had a specific unit for more vulnerable prisoners, which could be used to assist the transition of prisoners out of the ISU.
- 251. Multi-disciplinary team meetings at the ISUs are attended by health, custodial, ISTP and forensics staff (psychiatric staff from the DHBs). Staff review the management of the prisoners in the ISUs, including how prisoners transitioning to a mainstream unit can be best prepared. However, this information is not generally captured in the management plans which, as discussed earlier in this report, typically do not include health information.
- 252. We observed a range of measures used by sites to assist ISU prisoners transitioning back into a mainstream unit, including taking prisoners to their new unit for short visits to experience the new regime prior to leaving the ISU. One site set out these steps in written transition plans. Staff at another site told us that when planning for a prisoner to leave the ISU, you *"have to slowly walk together with them, rather than [trying for a] quick transition"*.

Transitioning out of segregation

- 253. Unlike the ISUs, we found few examples in the management units of practices that were intended to assist prisoners to transition out of segregation. This reflected the management plans we reviewed, which generally failed to assist prisoners to change the behaviours that had led to the segregation direction.

254. There were some limited exceptions. At one site, segregated prisoners had the opportunity to visit their sending unit each day, to support their return to the unit when their segregation ended, although the visits were not available if the segregation direction had been made in response to an incident of violence at the sending unit. While it is reasonable not to provide daily visits to the sending unit immediately after a segregation direction made in response to an incident of violence, efforts must be made to ensure that this happens prior to the direction being revoked.
255. At another site, a prisoner told us that, shortly before his segregation ended, he had been able to go to the main yard of the management unit, to assist him to prepare to return to his normal unit, as opposed to the small yard attached directly to the rear of his cell.

Segregating prisoners for 14 days

256. We found that at a number of sites little thought was given to revoking segregation directions before they expired after 14 days. The initial 14-day period was frequently treated as a fixed period of segregation that must be completed before returning to the mainstream unit. Fourteen days is a significant period of segregation, given the lack of social interaction, the restrictive physical environment and the lack of things to do.
257. Under the Corrections Act, segregation directions under section 58 or 59(1)(b) expire *"after 14 days unless, before it expires, the chief executive directs that it continue in force"* and must be revoked prior to the 14th day *"if there ceases to be any justification"* for the direction.⁷⁵ The Act is clear that 14 days is a maximum, and prisoners should only remain segregated for as long as is necessary, by reference to the purposes of the direction. For example, if a section 58 segregation direction is no longer necessary after five days to segregate the prisoner for the *"security or good order of the prison"*, then the direction must be revoked by the prison manager.⁷⁶ This is set out clearly in POM:⁷⁷

*It is important to keep in mind that an initial direction is **not** for 14 days, but a maximum of 14 days and the direction, (the concept of maximum time also applies to the extensions of segregation periods) based on the identified risks and mitigation strategies, can be less than the maximum period, in other words the duration of the direction is linked to the time the prisoner is able to demonstrate understanding and compliance to the behaviours that resulted on the direction, these*

⁷⁵ Section 58(3) of the Corrections Act.

⁷⁶ Section 58(3)(a) states that a direction *"must be revoked by the prison manager if there ceases to be any justification, under subsection (1), for continuing to restrict or deny the opportunity of the prisoner to associate with other prisoners"*.

⁷⁷ M.07.04.01 Segregation Directions Timespan.

behaviours must be clearly described in the segregation management plan.

258. At some sites we saw good examples of this approach, with evidence that staff were keeping segregated prisoners under review and revoking the segregation direction well before the 14th day where appropriate. However, a number of sites appeared to segregate prisoners routinely for 14 days, suggesting the management of segregated prisoners was not being kept under review to consider whether segregation remained justified. At one prison the custodial systems manager acknowledged that “we should look to review prior [to the 14th day]”, but suggested that 14 days of segregation went by “pretty quick”.
259. At several of our site visits, we found that prisoners had been moved out of the management unit immediately prior to or after our visit, raising questions as to whether there had been good reason for the continued segregation of those prisoners.

Continuing segregation beyond 14 days

260. Where staff consider that a segregation direction should be extended beyond the initial 14-day period, the site prepares an application to the senior advisor to the regional commissioner, who has the delegated power to extend the direction. In some regions, a practice has arisen that applications to continue a segregation direction must be completed five days prior to the expiry of the order, which means that the application may fail to take account of changes in the prisoner’s behaviour towards the end of the first 14 days of segregation.

Using directed protective custody to extend section 58 segregation orders

261. One site has adopted a practice of making a segregation direction under section 59(1)(b) (a directed protective custody direction) to continue segregating a prisoner where the original segregation direction could no longer be justified.
262. The practice arises where a prisoner has been segregated under section 58 – for the safety of others or for the security or good order of the prison – but the direction is about to expire, there are no grounds to continue the direction, and the site considers there is no suitable mainstream unit in which to place the prisoner.
263. It should be noted that this site has a significant gang population, which makes placement of prisoners transitioning out of segregation difficult. Where the site concluded that it was not appropriate for the prisoner to return to a general mainstream unit and to mix with the general prison population, the site’s practice was to try and identify specific individuals with whom the prisoner could appropriately associate. If the site was able to identify only one such prisoner, or if the site was unable to identify any suitable prisoners, the site would make a segregation direction under section 59(1)(b).

264. A section 59(1)(b) segregation direction may only be made where the prison director is satisfied that *"the safety of the prisoner has been put at risk by another person"* and *"there is no reasonable way to ensure the safety of the prisoner"* other than through segregation. Using section 59(1)(b) directions because the original section 58 direction can no longer be justified creates a risk that the statutory requirements for the new direction have not been met.

Transition units

265. Some sites designate specific units for prisoners transitioning out of management units or the ISUs.
266. For vulnerable prisoners, this can be a useful alternative to the restrictive environment of the ISUs. There are many prisoners whose mental health, intellectual disability or other vulnerability makes it difficult for them to cope in a mainstream unit, but for whom the restrictions in the ISU are unnecessary and likely to be isolating, potentially causing their mental health to deteriorate. However, at most sites staff must choose between placing prisoners in the very restrictive environment of the ISU, or in a mainstream unit, where the large number of prisoners unlocked together can be overwhelming for some prisoners.
267. One site had a transition unit for prisoners coming out of the management unit, for up to 14 days, although this could be longer if the site was unable to find an appropriate cell in another unit. The transition unit was also used as an alternative to segregation if a prisoner was involved in an incident that did not warrant a segregation direction, but staff considered that the prisoner should be moved out of the mainstream unit. The only difference between the transition and management units was that the prisoners in the transition unit were able to associate during their unlock time (with other prisoners of the same classification). However, this was only for an hour a day in the yards. None of the prisoners at the site at the time of our visit had a transition plan in place.⁷⁸

Summary

268. We found few examples of prisoners in a management unit being proactively managed to transition back into a mainstream unit. We observed good practices in the ISUs for transitioning prisoners to mainstream units, although information about a prisoner's care and specific needs in the ISU was not usually provided to the receiving unit or documented in the prisoner's penal file.
269. Across many of the sites we found that prisoners were routinely segregated for 14 days, without consideration given as to whether the segregation direction should be revoked prior to the 14th day.

⁷⁸ The residential manager provided us with a management plan for one prisoner (using the Management Plan M.07.Form.04), but the principal corrections officer of the unit was unaware of the management plan.

Where staff sought to extend segregation directions past the 14th day, some regions had a practice that the application must be provided five days prior to the expiry of the direction, which meant that relevant information from the end of the prisoner's first 14 days of segregation was not necessarily taken into account when deciding whether to extend the direction, including any improvement in the prisoner's behaviour.

Areas for consideration

36. Corrections should consider what practices can best assist prisoners to transition out of a management unit into a mainstream unit.
37. Corrections should consider what, and how, information about the care and specific needs of prisoners transitioning out of ISUs is provided to custodial staff in receiving units.
38. Corrections should consider how to ensure that segregation directions are kept under review, and segregated prisoners are not routinely held in management units for 14 days.
39. Corrections should consider how to ensure that practices across the prison network for extending segregation are consistent, including that behaviour at the end of the initial segregation period is taken into account.
40. Corrections should consider how to ensure that directed protective custody directions are not used to continue segregating prisoners if the direction is not otherwise satisfied.

Segregation documentation and processes

270. We found many examples of poor documentation and record-keeping in both the management units and ISUs. Segregation documentation is prepared and stored in hard-copy and in site-specific electronic files. Staff told us that the documentation was overly complicated and suggested it be entered on IOMS, the electronic database which holds prisoner information. In some cases we were unable to find the segregation directions. We observed examples where the segregation documentation had not been provided to prisoners, who were unaware of why they had been segregated. Health centre managers were not consistently informed when a segregation direction was made, with the consequence that prisoners' health information was not taken into account when making a decision to restrict a prisoner's opportunity to associate.
271. We found that the segregation processes were generally working best at those sites with a custodial systems manager who took responsibility for the segregation documentation.

Making a segregation direction

272. We found that the process for making a segregation direction was not always working as intended, resulting in prisoners not receiving copies of segregation documentation, documentation being incomplete, and documentation missing from prisoner files. There were instances during our site visits when the segregation directions could not be found.

Segregation documentation

273. During our interviews, many staff voiced frustrations about the segregation documentation. There are three different forms that must be completed, and the documentation is kept in hard-copy rather than being stored in IOMS. During a number of our site visits we encountered difficulties in obtaining segregation directions that we wished to review. In our review of prisoners' documentation we often found several different copies of the same forms completed to various stages. The copy on the penal file was generally incomplete. Sometimes the custodial systems manager was able to provide us with some documentation from a site-specific electronic files that was more complete, although it often did not include the required authorising signatures.

274. Completed segregation directions are provided by sites to the senior advisors to the regional commissioners, who described the segregation process as clunky and cumbersome to navigate and said timeframes were often missed because of this. The senior advisors also told us that the segregation documentation they received had often been completed incorrectly.
275. The segregation documentation is available only in English.
276. Specific issues we identified when reviewing segregation documentation included:
- » Segregation documentation was missing.
 - » A significant proportion of the segregation documentation was missing signatures from the relevant decision-makers.
 - » There was missing information, such as dates and the name of the person who had signed the documents.
 - » Segregation documentation for one prisoner had the details of another prisoner.
 - » The Form M.07.Form.03 – which confirms that the senior adviser has reviewed the initial direction to segregate the prisoner – was missing from the prisoner penal files.

The custodial systems manager role

277. Not all sites have a custodial systems manager, or include the preparation of segregation documentation as part of the custodial systems manager's role. However, we found that the segregation processes were generally working better at those sites with a custodial systems manager who was engaged in the process. This was reflected in fewer prisoners on segregation, and fewer directions that association was denied (as opposed to restricted), because the custodial systems manager would examine applications for segregation and consider alternatives.
278. Examples given to us by the custodial systems managers we spoke to of the processes they had developed to improve the documentation included discussing alternatives to segregation with the principal corrections officer of the prisoner's sending unit, reviewing the documentation before it went to the prison director and telephoning the senior adviser to the regional commissioner to advise them of the decision to segregate a prisoner and have the opportunity to discuss this decision.

Informing the prisoner of the reasons for segregation

279. We are not confident that all segregated prisoners are provided with the necessary documentation setting out the reasons for their segregation direction at all or, if provided, that it is done in a timely way. Providing a copy of the direction informs the prisoner of the reasons (in writing) for the direction, as required by the Act.
280. Most sites have a process that the segregation documentation is given to the prisoner by the principal corrections officer of the management unit, once it has been approved by the prison director.

However, we found that the segregation documentation often lacked the prisoner signature confirming receipt or, alternatively, signatures from staff confirming that the prisoner had declined to sign, as required by POM. We found multiple examples of segregation directions that had been signed by the prisoner some days after the direction was first made, in one case as much as 17 days late. Even where prisoners had been provided with their documentation, there was sometimes a failure to ensure the prisoner had been provided with the final version (i.e. the document signed by the prison director).⁷⁹

281. At one site prisoners were provided with their segregation documentation electronically through the basic computers which were installed in most cells at that site, but not in the management unit. The computers were available to prisoners in the management unit on another floor within the unit, but the prisoners would need to access it during their time out of cell.

Notifying the health centre manager

282. Where health staff are not involved in segregation directions, there is a risk that a prisoner's ability to associate is denied without relevant health information being taken into account. We found, contrary to the Corrections Regulations, that health centre managers were not consistently informed that a prisoner had been segregated.
283. Regulation 55 requires that the health centre manager be notified once a segregation direction is made:

The health centre manager of a prison 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.

284. Most sites have a process that the custodial systems manager informs the health centre manager about any segregation directions denying a prisoner's ability to associate. One health centre manager told us that if they had concerns about the effects of isolation on a prisoner they would have a "risks vs benefit" conversation with custodial staff.
285. At a number of sites the health centre manager was unaware of the requirement that they be notified, and told us that there was no

⁷⁹ For example, at one site there was a process where segregation documentation was given to the prisoners by the principal corrections officer of the sending unit (i.e. the prisoner's unit immediately before the segregation direction). The documentation was provided after the prison director had given verbal approval, but before it had gone to the custodial systems manager for review and before the prison director had signed the direction. If any changes were made during this process (for example, to the management plan, which is part of the segregation documentation), we were not confident that the updated documents would have been provided to the prisoner.

formal process informing them that a prisoner had been segregated.⁸⁰

286. Segregation carries risks to prisoners' mental health, and the Mandela Rules prohibit solitary confinement for "*prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures*".⁸¹ The health centre manager should be made aware of those prisoners who are unable to associate, to enable health staff to monitor such prisoners, and to ensure health staff have an opportunity to review the health records for any segregated prisoner to confirm that the segregation creates no special risks for that prisoner. In practice, very few of the health centre managers we spoke to had reviewed the health records of segregated prisoners.⁸² Only one health centre manager confirmed that they had previously intervened following a segregation direction having been made.

Processes for health-related segregation

287. We observed a number of issues specific to health-related segregation directions made under section 60. At some sites we found health staff had insufficient input into the decision. The requirement for the health centre manager to recommend a section 60 direction was in practice sometimes being carried out by an assistant health centre manager, without any formal delegation process. Although section 60 directions are provided to the senior advisors to the regional commissioners, the senior advisors do not have health expertise.

The health centre manager's report

288. POM requires that a "*health centre management's report*" be attached to the application for a section 60 segregation direction, reflecting the requirement in the Corrections Act that a section 60 segregation direction be on the recommendation of the health centre manager.⁸³ POM provides no guidance as to what a health centre manager's report includes (although presumably it should set out the basis for the recommendation that the prisoner be

⁸⁰ At one site the health centre manager was only aware of segregation directions because of a generic weekly email sent to all staff confirming who was subject to segregation directions (however the email did not include all segregation directions, e.g. segregation for health reasons under section 60).

⁸¹ Mandela Rules, Rule 45(2).

⁸² This is contrary to the processes in POM at M.07.03 and the Health Centre Management Legal Responsibilities Policy (dated 2013), which require health centre managers to "*investigate and confirm there are no pre-existing medical/psychological conditions that may be aggravated by the segregation*", to decide whether an assessment of the prisoner is needed, and to record the decision on the prisoner's health record.

⁸³ M.07.01.01: "*Copies of the evidence used to request the direction must be attached to the application. [For a 60(1)(a) or 60(1)(b) direction this is] A **health centre manager's report***".

segregated), and we found no evidence of such reports attached to any of the section 60 directions we reviewed.⁸⁴

289. At one site, the health centre manager told us that the section 60 segregation documentation was completed by custodial staff, who decided whether the prisoner's association was to be restricted or denied. Another health centre manager told us that they were able to advise whether association should be restricted or denied, but more often "*we are led by custodial*". However, this did not reflect the general practices we observed at most sites, where health staff generally had appropriate input into the initiation of section 60 segregation decisions.

The review process for section 60 directions

290. Section 60(2)(b) states that once a section 60 segregation direction is made, "*the chief executive must promptly be informed of the directions and the reasons for it*". In practice this is done by providing the segregation documentation to the senior advisors, who have the appropriate delegation. However, the senior advisors told us that they were not health professionals and were unable to examine health-related segregation directions. Section 60 directions therefore lack a meaningful quality assurance process.
291. Unlike section 58 and 59 directions, section 60 does not have a statutory review process where the chief executive or a Visiting Justice must make a new direction to continue segregation every three months. A section 60 order simply continues until the health centre manager advises that there "*has ceased to be any justification ... for continuing to restrict or deny the opportunity of the prisoner to associate with other prisoners*", at which point the prison director revokes the direction (section 60(4)).⁸⁵
292. As with at-risk prisoners, segregated prisoners may be isolated in an ISU cell for a lengthy period, but there is no statutory mechanism to trigger a review of the prisoner's management.

Delegating the health centre manager's power

293. Health centre managers at many sites told us they were required to be on call 24/7, because they needed to be available to make a recommendation for a section 60 segregation direction. They would receive telephone calls after hours, including at weekends, and they told us this made it difficult for them to "*switch off*". The ability to make a recommendation for a section 60 direction may be delegated to another person, and this is routinely done when the health centre manager is on leave for a period of time. Formal

⁸⁴ Although one site had a practice that nurses would complete an "*Advice of Prisoner Health Status*" form as part of the section 60 process, and some of the section 60 prisoners had a "*health treatment plan*" on their electronic health files.

⁸⁵ The chief executive (or delegate) may revoke a section 60 direction without requiring advice from the health centre manager.

delegations authorise the person acting in the health centre manager role to make the section 60 recommendations.⁸⁶

294. At a few sites we were told that the assistant health centre manager was also able to make section 60 recommendations, which meant that the health centre manager did not always have to be available. When we asked whether the appropriate delegations were in place, we were advised that this was included in their job description and therefore no formal delegations were required to be completed.
295. We consider that, where an assistant health centre manager is performing a statutory role that has been expressly assigned to the health centre manager in the Corrections Act, this should be subject to the appropriate delegations authority.⁸⁷

Record-keeping in the ISUs

296. We found poor record-keeping across the sites in the ISUs. At one site, when a prisoner moved out of the ISU all their information would be placed in a red cardboard manila folder that was stored in the office of the ISU Principal Corrections Officer. The information was not included on the prisoner's penal file, so the custodial officers in the receiving unit were not provided with information about the prisoner's health or management in the ISU. There was a separate red folder for each time a prisoner had been in the ISU. At another site, the staff told us that the at-risk management plans were in the Receiving Office, but were unable to locate management plans for all at-risk prisoners.

Continuing segregation when transferring between sites

297. At one prison staff had adopted a site-specific process for prisoners arriving from another prison, where the prisoner had been subject to a segregation direction immediately before being transferred. On arrival, the prisoner would be kept segregated to assess compliance and monitor behaviour. Evidence from the sending prison was used to support a new segregation direction, and the sending prison would be asked to place information about its segregation direction on the top of the prisoner's file. When the receiving prison made its (new) segregation direction, it used the same start date as in the sending prison's direction. From the prisoner's perspective, the segregation direction from the sending prison was continued, even though that direction would have been revoked and the segregation alert deactivated when the prisoner was transferred.
298. There may well be times when it is appropriate to segregate a transferred prisoner. However, the default segregation of transferring prisoners is contrary to section 58 of the Corrections

⁸⁶ This can be done under sections 13 and 19B of the Corrections Act 2004.

⁸⁷ See especially section 19B(4) and the requirement for delegations to be in writing in section 13(6)(a).

Act, as the power to direct that a prisoner be segregated can be made only by the prison director at the site where the prisoner is in custody. This is set out clearly in POM.⁸⁸ Given that segregation is often experienced as a punishment (although, as explained earlier, segregation should not be directed to punish a prisoner) it is understandable that the prisoner may feel that they have been penalised again for the same incident.

Summary

299. Although the segregation documentation we reviewed was often poor, it was best at those sites where the custodial systems manager had taken responsibility for the documentation. Staff across the prison network requested simpler segregation documentation that could be stored electronically in IOMS.
300. Health staff were not always sufficiently involved in the segregation process. Health centre managers were not always notified that a prisoner had been segregated, so health staff were unable to review the prisoner's health files to confirm there were no special risks for that prisoner if unable to associate. Likewise, we observed that the preparation of the health-related segregation documentation was often led by custodial staff, with limited input from health staff.
301. Health-related segregation directions are provided to the senior advisors, who are not health professionals. Health-related segregation lacks a statutory mechanism to trigger a review of the segregation direction after a set period, unlike the three-monthly reviews required for section 58 and 59 segregation directions. The Act requires that the prison director only make a segregation direction on the recommendation of the health centre manager, but we found the recommendation was sometimes being made by an assistant health centre manager who did not have a formal delegation in writing.

Areas for consideration

41. Corrections should consider streamlining the segregation process, including developing simpler documentation, that can be accessed and decisions authorised electronically.
42. Corrections should consider ensuring that all sites have a designated senior responsible officer accountable for the segregation documentation.
43. Corrections should consider how to ensure that all prisoners receive copies of their segregation documentation.
44. Corrections should consider how to ensure that where a segregated prisoner is transferred, the receiving prison does not continue the segregation direction.

⁸⁸ M.07.04.06.

45. Corrections should consider how to ensure that health staff are always notified when a prisoner is segregated and review the health records for any segregated prisoner.
46. Corrections should consider how to ensure that the health centre manager's report is included in any application for section 60 segregation directions.
47. Corrections should consider whether section 60 segregation directions should include a statutory mechanism to trigger a review after a set period.
48. Corrections should consider whether assistant health centre managers should have a formal delegation to make recommendations to support section 60 segregation directions.
49. Corrections should consider whether the establishment of a dedicated whole of Corrections Segregation Review Panel, operationally independent from sites and regions, would provide a more robust platform for Corrections on the use of segregation and at-risk regimes across the prison network.

Training and staffing

302. We found that custodial and health staff would benefit from specific training on segregation and the management of mentally unwell prisoners. Health centre managers consistently lacked training on their legislative responsibilities.
303. The recent introduction at some sites of Intervention and Support Practice Teams have provided additional support for mentally unwell prisoners, especially in the ISUs. However, we observed that the overlap between the roles of the ISPT staff and the health staff and their different reporting lines has created some confusion. Although the ISPT has at some sites largely taken over the role of the health centre staff in the ISU, the legislative responsibilities remain with the health centre manager.

Training on segregation

304. We observed that the senior corrections officers and principal corrections officers provided support to staff in the management units for managing segregated prisoners, but there is no specific training addressing the management of segregated prisoners.
305. We found that corrections officers in the management units sometimes struggled to explain the purposes of segregation, the difference between restricting and denying a prisoner's ability to associate, and that there was a lack of knowledge from staff about the segregation documentation, which many said they found cumbersome. There was also sometimes a lack of awareness of the impact of segregation on prisoners.

Training for custodial staff on prisoners with mental health issues

306. The lack of specific training or supervision for custodial staff on mental health issues, including in the ISU, was a consistent issue across the prison network.
307. Custodial staff expressed concerns about managing people with very complex mental health or personality-driven presentations in the management units. Examples included prisoners in the management units who were in the care of forensic (DHB psychiatric teams) and who were not taking their prescribed medications. A common concern raised by corrections officers was that they felt like they had been trained as custodial staff but were being asked to manage prisoners with mental health issues.

Training of custodial staff in the ISUs

308. We observed that staff who had been specifically appointed and permanently rostered into the ISU were able to gain experience of managing people with different mental health presentations and

generally had better awareness than custodial staff in other units. Custodial staff in the ISUs told us that while they had not received any formal training, they had learned a lot through engaging with DHB, ISPT staff and Health Centre staff.

309. Some staff we spoke to said they enjoyed working with prisoners in the ISU. However, we spoke with and observed some staff who did not work permanently in the ISU but who were *"rostered through"*; many were unaware of their role and tasks which needed to be completed and said they were unaware of how to manage particular behaviours.
310. Some custodial staff had attended Mental Health 101 training, and said that while they appreciated the training they felt that the presentations they were managing in the ISU were much more complex than what was included in this training. At one ISU, a psychologist had been coming into the unit once a week for supervision sessions with custodial staff. Officers were invited to suggest topics for the psychologist to discuss. The custodial staff were positive about these sessions, and said it was good to have the ability to *"offload"* in a group setting, and that the psychologist *"gives us ideas of how to cope with"* challenging prisoners.

Training of health staff, including health centre managers

311. Health centre managers consistently lacked training about their legislative responsibilities; they told us they learn on the job.
312. In 2013 a Health Centre Manager Legal Responsibilities policy was developed to ensure that the health centre managers were aware, and had an understanding of, their legal responsibilities in relation to the Corrections Act 2004 and Corrections Regulations 2005 for the health care of prisoners. This policy was updated on 7 November 2022, but does not include practical guidance on the application of the changes introduced by the Corrections Amendment Act 2019, including the new at-risk regime in sections 61A-61H.
313. During our interviews with the health centre managers we heard:
 - » Many were unclear in general about their legislative responsibilities.
 - » Many were not aware of the Health Centre Manager Legal Responsibilities Policy, or where to find this.
 - » Many had not received any specific training during their orientation on their legal responsibilities.
 - » Many were unaware of and unable to describe the difference between managing a prisoner under a section 60(1)(b) segregation direction and a prisoner who had been assessed as at risk under section 61.
 - » Some health centre managers were completely unaware of the at risk regime in section 61A-61H.
 - » While some health centre managers told us they were notified of segregation directions, not all were aware that this was required

- by regulation 55. Many did not understand why they were receiving this notification and took no action in response.⁸⁹
- » Many were unaware of their responsibilities in regulation 76(2) to pay "*special attention*" to any prisoner who is unable to associate. While health centre managers were able to tell us about "*welfare checks*", many were unaware of the connection with regulation 76(2). There is no guidance in the Health Centre Manager Legal Responsibilities Policy as to what "*special attention*" means.
314. During our investigation Corrections organised an hour-long training session for all health centre managers on legislation. While this was a good first step, significant work remains to be done to ensure health centre managers understand their legislative responsibilities and how this should be reflected in practice.
315. There is an Orientation Manual for new nurses and this includes legislative modules that the nurses must complete. These modules are clinically relevant (for example they include introductions to the Mental Health (Compulsory Assessment & Treatment) Act) but do not include any modules about the Corrections Act or Corrections Regulations.

Training of health staff on use of force

316. Health Centre nurses have important roles during planned uses of force and immediately after any use of force, planned or spontaneous. We spoke to nurses about the training they had received on the use of force. There were a mix of experiences across the prison network.
317. The nurses' Orientation Manual includes a section on control and restraint, however this only addresses reviewing a person following control and restraint and completing the documentation.
318. At one site a training session had been held with both custodial and nursing staff about use of force, including the medical risks of control and restraint. Nurses told us about the value of this session.
319. Nurses at other sites told us they had not received any training on the medical risks of control and restraint. They were able to speak about "*protecting the airway*" of a person being restrained. A very small number of nurses had viewed a video on Corrections internal website which shows the health-related risks of use of force.
320. Some nurses told us they would not feel confident speaking up during a planned use of force event. While they understood their role was to ensure the safety of the prisoner, they stated that they were usually kept away from the scene and could not see the prisoner during the event and were unsure whether custodial staff would listen if the nurses did express concerns. However, there were

⁸⁹ When a health centre manager is notified that a prisoner has been placed on segregation then a review of the prisoner's history must occur to decide if an assessment of the prisoner is needed. The decision must be recorded on the prisoner's health record (Health Centre Manager Legal Responsibilities Policy).

a few experienced nurses who said they had intervened during a planned event and custodial staff had been responsive to their input.

Staff training and the impact of staff shortages

321. There were significant staff shortages across all prison sites at the time of our site visits, which were having a significant impact on staff training. While sites were making every effort to ensure staff were up to date on their tactical options training, this was not always possible due to staff shortages. COVID-19 has prompted a shift to online training, including for new recruits, which we were told been a challenge for some staff.

Confusion about the different roles of the ISPT and Health Centre staff

322. The introduction of the Intervention and Support Practice Team (ISPT) at a number of sites has been a positive initiative, providing important interventions by clinical and other staff. However, staff raised a number of issues arising from the overlap in responsibilities between health and ISPT staff, who have different reporting lines.
323. The ISPT began as a pilot at three prisons, and has now been introduced at six sites. Each team includes:
- » a clinical manager mental health
 - » psychologists (working with a clinical or counselling scope of practice)
 - » clinical nurse specialists – mental health
 - » an occupational therapist
 - » a clinical social worker
 - » a cultural support worker.
324. The ISPT is supported by an administration officer and two dedicated custodial officers.
325. The operation of the ISPT varies at each site where they have been introduced. At some sites, the ISPT has a significant presence in the ISU, and has largely taken over the role of Health Centre staff (by doing the daily welfare checks). At other sites, the ISPT has little presence at the ISU, instead working with prisoners in other units to avoid the prisoners ending up in the ISU.
326. Many staff told us there was a disconnect between the Health Centre staff and ISPT staff arising from the different reporting lines. The health centre manager reports to the chief nurse, however, the ISPT reports to Corrections' director mental health and addictions.
327. The different reporting lines and the varied approaches has created confusion between the ISPT staff and Health Centre staff about their different roles and responsibilities. This issue presented in a number of ways:
- » Where the ISPT has oversight of the ISU or management unit, Health Centre staff have a reduced presence in those units. This

may compromise the health centre manager's ability to carry out their legislative responsibilities,⁹⁰ both because the Health Centre staff (at some sites) do not have as much presence in these units, but also because the ISPT does not report to the health centre manager. In one example, the ISPTs at two different prisons arranged a transfer of an unwell prisoner between the two sites, from one ISU to another. The health centre manager at the sending prison was not informed and had no awareness of the transfer.

- » At some sites ISPT staff have taken over the daily welfare checks in ISUs or other units. Where the ISPT is undertaking the welfare checks, and given that the ISPT staff do not report to the health centre manager, it is not clear how the health centre manager can comply with their obligation in regulation 76(2)(a) to "*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*".
- » Not all ISPT staff are Health Practitioner Competence Assurance Act registered clinicians, and where the ISPT is responsible for the welfare checks there is a risk that a prisoner's welfare check is conducted by a non-clinical staff member. At one site the ISPT had four cultural support workers, only one of whom had a level 4 mental health certificate, although the others (who did not have formal mental health qualifications) were undertaking mental health wellbeing assessments.
- » The focus of the ISPT is on mental health, and there is a risk that ISPT staff may overlook an underlying physical health issue, particularly if the welfare check is not being conducted by a registered nurse.

Summary

328. Custodial staff in the management units and ISUs are managing prisoners with a range of mental health issues, and would benefit from training about managing mentally unwell prisoners. We observed that custodial staff who were based long-term in the ISUs were able to develop relevant experience dealing with mentally unwell prisoners, in contrast to staff who were being rostered through the ISUs on a temporary basis. Staff in the management units could also benefit from specific training about segregation. We observed that health centre managers consistently lacked training on their legislative responsibilities.
329. While the introduction of Intervention and Support Practice Teams (ISPT) has been a positive initiative which provides important interventions for many prisoners, it has introduced confusion between the roles of the ISPT staff and health staff. Where ISPTs

⁹⁰ Including in section 19A(4) of the Corrections Act: "*Every health centre manager is responsible for ensuring the provision of health care and treatment to prisoners*". See also Corrections Regulations, clauses 63, 72 and 73.

provide support to prisoners in the ISUs, health staff may have a reduced presence in those units. This may impact the health centre manager's ability to carry out their legislative responsibilities. Where ISPT staff are responsible for conducting welfare checks, there is a risk that these may be undertaken by a non-clinical staff member and miss physical health presentations.

Areas for consideration

50. Corrections should consider providing training to custodial staff in management units and ISUs on behavioural management and mental health and disability presentations.
51. Corrections should consider specific training on segregation to all custodial staff in management units.
52. Corrections should consider how to assign specifically selected and suitably experienced staff to the ISUs.
53. Corrections should consider reviewing the training provided to health centre managers about their legislative responsibilities.
54. Corrections should consider reviewing the responsibilities and roles of the ISPT and health staff to ensure that health centre managers are able to comply with their legislative responsibilities.
55. Corrections should consider how to ensure that only clinical staff conduct welfare checks.

COVID-19 response measures

330. Corrections' response to COVID-19 pandemic has been largely successful in managing the risk of COVID-19 in prisons. At the early stages of the pandemic, Corrections took a conservative approach. Non-essential services ceased, including rehabilitation and reintegration programmes, education, employment and visits from family. A quarantine-regime was introduced, with different pathways depending on whether the prisoner had agreed to be tested and other factors. While these measures were successful in addressing the risk of COVID-19 in prisons, they had significant impacts on prisoners.
331. The challenge for Corrections going-forward is to ensure that practices that were appropriate during the initial response to COVID-19, and which restricted prisoners' ability to associate, does not become entrenched as part of normal practice.

Corrections' response to COVID-19

332. Corrections introduced a number of measures in response to the COVID-19 pandemic, which affected prisoners in two ways. First, prisoners arriving on site were required to be managed separately from mainstream prisoners, introducing a new regime of that prevented prisoners from associating. Secondly, for a number of reasons, including reduced staff and to restrict the spread of COVID-19, restrictions were introduced for all prisoners, whether or not they were in quarantine. Some of these restrictions would have heightened the sense of isolation experienced by segregated and at-risk prisoners, who were already experiencing some form of isolation. For example, visits from families ceased, further reducing the opportunities for in-person human interaction.
333. We observed that, because of the restrictions introduced to manage the risks of COVID-19, prisoners in mainstream units may have experienced regimes that were indistinguishable from cell confinement or segregation in a management unit.
334. Corrections' COVID-19-response affected not just prisoners, but prisoners' families in the community. We spoke to a representative from Pillars, a South Auckland-based charity that supports the children of parents in prison, who spoke about the impact the lack of visits had on families:

There's a huge cohort in the community that haven't seen their loved ones for almost two years through COVID alone. Supply and demand on the phones in prison is an issue and when you consider reduced

unlock times and COVID-visitor restrictions, more and more want to be able to access the phones.

COVID-19 quarantines

335. The use of quarantines to manage the risk of COVID-19 in prisons introduced a new regime preventing prisoners from associating, with many of the same issues experienced by segregated and at-risk prisoners.
336. Initially there was confusion among staff as Corrections' response to COVID-19 continued to develop. There were examples where prisoners who were required to isolate even after a PCR test had confirmed that they did not have COVID-19. Sometimes staff did not ensure there were segregation directions in place when requiring prisoners to isolate in quarantine.
337. Ultimately Corrections settled on a three-pathway model with a bubble approach, where prisoners who arrived within a couple of days of each other and who were on the same path were able to associate. After an adjustment period, as staff became familiar with Corrections' triage process, the pathways worked well for the most part. Some sites prepared especially well, with walk through scenarios in anticipation of COVID-19 arriving at the site. Many of the sites had public health staff come onto site to provide advice.

The bubble approach

338. Under the bubble approach, prisoners who arrived at the site within three days of each other were able to associate if they were on the same "pathway". This did not apply to those prisoners on the "red pathway" (those who had tested positive, had symptoms or were from a location of interest), and different sites took different approaches. At one site, prisoners on the red pathway were not allowed out of their cells for the duration of their quarantine, and did not receive their minimum entitlements. This was based on a concern about the risk to custodial staff if they were required to restrain a prisoner who had tested positive. Some sites adopted a more flexible approach, and at one site prisoners who had tested positive were able to associate with other prisoners in their bubble.
339. Where no other prisoner on the same pathway arrived at the site within the required period, the prisoner would be quarantined without being able to associate, and a section 60(1)(a) segregation direction would be made.
340. At smaller sites, it was more likely that prisoners would be isolated when arriving at site, as there were less likely to be prisoners arriving at the same time who could be bubbled together.
341. Where prisoners were assessed as at risk of self-harm when they arrived at site, they would be quarantined in a cell in the ISU. At some sites, because of a shortage of appropriate cells, at-risk prisoners were placed in a dry cell to quarantine. For prisoners who were unfamiliar with prison this was a challenging experience. One

prisoner told us he did not receive an induction and were unaware of how the intercom system worked.

Prisoners who tested positive unable to leave their cells

342. At some sites, prisoners who had tested positive were unable to leave their cells and associate, even with other prisoners who had tested positive. We saw examples of this where an entire unit had tested positive, but the prisoners were confined to their cells because of the risk to staff when unlocking the prisoners.
343. These practices meant that many prisoners spent lengthy periods confined to their cells. In contrast, prisoners who had been segregated or penalised to cell confinement would usually still be unlocked for their minimum entitlement of one hour out of their cell each day for physical exercise.
344. At some sites staff adopted a different approach, wearing PPE gear to unlock prisoners who had tested positive together in a group, so the prisoners were able to leave their cells and associate.

COVID-19 quarantine in practice

345. Prisoners generally commented that staff tried to make their quarantine time tolerable, but that boredom was challenging as the prisoners were confined to their cells for a number of days with nothing to do. There was a lack of activities (for example, activity packs) or induction booklets for prisoners who were quarantining.
346. At one site the Principal Corrections Officer for the quarantine unit made real efforts to mitigate the effects of isolation during quarantine. Staff would place a stool in front of a prisoner's cell door and had long conversations with the prisoners through their doors.
347. The isolation experienced in quarantine was sometimes heightened by difficulties in accessing telephone calls, as prisoners were not being taken to the yards or common spaces where they would usually have access to a telephone. Some sites had a portable telephone that staff would take to the cells, but this was not available consistently across all sites.

The physical environment for COVID-19 quarantine

348. The quarantine units varied from site to site. At one site the ISU was not appropriate for quarantine as the cells had limited air flow, so at-risk prisoners who were required to quarantine were taken to separate cells in the management unit. Some sites repurposed old closed units, which were cold and run-down.

Other COVID-19-related restrictions

349. In addition to the quarantine regime outlined above, Corrections implemented the following measures in response to COVID-19:
 - » All non-essential services were ceased upon level 4 (31 August 2021) and later the "red light" setting under the traffic light approach. A large range of services ceased, including

- rehabilitation and reintegration programmes, case management, education services including library and gym activities.
- » The nurses in the Health Centres were instructed to provide non-COVID-19 related services only where they related to essential or emergency services. Routine screening ceased; health interventions and screenings were only provided when prisoners were symptomatic or there was a health emergency. Self-administration of medications increased.
 - » Employment was offered for essential prison services only – being laundry, kitchen, distribution and wing cleaners.
 - » Social and professional visits ceased for all sites from March 2020. This was lifted in May 2020, but for the northern region site visits ceased from August 2021.
 - » From November 2021 all visitors to prisons nationwide aged 12 and over were required to have had their first vaccination, and from 9 December all visitors were required to be fully vaccinated.
 - » A practice was introduced that incoming mail was held for three days before being provided to prisoners, reflecting concerns at the time of the first COVID-19 outbreak that mail and other surfaces might carry COVID-19.
350. Parole hearings continued despite the COVID-19 restrictions, with hearings being held by audio-visual link. However, because prisoners were unable to complete rehabilitation and reintegration programmes, prisoners faced challenges in demonstrating that they no longer presented a risk to the community.
351. Custodial staff were attempting to meet minimum entitlements (time out of cells for physical exercise, legal calls and telephone calls) while managing staff shortages due to COVID-19 illnesses. Video calls became more widely available in an effort to provide a substitute for visits, but these took some time to become embedded.
352. Prisoners told us that some staff were supportive and “*understand our frustrations*”. However, some prisoners did not always understand the reasons for the restrictions put in place, especially where they were more restrictive than at other sites or as applied in the community

Summary

353. The measures introduced by Corrections in response to COVID-19 were largely successful in managing COVID-19 in prisons. There was some confusion initially as the quarantine regime was fine-tuned and embedded. However, over time staff became familiar with the different pathways and the bubble approach, and we found that the appropriate segregation documentation was prepared.
354. Prisoners who were quarantined because of COVID-19 experienced similar issues to segregated and at-risk prisoners, with limited social interaction, a restrictive physical environment and limited things to do. However, unlike segregated prisoners, quarantined prisoners

were often not unlocked and remained in their cell throughout their quarantine.

355. Other restrictions introduced in response to COVID-19 affected all prisoners, whether or not they were quarantined. Social and professional visits for all sites ceased from March 2020. This was lifted in May 2020, but for the northern region sites visits ceased again in August 2021. This heightened the isolation experienced by all prisoners, and also impacted on families in the community.
356. All non-essential services, across the prison network, ceased from August 2021. This had a profound impact on prisoners, who were unable to complete rehabilitation and reintegration programmes. The focus across the prison network shifted to maintaining minimum entitlements, and we observed that the regimes in mainstream units may at times have been indistinguishable from those in management units.
357. As the response to COVID-19 changes, Corrections will need to ensure that restrictive measures introduced to manage the risk of COVID-19 have not become embedded as part of normal practice.

Areas for consideration

56. Corrections should consider how to keep under review all restrictions introduced to manage the risk of COVID-19 in prisons.
57. Corrections should consider how to support sites to return to the business as usual operating framework, as COVID-19-related restrictions ease.

Use of force

358. The terms of reference for this review included consideration of use of force, as that may form part of the experience of prisoners who are unable to associate.
359. In selecting which prisoners we interviewed at each site, we included a sample of prisoners who had been involved in a use of force event, either during a period of segregation, cell confinement or time in an at-risk cell, or immediately prior to a period of segregation, as part of the incident that led to the segregation direction.
360. During our interviews we asked relevant prisoners about their experience of use of force. We reviewed use of force documentation relating to 52 incidents.
- We also reviewed CCTV and on-body camera footage for 22 incidents.
361. From our interviews and review of the documentation and footage, we identified some specific issues with three incidents of use of force which were referred for further investigation. We did not identify any systemic issues about use of force relating specifically to prisoners whose ability to associate had been denied. The application of use of force generally across management and mainstream units is outside the scope of this review, and would benefit from a separate thematic investigation.
362. A number of the women prisoners we spoke to said that when they were subject to a control and restraint procedure, it was generally carried out by a male custodial officer despite female staff being present. We were unable to confirm this, but we have suggested in the areas of consideration below that it warrants further investigation.
363. At some sites the management units or ISUs had developed regimes applying to all prisoners, requiring handcuffs to escort prisoners out of their cells. The use of handcuffs should be assessed in respect of the individual prisoner and the relevant situation, not applied automatically across a whole unit.

Summary

364. We did not identify any use of force issues affecting isolated prisoners specifically.
365. The application of use of force generally across management and mainstream units is outside the scope of this review and would benefit from a separate thematic investigation.
366. Some of the women prisoners we interviewed told us that control and restraint procedures were often carried out by a male custodial officer despite female staff being present. We have not reached a view on whether this is a general issue, but it was raised by a number of prisoners in our interviews and warrants consideration.

367. Some management units have developed unit regimes that require the use of handcuffs when prisoners are unlocked, without consideration given to the specific circumstances of each prisoner, contrary to the statutory requirements.

Areas for consideration

58. Corrections should consider whether there are any issues arising from male custodial officers applying control and restraint procedures to female prisoners when female staff are present.
59. Corrections should consider how to ensure that when handcuffs are used, the decision must be made specific to that individual and the circumstances.

Conclusion

368. A significant number of New Zealand prisoners will likely have experienced solitary confinement, whether because of a segregation direction, a penalty of cell confinement or they were assessed as at risk of self-harm. We are unable to accurately ascertain how many prisoners experienced solitary confinement, or how many experienced "*prolonged solitary confinement*" – in excess of 15 days – because the data collected by Corrections does not enable us to do this.
369. The prisoners we interviewed emphasised the challenges of not being able to speak with others, including feeling stuck in their own minds. Over time prisoners became institutionalised and struggled to return to a mainstream unit, or developed a "*them and us*" mentality. The prisoners also spoke about the restrictive physical environment and the lack of things to do.
370. We have made seven overarching recommendations. These are:
- » Corrections must recognise the profound extent of the isolation experienced by these prisoners.
 - » Corrections must do more to mitigate the effect of the isolation prisoners experience.
 - » Accurate data must be collected for all prisoners who are unable to associate.
 - » Corrections must implement a framework for prisoners who are confined by themselves, to be led by a senior responsible officer.
 - » Corrections must report on this data annually.
 - » Corrections must report back on progress on our recommendations and areas of consideration in six months and thereafter at six monthly intervals.
 - » Corrections must review its response to the COVID-19 pandemic, to ensure that learnings are applied in the event of any future pandemic.
371. We have also identified 59 areas of consideration, summarised below:
- » Management plans for segregated and at-risk prisoners should be tailored to the individual prisoner and include relevant health information.
 - » Segregation should be used for its statutory purpose and not punitively.
 - » Consideration should be given to the appropriateness of applying the at-risk regime, without a segregation direction, to prisoners who are unable to associate for lengthy periods.
 - » Consideration should be given as to how prisoners in the management units are transitioned back into mainstream units.
 - » Segregation documentation should be simplified and stored electronically.

- » Training should be provided on segregation, managing prisoners with mental health issues and, for health centre managers, on their legislation obligations.
 - » Assistance should be provided to prisons to ensure that restrictions introduced to manage the risk of COVID-19 have not become embedded as part of normal practice.
372. We did not identify any use of force issues affecting isolated prisoners specifically, although we suggested two areas of consideration in relation to the use of handcuffs in the management units and control and restraint procedures more generally.
373. The picture painted in this report is largely negative, given its focus on the challenges faced by prisoners with limited opportunities for social interaction. However, we also identified examples where staff sought to limit the isolation experienced by segregated and at-risk prisoners, and those who were required to quarantine because of COVID-19. Prisoners highlighted the difference these interventions made. As one prisoner said, *“even a little conversation will do”*.
374. Corrections’ Hōkai Rangi strategy already sets out the fundamental change that needs to happen to improve the experience of all prisoners, including those in the management units and ISUs. Under the heading ‘Humanising and healing’, Corrections has set out its commitment to be a values-led organisation:

Our staff will treat those in our care and management with respect, upholding their mana and dignity. No-one will be further harmed or traumatised by their experiences with us. Upon release, the support they have received will leave them equipped with the skills, self-respect, and resilience to live healthy and sustainable lives, and not return to the justice system. We will continue to support them through their transition back into the community.

Our systems and environment will not cause further unnecessary stress to people who are already experiencing hardship through having their liberty deprived and separated from their whānau. We will recognise and encourage the dreams and aspirations of people in our care and management and their whānau.

375. This must be the goal for all prisoners under Corrections’ management, including all prisoners who have become unable to associate, for whatever reason.

Appendix A – Terms of Reference

Terms of Reference for a review of the use of directed segregation (or similar regime) and use of force in prisons

Background

1. On 28 October 2021 the Office of the Inspectorate *Te Tari Tirohia* released three reports relating to the management of women in prison, including a report of the investigation into the management of three wāhine at Auckland Region Women's Corrections Facility (ARWCF). In that report the Inspectorate made a number of findings, including that the wāhine were effectively kept segregated without the process for directed segregation being followed.
2. More broadly, the use of directed segregation and the use of force are matters of significant interest to the Office of the Inspectorate across its investigations and inspections framework.
3. Both prior to and since the release of the three reports, the Department of Corrections *Ara Poutama Aotearoa* (Corrections) has taken steps to address identified issues:
 - a) In March 2021 the Inspectorate issued preliminary findings and recommendations in respect of the ARWCF investigation, which included adverse findings around the use of directed segregation and force. The Minister of Corrections then issued a Letter of Expectations directing Corrections to accept the findings and recommendations from the preliminary report, and seeking (among other things) an "urgent review and overhaul of maximum security classification for women, the development of management plans for women and a review of all women's prisons". This work is underway, and Corrections has accepted the recommendations in the final report.
 - b) In response to all three reports regarding the management of women prisoners, Corrections has launched *Wāhine - E rere ana ki te pae hou*, the refreshed women's strategy for 2021-2025.

Purpose

4. This review will consider the use of directed segregation (or similar regime) and the use of force across the prison network.

Key areas of focus

5. This review will focus on how Corrections is using directed segregation (or similar regime) and the use of force as part of its approach to managing prisoners. The review will include whether the use of directed segregation and the use of force is consistent with the Corrections Act, Corrections Regulations, policies and procedures.
6. This review will include, but not be limited to:

- a) The practices and procedures at each prison relating to the management of prisoners on directed segregation (or similar regime), and/or the use of force.
- b) The experiences and treatment of prisoners who have been placed on directed segregation (or similar regime), and/or the use of force.
- c) The environment in specialist units such as Separates, Management and other cell confinement cells, and Intervention and Support Units, relating to the management of prisoners on directed segregation (or similar regime).
- d) The support for such prisoners and access to constructive activities, including education, rehabilitation, training and exercise opportunities.
- e) The availability of primary health care, mental health care, trauma counselling and wellbeing support for prisoners (including those who are at risk of self-harm or mentally unwell).
- f) Staff training to respond to the needs of prisoners placed on directed segregation (or similar regime).
- g) Compliance with the Corrections Act 2004 and the Corrections Regulations 2005.
- h) Compliance with policies and procedures, including the Prison Operations Manual and the Custodial Practice Manual. Consideration to be given to whether these may create intentional or unintentional barriers to the effective management of people on directed segregation (or similar regime) and/or the use of force.

Review Approach

- 7. The review will be overseen by a Principal Inspector and Principal Clinical Inspector. The review will be undertaken by a team of Inspectors and a Clinical Inspector.
- 8. A plan for this review will be developed to support the Terms of Reference.
- 9. A draft report will be provided to Corrections before being finalised.
- 10. The report will be publicly released following consultation with Corrections.

Authority

- 11. The Office of the Inspectorate *Te Tari Tirohia* is authorised under section 29(1) of the Corrections Act 2004 to undertake examinations and enquiries, and to visit and inspect any prisons. Section 157 of the Act provides that when undertaking an inspection, Inspectors have the power to access any person detained in prison, personnel, records, information, Corrections' vehicles and property.

Timeframes

- 12. A detailed plan for this review will be completed by 30 November 2021.

13. Insights from this review will be shared with the Chief Executive during the review period.

14. A draft report will be available to Corrections for consideration by 15 August 2022.



Janis Adair
Chief Inspector
Office of the Inspectorate

18 November
Date 2021.

Appendix B – Corrections’ Response



11 April 2023

Janis Adair
Chief Inspector
Department of Corrections

By email: janis.adair@corrections.govt.nz

Tēnā koe Janis

Re: Thematic Report - Prisoners who have been kept apart from the mainstream prison population

Thank you for sharing your draft report and providing an opportunity to respond. You have clearly delivered on your commitment to inquire into this important area and outlined for Corrections a compelling case for change.

Your report is informed by the experiences of real people. These people are individual prisoners who have been separated from others and your report highlights the potential risks of prolonged isolation from others. It's important to me that my team works closely with you over the next few months to ensure that we're targeting our effort at the areas where we are at greatest risk of creating harm in those we choose to separate. As your report notes, this must be enabled by a better understanding of who is being kept apart from others, why, and how they are being managed. I'd value ongoing engagement with your office to consider how we can take steps to safely increase opportunities for social interactions and meaningful human engagement.

This work must begin now, and I have asked the Chief Adviser System Transformation to ensure collaboration across Corrections, and with your team, to deliver the following over the next six months:

- Implement an interim assurance system for directed segregation orders.
- Explore the Intervention & Support Unit dashboard, currently under development, for adaptation to directed segregation orders.
- Implement an interim escalation process for directed segregation orders.
- Begin providing targeted support to custodial systems managers.

You also describe your report as a "*call to action to refresh, redesign and reimagine relevant policies, procedures and practices*" that relate to the separation of prisoners and recognise this will take time. You have made seven recommendations and I accept them all. The recommendations represent necessary and substantial shifts and I have agreed to establish a small team to work across Corrections to develop a long-term, system-wide plan for enduring change. The Prison Director Governance Group has already recognised the importance of this work for operating a safe, secure, humane and effective prison network and are committed to partnering in this work to make short-term improvements and long-term change.

Parallel to this, legislative policy work to consider amendments to the Corrections Act 2004 and Corrections Regulations 2005 has begun and will be an important component of the long-term plan.

Thank you again for your extensive thematic investigation. I am encouraged by what I consider to be a strong foundation for positive change, helping steer us closer toward realising the vision set out in *Hōkai Rangi*.

Nāku noa nā



Jeremy Lightfoot
Chief Executive

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Appendix C – Data for isolated prisoners

1. In this Appendix we set out the data provided to us by Corrections.
2. Approximately 5,655 prisoners were unable to associate in the year to 30 September 2021. We were provided with data about segregated prisoners, prisoners in the ISU and prisoners subject to a penalty of cell confinement, but the data could not be aggregated: e.g., we were unable to obtain data on the total number of unique prisoners who were unable to associate in excess of 15 days.

Segregated prisoners

3. We obtained the following breakdown of unique prisoners who were subject to a segregation direction during the review period.

Table 1 shows the number of prisoners and the duration they were on segregation.

Table 1

Segregation Duration	Number of prisoners
14 days and fewer	1981
15 days to 1 month	439
Over 1 month to 3 months	196
Over 3 months to 6 months	158
Over 6 months to 9 months	27
Over 9 months	22
Grand total	2823

4. This data includes all segregated prisoners, including those segregated for health-related reasons under section 60, who would be managed in the ISU.
5. The data excludes prisoners who were segregated at the end of the review period (i.e. at 30 September 2021), because at that point it was not clear how long in total such prisoners would spend subject to a segregation direction. We were provided with the following data (Table 2) on prisoners who were subject to an ongoing segregation direction as at 30 September 2021, and how long that direction had been in place on that date:

Table 2

Segregation Duration	Number of prisoners
14 days and fewer	125
15 days to 1 month	31
Over 1 month to 3 months	24
Over 3 months to 6 months	28
Over 6 months to 9 months	4
Over 9 months	15
Grand total	227

Age, gender and ethnicity

6. We were provided with a breakdown of the number of segregation directions (as opposed to unique individuals) in the year to 30 September 2021 by age, gender and ethnicity
7. Table 3 shows the breakdown of the number of segregation directions by age, the type of segregation direction, and the duration of the period of segregation:

Table 3

Segregation type	Grand Total
SEG58 1A directed security good order	823
Under 20	27
20 - 24	189
25 - 29	235
30 - 39	280
40 - 49	74
50 - 59	15
60 and over	3
SEG58 1B directed safety of others	1854
Under 20	67
20 - 24	468
25 - 29	522
30 - 39	572
40 - 49	167
50 - 59	54
60 and over	4
SEG59 1B directed prisoner safety	426
Under 20	11

20 - 24	67
25 - 29	90
30 - 39	162
40 - 49	57
50 - 59	35
60 and over	4
SEG60 1A directed physical health	589
Under 20	15
20 - 24	72
25 - 29	94
30 - 39	223
40 - 49	117
50 - 59	51
60 and over	17
SEG60 1B directed mental health	99
Under 20	4
20 - 24	20
25 - 29	19
30 - 39	32
40 - 49	14
50 - 59	9
60 and over	1
Grand Total	3791

8. Table 4 shows the breakdown of the number of segregation directions by ethnicity and the type of segregation direction:

Table 4

Segregation type	European	Māori	Not recorded	Other (incl. Asian)	Pacific	Unknown	Grand Total
SEG58 1A directed security good order	126	539	1	16	141		823
SEG58 1B directed safety of others	192	1237		60	364	1	1854
SEG59 1B directed prisoner safety	103	224	1	21	77		426

SEG60 1A directed physical health	182	333	5	25	44		589
SEG60 1B directed mental health	33	52	1	2	11		99
Grand Total	636	2385	8	124	637	1	3791

9. Table 5 shows the breakdown of the number of segregation directions by gender and type of segregation direction:

Table 5

Segregation type	Female	Male	Total
SEG58 1A directed security good order	93	726	823
SEG58 1B directed safety of others	101	1748	1854
SEG59 1B directed prisoner safety	20	403	426
SEG60 1A directed physical health	53	532	589
SEG60 1B directed mental health	44	54	99
Grand Total	311	3463	3791

10. Table 6 shows the breakdown of the number of segregation directions for transgender prisoners.

Table 6

Segregation type	Number
SEG58 1A directed security good order	4
SEG58 1B directed safety of others	5
SEG59 1B directed prisoner safety	3
SEG60 1A directed physical health	4
SEG60 1B directed mental health	1
Grand Total	17

Prisoners in the ISU

11. Table 7 shows the breakdown for prisoners in the ISU (this includes all prisoners who spent one or more periods in an ISU, whether subject to a segregation direction or not):

Table 7

Time in an ISU	Number of prisoners
1 week or less	2707
Over 1 week to 2 weeks	476
Over 2 weeks to 3 weeks	214
Over 3 weeks to 4 weeks	108
Over 4 weeks to 1 month	28
Over 1 month to 2 months	153
Over 2 months to 3 months	39
Over 3 months to 4 months	23
Over 4 months to 5 months	8
Over 5 months to 6 months	5
Over 6 months to 1 year	6

12. The data excludes prisoners who were in an ISU at the end of the review period (i.e. at 30 September 2021), because at that point it was not clear how long in total such prisoners would spend in the ISU. We were not provided with data on prisoners who were in the ISU as at 30 September 2021 (although comparable data was provided for segregated prisoners).
13. The data includes all prisoners in an ISU, including at-risk prisoners and prisoners subject to a segregation direction. Table 8 shows the total number of periods spent in an ISU and the number of unique prisoners in the ISU, and whether a segregation direction was in place or not:

Table 8

	Periods	Unique people
ISU periods	5248	3157
No directed segregation	4690	2929
SEG58 1A directed security good order	74	57
SEG58 1B directed safety of others	143	99
SEG59 1B directed prisoner safety	100	70
SEG60 1A directed physical health	188	156

SEG60 1B directed mental health	98	79
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14. We were not provided with a breakdown of ISU prisoners by ethnicity, age and gender.

Prisoners subject to cell confinement

15. We were provided with the number of prisoners subject to cell confinement for the year to 30 September 2021, and the number of periods of cell confinement imposed during that period. Table 9 shows how many prisoners experienced cell confinement while also subject to a segregation direction:

Table 9

Confinement penalties	Count	People
Misconduct Confinements	1896	1388
No directed segregation	1706	1300
SEG58 1A directed security good order	75	56
SEG58 1B directed safety of others	76	63
SEG59 1B directed prisoner safety	31	26
SEG60 1A directed physical health	4	3
SEG60 1B directed mental health	4	4

The general prison population

16. We were provided with the following data (Table 10) showing the average prison population for the year to 30 September 2021, showing the make-up of the population by ethnicity, age and gender:

Table 10

Age	Māori	European	Pacific	Other (incl. Asian)	Not recorded	Grand Total
Female	324	141	31	18	7	521
Under 20	4	1	1	1	1	8
20 - 24	43	10	6	1	1	61
25 - 29	66	20	3	2	1	92
30 - 39	131	54	12	5	1	203
40 - 49	62	31	7	4	2	106
50 - 59	13	23	2	4	1	43
60 and	5	2		1		8

over						
Male	4107	2440	943	390	29	7909
Under 20	60	13	10	3	2	88
20 - 24	440	136	116	32	4	728
25 - 29	778	313	179	68	4	1342
30 - 39	1381	740	326	146	8	2601
40 - 49	865	532	187	78	3	1665
50 - 59	424	392	74	38	4	932
60 and over	158	314	50	24	3	549
Not recorded	1		1	1	1	4
Grand Total	4431	2581	974	408	36	8430

Appendix D – Images



Image 1. Arohata Prison Intervention and Support Unit yard.



Image 2. Auckland Region Women's Corrections Facility Management Unit yard.



Image 3. Rimutaka Prison Management Unit yard.



Image 4. Whanganui Prison Wharikitia Separates yard.



Image 5. Christchurch Women's Prison Intervention and Support Unit garden.



Image 6. Spring Hill Corrections Facility Management Unit yard.



Image 7. Christchurch Men's Prison Kotuku Unit Separates yard.



Image 8. Hawkes Bay Regional Prison Intervention and Support Unit dry cell.



Image 9. Invercargill Prison directed segregation cell.



Image 10. Rolleston Prison corridor outside Separates cells.



Image 11. Tongariro Prison "safe cell", used to house prisoners prior to transfer to an ISU at another site.



Image 12. Waikeria Prison directed segregation cell, Miro Unit (short term).



Image 13. Auckland South Corrections Facility Separation and Reintegration Unit cell.



Image 14. Auckland Prison Management Unit exercise yard.



Image 15. Manawatu Prison Separates cell.



Image 16. Otago Corrections Facility Management Unit cell.

