



OFFICE OF THE INSPECTOR  
OF CUSTODIAL SERVICES

# The Special Handling Unit at Casuarina Prison

July 2023

*The Office of the Inspector of Custodial Services acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of this country, and their continuing connection to land, waters, and community throughout Australia. We pay our respects to them and their cultures, and to Elders, be they past or present.*

Reviews undertaken as part of the Office of the Inspector of Custodial Services' Snapshot Series are designed to provide a brief summary of an issue or trend in or effecting the Western Australian custodial environment. This review examines the purpose and function of the Special Handling Unit at Casuarina Prison.

The information examined for this Snapshot was obtained from the Department of Justice. The Department has reviewed this report and provided feedback which has been taken into consideration.

## **The Special Handling Unit at Casuarina Prison**

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## Inspector's Overview

*The Special Handling Unit is a highly restricted environment for prisoners that is generally well managed*

The Special Handling Unit (SHU) within Casuarina Prison is the State's only specialised high security unit for male prisoners who are assessed as posing a 'major threat'. This includes prisoners who pose a significant risk of escape, or risk to the security and good order of the prison, or a serious threat to staff, other prisoners or visitors. Invariably, the SHU holds a complex cohort of prisoners who require very careful day to day management by unit officers, supported by good leadership and oversight.

Our review examined all aspects of the operations, management and oversight of the SHU, and generally we found that unit staff and management at Casuarina did a reasonably good job in very challenging circumstances. Notwithstanding that, we did find some areas where we made recommendations for improvement, all but two of which the Department of Justice (the Department) accepted and committed to, or were already, implementing change.

There were a couple of commendable findings worthy of noting. The first was that a solid policy framework and robust governance processes were in place, including an effective multi-disciplinary committee that managed how prisoners are initially placed in the SHU and how they are then managed towards transition back to mainstream. We also noted what appeared to be a genuine commitment by management and staff to actively case manage individuals and their time spent in the SHU, with the ultimate objective of returning suitable prisoners back to the mainstream population. There were some gaps in documentation and recording of decisions, but these were matters that can and should be addressed by improvements in systems and processes.

Of course, given the complexity of the prisoners held in the SHU, transition back to mainstream is not always going to be possible and some prisoners can, and often do, remain there for many years. We also found that although transition back to mainstream can be achieved for some prisoners, it often takes a long time for them to progress, and for some they are returned after relatively short periods.

The situation in the SHU is complicated further because it also holds prisoners with significant underlying mental illness and propensity for violence. It is well accepted that prison is often not an appropriate or therapeutic environment for the care and management of those with significant mental illness. But unfortunately, the SHU is where some of the most complex cases end up. At present, there appears no viable and safe alternative placement – certainly not within the prison system.

Although the SHU, with a capacity of just 17, is a relatively small unit by comparison, there are significant challenges in achieving the required daily minimum time out of cell for all prisoners. This is complicated by having to manage a complex matrix of risks and alerts between prisoners who cannot safely be out of cell at the same time. In past inspections, the issue of minimum time out of

cell had been the subject of criticism, but in this review we found that the majority of prisoners on most days were receiving above the minimum amount of time out of cell. There were, however, exceptions, as illustrated by the example of Prisoner L who, by virtue of his deteriorating mental health and propensity for violence, had many days with less than one hour out of cell. This is not at all therapeutic and the detrimental and lasting impacts that isolation can have on those with significant mental illness is well documented. Although we recognise the difficult task prison staff face in managing acutely unwell people in a prison setting, these examples emphasise the need for additional secure mental health beds in Western Australia

The nature of the restrictions required to safely manage prisoners within the SHU limits access to a meaningful daily regime that includes structured recreation, programs, employment and other activities. This impacts the daily life of SHU prisoners and opportunities for them to engage in rehabilitation and reintegration activities. But surprisingly, the SHU has recorded a steady decline in incidents over recent years, including fewer critical incidents. Generally, we have found a calm and stable atmosphere on the occasions we have visited, and the data tends to support that observation.

The very first inspection undertaken by this office was an unannounced inspection of the SHU in November 2000. Comparison of the results of that inspection and the finding of this review show how far the SHU has progressed over the past 20 years. Yet many similar challenges remain, including the impact on prisoners of a significantly restricted regime. There is no easy solution and, like it or not, the SHU is a necessary and essential placement option for prisons in Western Australia. While acknowledging the challenge this presents for management and custodial staff, we remain concerned at the length of time some prisoners have remained in such a restrictive environment.

## **ACKNOWLEDGEMENTS**

It is important to acknowledge the contribution and assistance we received in undertaking this review from key personnel at Casuarina Prison and in the Department.

I acknowledge the contribution and hard work of the staff in our office who were involved in undertaking this review. I would particularly acknowledge and thank Ryan Quinn for his hard work in leading this review and as principal drafter of this report.

Eamon Ryan  
**Inspector of Custodial Services**

20 July 2023

# Executive Summary

## Background

### The Special Handling Unit at Casuarina Prison

The Special Handling Unit (SHU) is a 17-cell secure unit at Casuarina Prison that has been declared by the Commissioner of Corrective Services to be used for the ‘confinement of prisoners who pose a major threat to the prison system’ (DOJ, 2021, p. 16). The unit is separated into two secure wings, with a central control office. Each wing has its own kitchen area, day room and outdoor covered recreation area. There are also rooms for education and visits. Entry to the SHU is restricted to officers on duty within the unit, unless authorisation is granted by the Deputy Superintendent Operations at Casuarina Prison.

The SHU is primarily used as the placement option for prisoners assessed to meet the criteria as a Major Threat Prisoner. These are prisoners who are deemed to pose:

- a significant and ongoing risk of escape, or
- a significant and ongoing risk to the security or good order of a prison or prisoners, or
- a continued and serious threat to staff, visitors or other prisoners.

The Department’s policy states that these prisoners will be placed in the SHU ‘for as long as they are considered Major Threat Prisoners’ (DOJ, 2021, p. 4). It notes that the SHU should be a positive environment and not be used as a form of punishment.

Additionally, other prisoners may be placed in the SHU where necessary. This might include prisoners on a separate confinement order or serving a period of punishment, where no other cells in Casuarina Prison are available. Under the *Criminal Code Act 1995* (Cth) and the *Terrorism (Prevention Detention) Act 2006* (Cth) the WA Police Force or the Australian Federal Police may also request to use the SHU to hold particular people. However, the Department confirmed this has not occurred in recent years.

### Major Threat Prisoners are separated under Regulation 54C

Major Threat Prisoners are separated from the general prison population in accordance with r.54C of the *Prisons Regulations 1982*. This regulation allows the Commissioner to identify a cohort of prisoners and confine them to a separate part of a prison that is declared to be set aside for the confinement of that cohort of prisoners. In this case, the Commissioner has identified Major Threat Prisoners as requiring separation to the SHU. This regulation is also used to separate prisoners requiring protection status to dedicated protection units at Acacia Prison, Casuarina Prison and Hakea Prison (DOJ, 2021c).

The *separation* of prisoners under r.54C is distinct from the use of *separate confinement* under s.43 of the *Prisons Act 1981* (the Act). Under s.43 of the Act, a prisoner may be separately confined for a period not exceeding 30 days for the purpose of maintaining good government, good order or

security in the prison. Conversely, Major Threat Prisoners are *separated* from the mainstream population ‘for as long as they are considered Major Threat Prisoners’ (DOJ, 2021, p. 4).

SEPARATION	VS.	CONFINEMENT
<p><b>R.54C of Prison Regulations 1982</b></p> <ul style="list-style-type: none"> <li>• Commissioner can identify a cohort of prisoners and confine them to a separate part of a prison set aside for that cohort</li> <li>• ‘Major Threat Prisoners’ are to be confined to the Special Handling Unit at Casuarina Prison</li> <li>• Separated until no longer deemed a major threat</li> </ul>		<p><b>S.43 of Prisons Act 1981</b></p> <ul style="list-style-type: none"> <li>• Allows for the separate confinement of an adult prisoner for a period not exceeding 30 days</li> <li>• Purpose of maintaining good government, good order or security within the prison</li> <li>• An additional s.43 confinement order required to extend beyond the initial 30 days</li> </ul>

The distinction between separation under r.54C and separate confinement under s.43 were made clear by a Supreme Court finding in 2021. In the case, the applicant argued that placement in the SHU was equivalent to being placed into separate confinement under s.43. The Supreme Court found s.43 of the Act had a clear intention of confining an individual prisoner in a cell ‘in which the confinement is apart from, or cut off from access to, others’ (Garlett v. Susan Rowley in her capacity as Assistant Commissioner Custodial Operations, 2021, p. 23). Conversely, the declaration of parts of a prison for the confinement of a specified category of prisoners, as intended under r.54C, does not equate to the separate confinement of an individual.

However, the Supreme Court acknowledged that in practice the conditions of the SHU may amount to separate confinement.

### The SHU has an established policy framework

The operations of the SHU and assessment of Major Threat Prisoners is guided by departmental and local policy instruments. *COPP 4.11 – Special Handling Unit* establishes the use of the SHU for the placement of Major Threat Prisoners, and outlines procedures for the assessment, approval and review of Major Threat Prisoners (DOJ, 2021). The policy also establishes procedures for the ongoing management of prisoners within the SHU and responsibilities for SHU staff.

*Standing Order 4.11 – Special Handling Unit* is a local Casuarina Prison policy providing additional procedural guidance for the SHU (DOJ, 2021a). The policy provides more in-depth provisions on the daily routine for the SHU, processes for prisoner movements, security and control, staffing and access to visits. Taken together, the COPP and Standing Order provide the framework for the ongoing operations of the SHU.

## Key findings

### Functionality of the SHU hampered by a complex cohort

The SHU has a clear mandate as an intensive supervision unit for prisoners assessed to be a major threat. To mitigate the risks presented by these prisoners, the unit has become highly controlled and restrictive. Long-term placements within the SHU are also becoming more common as there are few alternative placement options available.

### Prisoners are managed closely

Prisoners within the SHU are case managed closely by a multi-disciplinary committee. This committee and senior management were committed to progressing SHU prisoners back into mainstream living units where feasible. Improvements could be made to some management practices and in the types of behavioural interventions offered, which may help prisoners progress to mainstream more quickly.

### Daily life is restricted

Prisoners within the SHU have limited access to services, recreation, programs, employment and other activities due to the restrictions of the unit. This impacts the daily life of SHU prisoners and opportunities for them to engage in rehabilitation and reintegration activities.

### Staffing levels are adequate but processes can improve

We found staffing levels within the SHU were generally adequate, but some processes could improve. We also found an unconscious bias appeared to exist towards female officers working in the unit. And, staff were not provided any additional training despite the complex cohort they were working closely with.

### Governance processes vary, but improvements are visible

Generally, we found governance processes were sound. Unit-based record-keeping practices have improved, and the unit has an effective policy framework. We raised concern around the quality of committee minutes and the documentation of case management decisions being made. SHU applications could be strengthened with additional supporting documentation.

## Conclusion

The review found the operation and management of the SHU to be consistent with the unit's intent and purpose. However, better access to meaningful activities and interventions to help address offending behaviours would assist some prisoners progress back into mainstream prison life more quickly. For others the pathway back into general living units is less clear. The complexity of mental ill-health and violence have led to prisoners residing in the unit for lengthy periods. We acknowledge the challenge this presents for management and custodial staff but remain concerned at the length of time some have remained in such a restrictive environment.



## List of Recommendations

Recommendation	Page	DOJ Response
<b>Recommendation 1</b> Develop behavioural benchmarks that are measurable and achievable with progress considered and documented by the Committee during monthly meetings.	5	Supported in Principle
<b>Recommendation 2</b> Explore targeted behaviour management interventions that could be introduced in the SHU to assist prisoners to address their behaviour.	6	Supported – Current Practice / Project
<b>Recommendation 3</b> Ensure forced removal of clothing practices are consistent with <i>COPP 11.3 – Use of Force</i> and performed as a last resort and as a planned use of force.	10	Supported – Current Practice / Project
<b>Recommendation 4</b> Introduce a maximum tenure period for SHU staff or identify alternative measures to mitigate the risk of grooming.	17	Not Supported
<b>Recommendation 5</b> Provide enhanced mental health and trauma informed practice training to custodial staff in the SHU.	18	Supported – Current Practice / Project
<b>Recommendation 6</b> Review the format and detail within SHU Committee minutes to ensure that they are a true and accurate recording of the meeting, capturing case management discussions, decisions and actions.	20	Supported
<b>Recommendation 7</b> Amend <i>COPP 4.11 – Special Handling Unit</i> to require all supporting evidence relied upon to support a decision to place a prisoner in the SHU must be included in the placement application.	21	Not Supported

# 1 Functionality of the SHU hampered by a complex cohort

The purpose of the SHU as an intensive supervision unit for high-risk prisoners is clear. However, an increasingly complex cohort of prisoners – driven by mental ill-health and risks of violence towards others – has impacted the unit’s functionality. To mitigate risks, daily life in the unit has become highly controlled and restrictive. And, long-term placements are becoming common as few alternative placement options exist.

## 1.1 The SHU has a clear purpose

The SHU has a clear purpose, which is understood by management and supported in policy. The Department’s policy describes the SHU as a positive environment where Major Threat Prisoners are placed and encouraged to develop constructive relationships with staff (DOJ, 2021). Similarly, management at Casuarina Prison described the SHU as a segregation unit for high-risk prisoners, that ideally should operate with a standard daily routine.

Both management and policy make clear the SHU is not intended to be punitive or a placement for life. Rather, its purpose is to provide intensive supervision to high-risk prisoners in a controlled environment, and to enable behaviour changes that allow them to re-enter mainstream prison.

We found no evidence to suggest that the SHU was being used for alternative purposes or misused by management. The unit did not appear to function in a punitive way.

## 1.2 Cohort is increasingly complex, restricting the SHU’s function

In recent years, the function of the SHU has been hampered by the complexity of prisoners placed there. These prisoners present with a range of risks that often limit who they can associate or recreate with. This impacts the ability for others to be out of their cell at the same time, socialising and associating with peers or undertaking out-of-cell activities such as education.

Staff are required to manage these risks daily, while balancing recreation time, social and official visits, and unit employment duties. This places considerable strain on staff, prevents the SHU from operating a normal daily routine, and often results in prisoners locked in cell longer than desired. This can result in increased prisoner frustration.

Despite these challenges, our observation of the SHU found it to be a calm and controlled

### Who is placed in the SHU?

Most prisoners placed into the SHU share a history of violence towards others.

Often this includes multiple instances of either physical or sexual violence towards both staff and prisoners. Most had served time on management regimes or in separate confinement and, due to continued offending, were recommended for intense supervision in the SHU.

Other common reasons for SHU placements include continued non-conformist behaviour, those who had attempted to or were found to be formulating an escape, or prisoners involved with or at risk from outlaw motorcycle gangs.

environment providing a high level of supervision to high-risk prisoners. Interactions between staff and prisoners were generally positive and respectful.

As Casuarina Prison continues to expand there may be opportunities to improve the SHU's functionality. A dedicated mental health unit may provide an alternative placement option for high-risk mentally unwell prisoners, provided the risk of violence towards others can be managed. Similarly, a new high-security unit could provide an alternative placement option for SHU prisoners who require less intensive supervision but, for security reasons, cannot be placed in general living units.

### 1.3 Long-term placements of mentally-ill prisoners are increasingly common

Most prisoners entering the SHU are placed there for an extended period. Between 2018 and 2022, there were 47 prisoners who had, at some time, been placed in the SHU. The average length of stay was 548 days.

However, there is great variation. Twelve prisoners were placed in the SHU for less than four days. Often these prisoners were not intended to reside in the SHU but were placed there due to a lack of appropriate cells elsewhere. Three prisoners were placed in the SHU on a s.36(3) temporary separate confinement order pending the approval of a 30-day s.43 separate confinement order. Those orders were not approved, and the prisoners were returned to general living units.

Nineteen prisoners spent more than one year in the SHU. Eight of these had spent in excess of 1,000 days in the unit. This includes one prisoner who first entered in 2005 and has remained there for 6,420 days. Most of these prisoners had mental health conditions that required ongoing treatment and management. Two of these prisoners were on indefinite detention orders. Only one identified as Aboriginal.



#### **Four out of ten prisoners spend more than one year in the SHU**

Mental ill-health has become a common factor in long-term SHU placements. Many of the violent offenders in the SHU have a range of complex mental health conditions or personality disorders. At times, some of these prisoners have been placed on a Form 1A requiring assessment or treatment from the Frankland Centre – a 30-bed forensic hospital providing mental health inpatient care. However, the Frankland Centre also has a shortage of beds and often cannot offer long-term management of high-risk offenders.

The combination of mental ill-health and a propensity for violence creates a unique management challenge for the Department. Placement in the SHU allows for intense supervision, and increased access to psychologists and psychiatrists. Though, it is not a therapeutic environment.

While we acknowledge the placement challenges the Department has for these complex people, we are concerned about the length of time some have remained in the SHU.

## 2 Prisoners are managed closely

We found prisoners in the SHU were actively case managed and management were committed to exiting prisoners. However, improvements can be made to some management practices and in the types of behavioural interventions offered. This may help prisoners address their offending behaviours and transition back to mainstream more promptly.

### 2.1 Multi-disciplinary committee provides effective case management

The SHU Committee (the Committee), as established in policy, is designed to provide multi-disciplinary input and oversight of the ongoing management of SHU prisoners (DOJ, 2021). The current format of the Committee followed an internal review that raised concerns prisoners were not being effectively managed (Peach, Kincart, Connolly, & Ewart, 2011). The revised policy sought to:

- introduce a higher degree of oversight from within the Department by requiring the Assistant Commissioner Custodial Operations (ACCO) to attend
- reinforce that the Committee's overarching purpose was to review prisoners' ongoing placement and management strategies on a monthly basis
- provide prisoners with an opportunity to attend SHU Committee meetings to discuss their placement, and
- actively promote and encourage the reduction of identified risk behaviours (DCS, 2011).

Committee membership includes the ACCO, Deputy Superintendent Operations at Casuarina Prison, and may also include representatives from other managers, senior officers, security and intelligence services, psychologists, psychiatrists and general health staff (DOJ, 2021).

The make-up and intended function of the Committee establishes a good degree of departmental oversight over the management of SHU prisoners. Including a range of stakeholders ensures multi-disciplinary consideration of a prisoner's ongoing treatment and management. Technical experts can also advise the Committee of relevant information, such as revised intelligence or updated clinical notes, to ensure decisions are evidence-based and risk-informed.

Twenty years ago, our office commented that 'there was no case management worthy of the description in the SHU' (OICS, 2000, p. 22). We did not find this to be the case during this review. Most prisoners were being actively managed by the Committee.

We recognise that for some prisoners, it may not be possible to sufficiently mitigate the risks to the safety of others and it is unlikely they will return to a mainstream unit. In these cases, we found the ongoing case management was minimal.

### Benchmarks loosely guide the Committee, but can be strengthened

'Benchmarks' or 'requirements' for discharge from the SHU are risk-based behaviour expectations prisoners should achieve prior to transitioning back into mainstream. As a tool we found they have

the potential to provide both the Committee and the prisoner guidelines around behaviour expectations. In practice, we found they were referred to infrequently and often difficult to measure.

Benchmarks are developed by management and are based on the behaviours the prisoner demonstrated prior to admission to the SHU. For instance, violent offenders will often have a benchmark to recreate with others without risk. The Committee assess the prisoner's ongoing behaviour and the risks they would pose if returned to mainstream. If the Committee is satisfied that a prisoner's risk behaviours have been mitigated or can be managed, and therefore their benchmarks have been met, they may recommend removal from the SHU.

However, we could not ascertain any clear or consistent approach the Committee takes to assess a prisoner's performance against their benchmarks. Monthly Committee minutes often contained ad-hoc comments about a prisoner's ongoing behaviour without reference to benchmarks or risk-mitigation interventions being implemented. During our observation of a Committee meeting there was very limited discussion around benchmarks. And, we found little evidence of strategies being formulated to assist prisoners achieve their benchmarks.

Immeasurable, unclear or unachievable benchmarks are likely contributing to their ineffective use. Benchmarks such as 'reduction in risks to staff and prisoners' are vague and are therefore difficult to measure progress against. And, in some cases, benchmarks were written as statements rather than achievable behavioural goals. For example, one benchmark simply noted that a prisoner was a 'serious threat to the good order of a prison'.

Behavioural benchmarks or expectations are useful tools. While observing prisoner case conferences, we found management often discussed their expectations around behaviour and the improvements required to transition to mainstream. This suggests that setting clear behaviour expectations or benchmarks helps both management and the prisoner understand what progress would look like.

Establishing more considered, measurable and achievable benchmarks that are tracked by the Committee could improve case management, help establish clearer expectations for the prisoner, and potentially speed up their transition to mainstream.

#### **Recommendation 1**

Develop behavioural benchmarks that are measurable and achievable, with progress considered and documented by the Committee during monthly meetings.

## **2.2 Behavioural interventions are limited**

Segregation is often used as the primary behaviour change tool in the SHU. Prisoners are physically separated from their peers, experience fewer freedoms than in mainstream, and reside in a highly controlled environment that is less stimulating and volatile than general living units.

Staff also have a focus on de-escalation. Incidents are responded to in a way that does not fuel a prisoner's volatility. And, there is a higher level of supervision. Non-conforming prisoners are responded to promptly and may be further segregated from others. These factors assist prisoners to become more settled and adapt their behaviour over time.

However, other than targeted mental health and psychiatric care, we could not identify any specific interventions implemented to assist prisoners to address their offending behaviours. Without targeted interventions to address the root causes of these behaviours, prisoners are at risk of reoffending when they exit the SHU.

This issue was noted in an exit plan for a prisoner:

Although [name redacted] behaviour appears to have moderated since placement in the Special Handling Unit, this continued compliance may be due to the restrictive environmental factors of SHU placement, rather than any conscious decision to self-regulate previous serious non-conformist, threatening and violent behaviours that posed a serious threat to the good order of a prison.

In this example, the solution was to approve the prisoner's exit from the SHU subject to a behavioural contract. The prisoner had to agree that they will not be charged with any offences under the *Prisons Act 1981* or under local prison standing orders, will not damage property, and will model excellent cleanliness and hygiene standards. The prisoner had been in the SHU for nearly seven months.

Segregating a prisoner for this length of time with no active interventions to address their behaviour, and making their exit conditional on demonstrating exemplary behaviour, is not setting them up to succeed.

Additionally, there have been occasions when prisoners are released to community directly from the SHU. While this may be rare, it is important that these prisoners are provided with some form of rehabilitation and reintegration planning prior to their release to reduce the risk of re-offending.

In addition to mental health and psychiatric care, consideration should be given to other targeted behaviour management interventions that could be implemented within the SHU to help address offending behaviours.

### **Recommendation 2**

Explore targeted behaviour management interventions that could be introduced in the SHU to assist prisoners to address their behaviour.

## Mental health care has been increased, but resources remain stretched

Sustained progress in several mentally unwell SHU prisoners has been attributed to an increase in mental health care. Staff noted the benefit to prisoners having a consistent psychiatric resource available. This had resulted in noticeable improvements in several unwell prisoners, and their ongoing compliance with medication. For some, this had led to the Committee progressing their transition plans back into mainstream accommodation.

Still, some staff noted that Casuarina Prison required a significant increase in mental health resources to provide the care that is required. We have consistently found that mental health resources at Casuarina were inadequate, often resulting in only high-risk prisoners receiving care (OICS, 2020; OICS, 2017; OICS, 2014). Increasing resources would enable mental health staff to provide more proactive care and increase the level of service to high-need prisoners, such as many of those within the SHU.

We also note that there are no specific supports available to prisoners in the SHU with behavioural problems or vulnerabilities arising from cognitive or intellectual impairments.

## 2.3 Management are focused on exits, but progress can be slow

Management demonstrated a commitment to progressing prisoners out of the SHU. During our observations of prisoner case conferences, we observed senior management expressing to prisoners their intentions to help them progress back into mainstream prison life. Management articulated the pitfalls of being segregated in the SHU and the benefits of progressing to mainstream. Dialogue was open and engaging, and there was a willingness to hear from prisoners about what they wanted moving forward. Management expressed clear expectations around the types of behaviours they needed to observe to consider exiting the prisoner, discussed ways to mitigate risks and provided timelines for progression.

However, progress in the SHU can be slow. Senior management carry the risks involved in exiting a prisoner from the SHU. Decisions must therefore be risk-informed and evidence-based. Behaviour change in prisoners, improvements in mental health or compliance with medication are often factors to be considered when developing an exit plan. But they are also factors that can be volatile – with improvements one month quickly erased with setbacks the following months.

External factors may also hinder a prisoner's exit progression, such as delayed intelligence briefings, extradition orders or advice from external agencies. And, in some cases, prisoners may prefer not to exit and effectively block their progress to mainstream.

We recognise the risks involved when deciding to exit a prisoner from the SHU. While we are concerned about the length of time some prisoners have remained in the SHU, we generally found no evidence to suggest that management were not acting in the best interests of the prisoners or the prison. Further, in most cases, prisoners want to exit and willingly engage with management to progress their transition. This inevitably makes the process faster.



## Exit plans are individualised and seek to mitigate known risks

Exit plans are routinely developed to support prisoners in their transition back into the mainstream prison environment. We reviewed a sample of exit plans and found they were customised to the individual, responsive to known risks and established a clear pathway forward. Most prisoners are transitioned through Casuarina's management unit on a Close Supervision behaviour plan for the first few weeks. This controlled environment with greater supervision provides these prisoners with a soft landing, before progressing to a general living unit. Other support mechanisms that may be included are:

- ongoing mental health engagement to provide support and to identify emerging risks
- employment in an industries workshop
- guaranteed single cell accommodation
- placement away from disruptive or influential figures
- additional education opportunities.

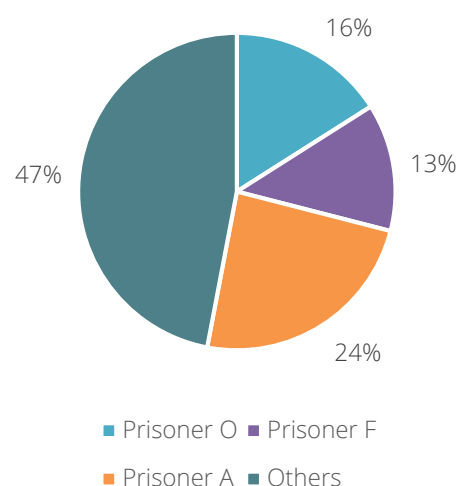
Exit plans also seek to mitigate known risks. This helps ensure the safety of staff and other prisoners, but also helps set the SHU prisoner up for success in their transition. For instance, intelligence may be used to suggest a placement for a prisoner to help guarantee their safety. Monitoring of the prisoner's communications may be requested to identify early any transgressions. Some prisoners may also retain their High Security Escort status, if there are ongoing concerns around escape risks.

## 2.4 Incidents within the SHU have declined considerably

The number of incidents recorded within the SHU has decreased year-on-year for the past five years. In 2018, the SHU recorded 64 incidents. By 2021, this reduced to 22 incidents and only 17 were recorded as of November 2022. Most of these incidents related to prisoner misconduct and behaviour, and very few were recorded as critical incidents. A staff assault has not occurred since 2020.

Three distinct prisoners were involved in 53 per cent of recorded incidents. Each entered the SHU in either late 2017 or early 2018, when recorded incidents were high. One exited the SHU in early 2022, but the other two remained as of June 2022 when recorded incidents were at a low. The decline in incidents recorded in the SHU aligns with a decline in incidents from these three prisoners. This suggests that the decline in incidents is linked to their stabilisation.

Other indicators suggest the decrease in incidents is genuinely related to changes in prisoner conduct and not under-reporting. For instance, a review of cell search outcomes identified a notable decline in contraband or



**Figure 1: Three prisoners were involved in more than half of all SHU incidents between 2018 and 2022.**

prisoner misconduct. In 2018 and 2019, there were 17 and 19 cell searches which resulted in a finding. This included prisoners having:

- general items they were not allowed
- make-shift weapons
- concealed medications
- notes about staff, prisoners or other security-related information.

The cell searches also identified cases where prisoners had tampered with light switches, electrical devices, bedding or clothing.

However, in 2021 we identified only one cell search with a positive finding. This is despite the total number of cell searches increasing from 714 in 2018 to 812 in 2021. This suggests a general improvement in prisoner conduct.

The prisoner cohort also appears more settled. For example:

- The number of At-Risk Management System (ARMS) alerts added per year for SHU prisoners declined from nine alerts in 2018 to six in 2022.
- There have been no self-harm incidents since 2019.
- Improved prisoner conduct has also allowed for increased socialisation, which enables more out of cell time. This further contributes to a more settled population.

We also reviewed various occurrence book entries and prisoner supervision logs and found no evidence that incidents were occurring but not being recorded.

## 2.5 Prisoners' clothing at times forcibly removed

We identified at least six incidents in the SHU resulting in prisoners' clothing being forcibly removed, raising concern about excessive use of force. Clothing was removed following an assault or a self-harm incident, and usually after the prisoner was placed in restraints and moved to the observation cell for monitoring. However, in one instance we identified a prisoner's clothing being forcibly removed in a corridor of the SHU.

The six examples we identified appeared reactive and not undertaken as a planned use of force. In some cases, the incident reports even noted that the prisoners were being compliant to officers' instructions at the time. This would suggest force was not required.

Examination of video footage from two incidents confirmed the forced removal of clothing was not performed in accordance with policy. In both cases we found:

- The prisoners had been involved in an incident warranting their movement to the observation cell in restraints.
- The footage shows staff escorting the prisoners into the observation cell, assisting them to the ground or a mattress, and commence removing their clothes with a Hoffman knife or

medical shears. In one case, the officer began removing clothing 25 seconds after the prisoner was escorted into the observation cell.

- While staff were generally respectful, the removal of clothing occurred with little visible attempt at de-escalation, and while the prisoners were restrained.
- While rip-proof gowns were placed in the cell, no effort was made to preserve the dignity of the prisoners.
- No evidence in incident reports that the removal of clothing was part of pre-authorised and planned use of force.

In our view, both instances were not compliant with policy and were therefore unreasonable. The Department disagrees with this view. In response to a draft of this report, the Department reviewed these incidents and argued they were compliant with policy. We maintain that the two incidents we reviewed were not consistent with policy.

Other placements into the SHU's observation cell did not include forced removal of prisoner clothing. Between 2018 and 2022, there were 21 placements into the observation cell and we only identified six instances of clothing being removed with force. This suggests the instances we identified are not reflective of standard practice. We also found no other evidence to suggest there was a culture of excessive force in the SHU.

Compliance with policy will ensure force is applied in a manner that is reasonable, is not unnecessarily degrading for the prisoner, and assists staff to maintain safety and security. It is incumbent on the Department to ensure use of force practices are appropriately reviewed for compliance against policy.

### When can force be used to strip search?

Force can be used to assist in searching prisoners where de-escalation attempts have been unsuccessful (DOJ, 2021d). Casuarina's local policy requires all prisoners entering an observation cell to be strip searched to ensure they are not in possession of any items which could cause harm (DOJ, 2022a). Where a prisoner refuses to be searched, and de-escalation attempts have failed, officers can seek approval for a planned use of force to forcibly remove clothing with medical shears (DOJ, 2021d).

### Recommendation 3

Ensure forced removal of clothing practices are consistent with *COPP 11.3 – Use of Force* and performed as a last resort and as a planned use of force.

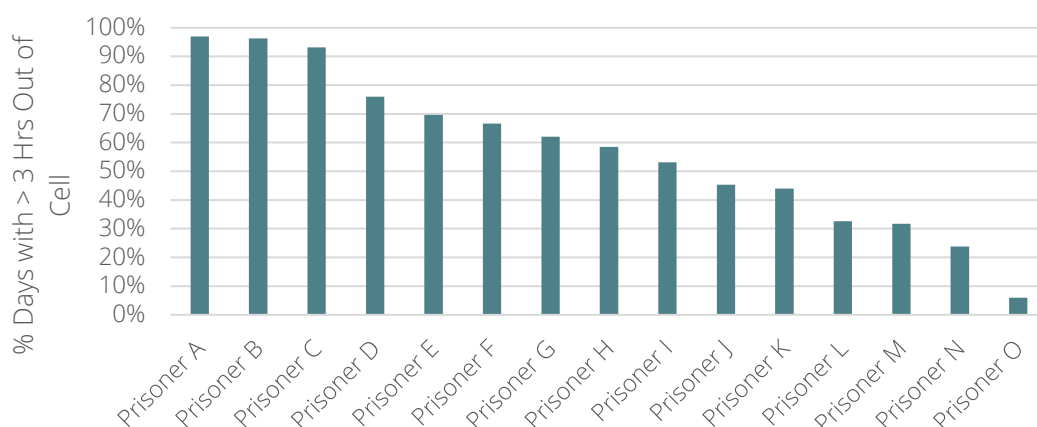
### 3 Daily life is restricted

As a segregated unit, SHU prisoners can only access services, recreation, programs, employment and other activities that can be provided within the unit. This considerably restricts the daily life of a SHU prisoner and the opportunities for rehabilitation and reintegration.

#### 3.1 Most prisoners received the minimum required time out of cell

Between June 2021 and June 2022, most prisoners in the SHU received at least three hours out of cell per day, as per policy requirements (DOJ, 2021). During this period, there were 15 prisoners who resided in the SHU at any given time. Nine of these prisoners received on average more than three hours of out of cell time per day. And, by June 2022, most prisoners were receiving more time out of cell than in previous months.

In 2021, the Supreme Court heard that prisoners in the SHU were only receiving their three hours of recreation time 50 per cent of the time (Garlett v. Susan Rowley in her capacity as Assistant Commissioner Custodial Operations, 2021). This was not the case for the period we examined.



**Figure 2: Between June 2021 and June 2022, most prisoners received three hours of out of cell time on more than 50 per cent of their days in the SHU.**

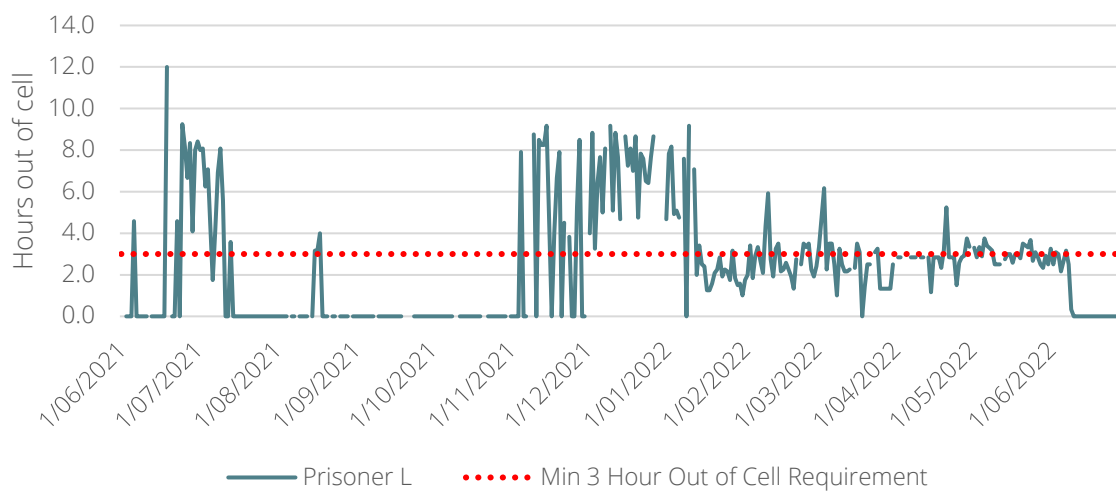
Increased association among prisoners and co-recreating has helped improve out of cell time. In 2022, a proactive risk-informed approach was adopted by Casuarina management to increase out of cell time. Prisoners who were previously limited in who they could associate with were provided opportunities to recreate or socialise with one or two others. This enabled prisoners to remain out of cell for longer periods and increase their socialisation with others. It also eased pressure on custodial staff, who were having to balance out of cell entitlements with the management of risks between individual prisoners.

Notwithstanding this improvement, we recognise that a minimum of three hours out of cell per day can still result in up to 21 hours locked in cell. This social isolation and sensory deprivation can have negative impacts on the wellbeing of prisoners (Shalev, 2008). Where this isolation is prolonged,

these negative impacts can be lifelong (Tayer, Einat, & Antar, 2021). To prevent or reduce these negative impacts, we encourage the Department to support management to further increase out of cell time where safe to do so.

### Those with acute mental ill-health often received limited time out of cell

Between June 2021 and June 2022, six prisoners regularly received less than one hour out of cell per day. The circumstances for these six people varied but were often complex and multifaceted. One of these, Prisoner L, received less than one hour out of cell for more than 40 per cent of the year as his mental health deteriorated and he became violent towards others. At times, he was effectively living in solitary confinement conditions. His time out of cell began to increase as his mental health stabilised.



**Figure 3: Prisoner L received less than an hour out of cell for more than 40 per cent of the year due to their ongoing mental ill-health (June 2021 – June 2022).**

We have previously raised our concern with mentally unwell prisoners being held in an environment that was not therapeutic and in conditions akin to separate confinement (OICS, 2022; OICS, 2022b). We also recognise the difficult task custodial staff are faced with when managing acutely unwell people in a prison setting. These examples re-emphasise the need for additional secure mental health beds in Western Australia.

Other factors may also impact out of cell time, including:

- Prisoner misconduct may result in prisoners being placed on Close or Basic Supervision with limited recreational time.
- Prisoners declining their daily recreation.
- Staff shortages or planned training days resulting in extended lockdown.
- Staff in the SHU responding to critical incidents occurring within Casuarina Prison. When this occurs, SHU prisoners are locked in cell until the incident is under control.

## 3.2 Access to meaningful activities is limited

Access to group-based activities, services or industries outside of the unit, and external recreation opportunities are all limited by the restrictions imposed on SHU prisoners. These limitations and the lack of any meaningful activity can be detrimental to the emotional and social wellbeing of an individual. We have previously raised similar concerns in relation to protection prisoners – another segregated cohort with restricted access to daily activities (OICS, 2022a).

### Group-based voluntary programs and most criminogenic treatment programs are unavailable

The Department advised that SHU prisoners can participate in criminogenic programs if they are eligible and approved for participation based on their level of risk. However, most SHU prisoners have either been found not eligible or have identified barriers for participation such as their ongoing mental ill-health or their suitability to participate with other prisoners. We also identified two prisoners who were eligible for treatment programs but were listed as unable to complete them due to their placement in the SHU. As most treatment programs are group-based, the Department will only run a program if there are enough numbers. This is not likely to occur in the SHU.

The Department previously supported our recommendation to improve access to treatment programs by using open-ended and modularised programs, which would benefit segregated cohorts (OICS, 2022a).

### Only self-paced learning opportunities are available

The Department advised that prisoners in the SHU are interviewed by education staff upon request and provided a range of education and training opportunities. This includes self-paced learning courses, such as adult basic education, visual arts, career counselling, drive assistance and some tertiary external studies. Between June 2021 and June 2022, SHU prisoners completed 152 individual education courses. A further 52 were partially completed, and prisoners were enrolled in an additional 92 courses. While prisoners cannot access the full suite of education options that are available to other prisoners, it is encouraging to see a reasonable level of engagement with self-paced opportunities.

### Employment is limited to unit-based positions

Employment in the SHU typically includes various unit-based cleaning jobs and a few positions for food preparation. Unlike protection prisoners, there are no industry-based employment opportunities dedicated to prisoners living in the SHU. The small population and perceived level of risk makes providing meaningful employment unfeasible. At the time of writing, there were several SHU prisoners not engaged in any employment due to their ongoing mental health difficulties.

## Recreation is limited to in-cell activities and unit-based equipment

SHU prisoners are provided access to the same range of in-cell activities as prisoners residing in mainstream parts of the prison. Access to in-cell activities can be restricted as per the standard behaviour management practices. There is no organised recreation available to prisoners in the SHU. However, the day rooms and outdoor area have basic exercise equipment, including a treadmill. While the outdoor areas are relatively large, they are mostly enclosed spaces with no access to green spaces.



Photo 1: SHU courtyard provides limited recreation opportunities.



Photo 2: Exercise equipment in the SHU is basic.

## 3.3 Access to support services available, but those services are stretched

Upon request, prisoners in the SHU have access to the same support services available to mainstream prisoners. Prisoners can request access to Psychological Health Services, the Chaplain, Prison Support Officers and the Aboriginal Visitors Scheme.

Despite this, staff and prisoners felt that the SHU is often overlooked, which negatively impacts on prisoners' wellbeing. We have no specific evidence to corroborate this sentiment. However, we know these services are often under-resourced and are increasingly over-stretched as Casuarina Prison expands in population. Fully resourced support services should be able to provide more intensive and pro-active services to high-need prisoners, such as many of those residing in the SHU.

There is also no unit-based peer support prisoner position within the SHU. However, increased socialisation amongst SHU prisoners in recent months is a positive improvement and provides individuals opportunities to discuss their issues with peers. One prisoner has been providing support to a high-needs prisoner for some time, with the support of staff and management. We also found prisoners generally had a positive relationship with staff, and staff were receptive to providing support when requested.

Prisoners also have access to social and official visits and the prisoner telephone system. The level of access to these is dependent on their supervision level at the time, as per the Department's behaviour management policy (DOJ, 2022).

Independent Visitors (IVs) are also allowed access to SHU prisoners. Prior to their last visit in November 2022, IVs attended the SHU in December 2020. This suggests the service is not advertised well to SHU prisoners in advance of IVs being on-site.



## 4 Staffing levels are adequate but processes can improve

Throughout our visits to the SHU, both management and officers expressed satisfaction at the current staffing arrangements within the unit. The SHU, Multi-purpose Unit (MPU) and Special Protection Unit (SPU) share a staffing profile of five senior officers and 36 prison officers. At the time of writing, one senior officer position and six prison officer positions were vacant. The roster also contains six back-up officers who can work in the SHU when a vacancy exists.

SHU staff are also required to respond to major incidents occurring throughout Casuarina Prison. For these reasons, management have rightly prioritised staffing within the SHU and seek to minimise redeployments where they can.

Notwithstanding this, some staffing processes can be improved to ensure the SHU is operating effectively.

### 4.1 Vacancies are filled through an informal expression of interest process

Casuarina Prison has an established, but relatively informal, selection process to fill staffing vacancies within the SHU. Vacancies are advertised via an emailed expression of interest to all Casuarina staff and applicants are assessed by the Senior Management Team in consultation with Senior Officers. This group determine the suitability of an applicant to fill a vacancy. There is no formal interview process and there are no additional essential skills required. It is desirable for staff to have:

- experience and a proven ability to defuse and de-escalate volatile situations
- the ability to operate as part of a team
- the ability to respond to incidents as part of a primary response team.

The current process generally reflects recommendations made during the 2011 internal review of the SHU. That review was critical of the staff selection process at the time, arguing it lacked transparency and formality (Peach, Kincart, Connolly, & Ewart, 2011).

### 4.2 Tenure is not actively managed, despite grooming concerns

There remain no restrictions to the length of time staff can work in the SHU. Previously, concerns were raised about the lack of staff rotation to other parts of Casuarina Prison (Peach, Kincart, Connolly, & Ewart, 2011). At the time, one staff member had been working in the SHU for 17 years. This raised concern that staff were at risk of being groomed or becoming too familiar with long-term prisoners.

In 2012, the Department committed to implementing a maximum two-year tenure period within the SHU. Staff were required to work in a different unit for 12 months before being re-appointed (Peach

& Clark, 2012). However, at the time of writing, these changes were not in effect due to the difficulties finding suitable replacement officers.

As of November 2022, 39 per cent of staff had worked in the SHU for three or more years. This included two staff who had been rostered to the SHU for more than ten years. However, the risk of grooming is partially mitigated by SHU staff regularly rotating through the MPU and SPU. Several long-term officers have also had a break in service by taking higher duties in other units.

Notwithstanding this, the Department should either re-commit to a maximum tenure period for SHU staff or identify other measures to mitigate the risks of grooming.

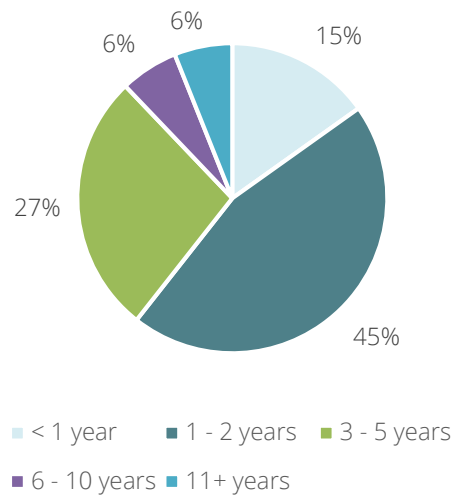


Figure 4: Staff tenure in the SHU ranged from less than one year to more than ten years.

#### Recommendation 4

Introduce a maximum tenure period for SHU staff or identify alternative measures to mitigate the risk of grooming.

### 4.3 An unconscious bias still appears to exist towards female officers

The Department confirmed that female officers are no longer excluded from working in the SHU, and it supports and promotes representation from all genders across all workplaces. However, when discussing the issue with staff several made comments that indicate an unconscious bias still exists, including:

- the physicality required to work in the SHU
- the need to strip search male prisoners
- the requirement to be part of the incident response team for Casuarina
- the predatory behaviours of some SHU prisoners towards women

These comments suggest female officers would be unable to fulfil the duties required when working in the SHU as a result of their gender, or that it would be unsafe for them. Female custodial staff are permitted to work in management units at other prisons and are provided with the same training and held to the same standards as male officers. Known risks towards female staff can be mitigated in the same way that other risks within the SHU are managed.

We recognise the importance of finding the right staff to work in the SHU. Notwithstanding this, management should strive to achieve diversity in all work places and identify any known barriers preventing female custodial staff from working within the SHU.

Historically, female custodial staff were not allowed to work in the SHU. The primary reason given for this was safety, partly driven by risks arising from one long-term SHU prisoner. But that risk is no longer present.

At the time of writing there were no female staff working in the SHU.

#### 4.4 No specialist training provided

Staff are not provided additional training prior to, or after, commencing in the SHU. The Department advised that they were satisfied the current essential training requirements for custodial staff were satisfactory for those working in management units, such as the SHU. Essential training includes theory, practical and online training and a requirement to remain current in core units, such as use of force, use of restraints and cell extractions. As of October 2022, 77 per cent of prison officers in the SHU were current with core units.

However, there is no requirement for staff to undertake refresher mental health training. Custodial staff receive mental health and suicide prevention training materials provided by the Mental Health Commission's Gatekeeper program. But, ongoing refresher training for this program has never been developed or resourced for a custodial setting. Some staff within the SHU undertook their Gatekeeper training as long ago as 2009.

We understand the Department has recently commenced exploring alternative mental health training opportunities for officers and peer support prisoners. Given the complexity of mental ill-health within the SHU, mental health and trauma informed practice training should be expedited.

##### **Recommendation 5**

Provide enhanced mental health and trauma informed practice training to custodial staff in the SHU.

## 5 Governance processes vary, but improvements are visible

Generally, we found governance processes in relation to the SHU were sound. Previously, the SHU had been criticised for demonstrating a lack of compliance, controls and oversight (Garlett v. Susan Rowley in her capacity as Assistant Commissioner Custodial Operations, 2021; OICS, 2020; Peach, Kincart, Connolly, & Ewart, 2011; OICS, 2000). We did not find this to be the case and noted improvements to certain processes. However, we also identified some areas where further progress can be made.

### 5.1 SHU Committee minutes provide limited evidence of effective case management

SHU Committee minutes do not provide a detailed or at times accurate summary of the discussions held regarding each prisoner's ongoing management. Minutes are often vague, do not provide enough context and do not document specific concerns or comments from each stakeholder.

Minutes will frequently state 'remain SHU placement' without providing any corresponding reasons. Such decisions also rarely refer to the prisoner's progress, or lack of, towards achieving their benchmarks or 'future requirements for SHU discharge'.

For instance, often minutes will note that a prisoner 'continues to recreate alone' but fail to outline why this may be the case, or what actions have been taken to help the prisoner socialise more.

And, for one prisoner, we found minutes repeated the following incomplete statement for five consecutive months:

...will need approximately 3 months of ongoing treatment before they can [sentence unfinished]

On the sixth month the comment did not appear in the Committee minutes and no commentary was made about the prisoner's ongoing treatment. It was not clear whether their treatment continued, was stopped, or the prisoner refused to continue. This is despite one of their benchmarks for exiting the SHU requiring them to maintain compliance with medication.

Minutes also poorly document monthly case conferences and interviews held with prisoners. Minutes show several prisoners being interviewed in June 2021 and again in February 2022, with no explanation or justification for the gap between interviews. And further, the outcomes of the February 2022 case conference do not appear in Committee minutes until the April 2022 meeting. Details of the case conference are also often limited, and in some cases only note that an interview occurred.

In one case, we found the minutes changed the date of the case conference but not the summary. In May 2021, the case conference minutes noted:

[Name redacted] initially presented as engaging and cooperative and then he began to divert to making comment about a group or number of staff that are hanging around his cell and he presented as delusional with darting eye movements to which the interview was closed and [name redacted] was returned to his cell.

In the August 2021 minutes, the same summary was included but the date was changed to June 2021. And, in May 2022 the same summary was again included but the date was changed to February 2022. For fourteen months, the Committee minutes repeated the same summary under three different dates.

Minutes were also produced for a Committee meeting that did not occur. In November 2022, we attended the SHU to observe the case conferences. As this process went overtime, the scheduled SHU meeting was cancelled and rescheduled. Minutes for this meeting were still produced, despite it not proceeding on that day, and were a replicate of the October 2022 minutes.

Committee minutes and case conference notes are critical information assets that should document the case management journey of prisoners from their arrival until their exit from the SHU. Given the restrictions placed on these prisoners, minutes should be detailed enough to justify and defend any actions or decisions made by the Committee to continue segregating that prisoner. They should be comprehensive enough to allow a reader to understand the basis for decision making and to ensure transparency and accountability.

The Public Sector Commission notes that committee minutes are a valuable source of information that provide evidence of decisions and a paper trail in case of legal actions (PSC, 2021). Minutes should:

- provide a true and accurate record of the meeting
- capture decisions, major points and actions with sufficient detail to make it clear how a decision was arrived at and whether the decision was reasonable given the information presented
- contain clear and concise notes of main points of discussion
- be approved by the committee at the following meeting (PSC, 2021, p. 33).

As it stands, Committee minutes are not meeting these basic governance principles. The detail contained within Committee minutes do not provide assurance that the Department is effectively managing SHU prisoners – many of whom have been segregated to the unit for several years.

Ineffective case management of SHU prisoners may be perceived as negligence and result in unnecessary isolation and reduced opportunities for rehabilitation and reintegration.

#### **Recommendation 6**

Review the format and detail within SHU Committee minutes to ensure they are a true and accurate recording of the meeting, capturing case management discussions, decisions and actions.

## 5.2 Applications for SHU placement could be strengthened

We reviewed a sample of approved SHU placement applications and found they were mostly well written but often lacked supporting documentation.

Generally, we found applications provided a good level of detail in the statement of facts justifying a recommendation to place a prisoner in the SHU. This included outlining a prisoner's history of non-compliant behaviour or involvement in serious incidents, prior management strategies utilised, and details of any known intelligence. Applicants then used this information to support their argument that the prisoner met the criteria to be assessed as a Major Threat Prisoner and be placed in the SHU.

### Additional supporting evidence will ensure decisions are evidence-based

However, we found supporting documentary evidence was often scant. Several applications we reviewed noted that formal intelligence reports, health reports, and psychological reports had been requested and were to follow – but they were not subsequently recorded alongside the application. Other applications made no reference to supporting documents at all.

In one case, an application noted that a detailed prisoner profile from the Intelligence Directorate and a Specialist Psychologist Report had been requested and would follow. The ACCO then signed the decision slip, approving the SHU placement, on the same day that the application was submitted. This suggests a decision was made prior to receiving all documentary evidence.

In the Department's response to a draft of this report, it challenged this view. But if decisions were to be administratively reviewed, all documents relied upon should be retained with the decision slip.

Another application noted that these reports had been requested but were unavailable due to 'challenging timeframes'.

The Department's policy only notes that applications *may* include supporting documentary evidence (DOJ, 2021). Such documents could help inform decision-makers of known risks and potential impacts to a prisoner's wellbeing prior to confining them to the SHU, which may assist in preventing mistreatment or harm. Further, supporting evidence can provide assurances to the Department should decisions be challenged. Similar information is required for s.43 separate confinement applications for these reasons (DOJ, 2021b).

#### **Recommendation 7**

Amend *COPP 4.11 – Special Handling Unit* to require all supporting evidence relied upon to support a decision to place a prisoner in the SHU must be included in the placement application.

## Some SHU applications and decision slips were unsigned

During our review of a sample of approved SHU applications we found two unsigned documents. One application was not signed by the Superintendent making the request. And, another application was not signed by the ACCO approving the request. This could indicate issues with internal governance processes, or document control issues.

Similar issues were identified during our review into confinement practices (OICS, 2022b). At the time, the Department acknowledged the issue and committed to ensuring record-keeping practices were adhered to in the future.

Identifying these issues in small samples suggests there may be systemic governance or document control issues across the Department. High standards of record-keeping are important for transparency and accountability, particularly when making decisions to confine or restrict the entitlements of prisoners. Such decisions are often the subject of legal challenge making good record keeping even more essential.

Despite these concerns, all other SHU applications we reviewed were requested by Superintendents and approved by the ACCO, in accordance with the Department's policy (DOJ, 2021).

## The Department has amended its delegations register following a Supreme Court finding

In 2021, the Supreme Court found the Department did not have the appropriate delegation structures in place for the approval of prisoners placed into the SHU (Garlett v. Susan Rowley in her capacity as Assistant Commissioner Custodial Operations, 2021). The legal action was brought by two SHU prisoners. They argued that the Assistant Commissioner Custodial Operations (ACCO) was not authorised to approve their placement.

The Supreme Court found that the power under r.54C to separate prisoners had not been delegated from the Chief Executive to the ACCO. SHU placement decisions by the ACCO were therefore found to be unlawful.

The Department issued an amended *Instrument of Delegation* rectifying this issue, and re-issued SHU decision slips. The amended delegations enable the ACCO to continue approving the placement of prisoners into the SHU as per the Department's policy (DOJ, 2021).

## 5.3 Unit-based record-keeping practices have improved

Generally, we found record-keeping practices within the SHU operated well. During our 2019 inspection of Casuarina Prison we found cell occurrence books were not always up to date and did not always record when meals and entitlements were issued (OICS, 2020). We reviewed samples of

paper-based occurrence books and electronic supervision logs and found records were maintained well and in accordance with policy.

Exercise Logs have improved oversight of out of cell time. Under the Department's revised policy, an Exercise Log is now required to be submitted to head office weekly (DOJ, 2021). Collating this information has improved oversight and encouraged opportunities to increase socialisation among prisoners, to improve average out of cell hours.

Some observation cell placements were undocumented. Between 2018 and 2022, 17 SHU prisoners were placed into an observation cell for a day or longer. However, only four of these had a supervision plan created in the offender database outlining the restrictions to their daily routine while under observation.

Inconsistent documenting of observation cell placements has previously been identified at a range of prisons (OICS, 2022b). The Department acknowledged this issue and supported a recommendation to ensure all confinement and management regime placements were recorded as per policy.



# **Response to Review:**

## **Snapshot Series: The Special Handling Unit at Casuarina Prison**

**May 2023**

Version 1.1

## Response Overview

### Introduction

The Snapshot Series Review into the *Special Handling Unit at Casuarina Prison* (the SHU Review) was announced by the Office of the Inspector of Custodial Services (OICS) on 29 August 2022. A wide range of documentation, statistics and access to systems, policies, processes, custodial facilities including staff and prisoners were made available to OICS upon request for the purpose of the review.

On 27 February 2023, OICS provided a debrief on the SHU Review findings and on 11 April 2023, the Department of Justice (the Department) received the draft report for review and comment. The draft report highlighted the key findings and made seven recommendations. The Department has reviewed the draft report and provides further context, comments, and responses to the recommendations.

**Appendix A** contains comments linked to sections in the draft report for the Inspector's consideration when finalising the report.

### Review Comments

The Special Handling Unit (SHU) is a highly specialised facility within Casuarina Prison (Casuarina) that accommodates prisoners whose offences and/or behaviour pose a major threat to the good order and safety of custodial facilities and requires they be subject to the highest level of staff supervision and the maximum level of secure accommodation. The SHU is the only such facility in a prison in Western Australia.

In accordance with Commonwealth legislation, the SHU may also be used to hold persons upon request by the Western Australia Police, or the Australian Federal Police. The purpose and function of the SHU are well known and understood by custodial staff at Casuarina.

Daily life in the SHU is highly controlled and restricted, this is necessary to ensure the associated risks SHU prisoners pose can be managed effectively and custodial staff can respond and take control of incidents within the SHU immediately.

Prisoners in the SHU are provided intensive supervision whilst enabling behavioural changes that allow them to return to mainstream conditions, this includes intensive support and increased access to psychologists and psychiatrists.

The SHU has evolved over the years and has an established policy framework that outlines the policies and procedures, together with improved governance and oversight processes for the ongoing management of prisoners within the SHU and responsibilities for SHU staff.

The new Commissioner's Operating Policy and Procedure (COPP) 4.11 *Special Handling Unit*, implemented in December 2021, sets out clear instructions on the application, assessment, and approval processes for SHU placements and now provides for a high level of decision making for the placement and management of prisoners in the SHU.

The revised Terms of Reference for the SHU Committee clarifies the role of the Committee and provides increased oversight through a multi-disciplinary approach to the monthly reviews and ongoing treatment and management of prisoners in the SHU. The Committee is also provided with technical expertise and up to date intelligence to ensure decisions are evidence-based and risk informed.

Prisoners are given the opportunity to provide their views to the Committee regarding their ongoing placement in the SHU and have input into the development of their exit strategy that allows them to be placed in mainstream. Expectations around behaviour and improvements required to transition to mainstream are discussed at case conferences and interviews with prisoners. The prisoner's ongoing behaviour and the risks they pose if returned to mainstream is continually assessed by the Committee and only when satisfied the prisoner's risk behaviours have been mitigated or can be managed, the Committee may recommend removal from the SHU.

OICS has commended the Department for the improvements made to the operations of the SHU by comparing its operations to previous years. Despite the complexities involved, OICS has *'found no evidence to suggest that management were not acting in the best interests of the prisoners or the prison'*.

OICS has also recognised that *'for some prisoners, it may not be possible to sufficiently mitigate the risks to the safety of others and it is unlikely they will return to a mainstream unit'*. This is evidenced by the long-term placement of some of the prisoners in the SHU.

The Department acknowledges the need for good governance practices to demonstrate accountability and transparency in decision making and therefore improvements have been implemented in TOMS to improve the way in which a prisoner's daily routine in the SHU is recorded. Additionally, changes to enable a prisoner's ongoing review to be documented within the Assessments module in TOMS is nearing implementation. The SHU Committee has been advised of the importance of recording detailed and accurate information within the minutes of the SHU meetings and all Committee members have an obligation to ensure the accuracy of the minutes.

The Department supports the principle of the development of behavioral benchmarks that prisoners should achieve prior to transitioning back into mainstream, however, a cautionary approach must be taken when developing the benchmarks to ensure prisoners are unable to manipulate the system. Safeguards will be required to ensure SHU prisoner behaviour can be identified as a genuine effort of rehabilitation, rather than imitating false behaviours to meet a benchmark and manipulate their placement back to mainstream.

The Department acknowledges the SHU is not the best site for prisoners with mental health issues and welcomes the State Government's announcement of the expansion to the Graylands Hospital which will see the number of forensic mental health beds in the state increased. The Department was represented on the Graylands Taskforce by the Director General and provided detailed assessments of the number of forensic mental health beds likely to be required by remandees, sentenced prisoners and those classed as 'unfit to plead' under the *Criminal Law (Mentally Impaired Accused) Act 1996*. Once in place, it is expected the expansion will reduce the burden on the Department in the long-term for holding critically mentally unwell prisoners, including those that may be housed in the SHU or other specialised units in the Department.

Out of cell hours for prisoners in the SHU are generally lower compared to the mainstream population. It is important to distinguish the increased risks of managing SHU prisoners, including their interactions with other SHU prisoners, and these risks must be carefully assessed and managed to ensure the safety of prisoners and staff.

While the Department supports increasing out of cell time for people in custody where possible, this is not always conducive to the environment of the SHU. Despite this, the

report findings demonstrate that SHU prisoners are receiving the minimum daily requirement for out of cell hours.

Due to the unique high-risk environment of the SHU, it is important that staff working in the SHU are highly experienced and skilled in managing the highest risk prisoners that pose a major threat and can respond and take control of incidents spontaneously as they occur whilst maintaining the safety and security of all staff and prisoners in the SHU. Due to the multi-faceted and complex reasons for a prisoner's placement in the SHU, there are distinct advantages to having experienced SHU staff who are familiar with the prisoners' historical behaviours and personality traits. The Department makes no gender distinction regarding staff placements in the SHU and all staff are encouraged and supported to apply.

Being placed in the SHU does not exclude a prisoner from criminogenic program participation, however given all programs are delivered via group interventions, the Department acknowledges it is difficult for SHU prisoners to participate given the limitations on their ability to interact with other prisoners. Furthermore, SHU prisoners may not be eligible for participation in accordance with eligibility requirements set by the program facilitators given their high-risk status. Individual therapeutic interventions to address problematic behaviour however are provided where possible to enable prisoners exit the SHU and transition to mainstream.

The Department is also exploring alternative methods of program delivery and has commenced two projects, the 'Building Contemporary Offender Programs' and 'Transforming Offender Programs' projects to improve systems and processes for accessing best-practice and fit for purpose contemporary programs.

The Department is committed to ensuring the SHU operates as effectively as possible giving prisoners every opportunity to improve their behaviour and return to mainstream as quickly as possible. The Department has supported five of the seven recommendations made by OICS and has identified further actions that will be taken to implement these recommendations.

## Response to Recommendations

### **1 Develop behavioural 'benchmarks' that are measurable and achievable with progress considered and documented by the Committee during monthly meetings.**

Level of Acceptance: Supported in Principle  
Responsible Division: Corrective Services  
Responsible Directorate: Adult Male Prisons

#### Response:

The Department acknowledges risk-based behaviour expectations may be relevant for some prisoners placed in the SHU and that the establishment of clear, achievable, and measurable behavioural benchmarks will benefit both prisoners and staff. This however may vary from prisoner to prisoner and the current process allows for benchmarks to be applied through behavioural expectations as documented in an exit plan that prisoners must achieve prior to transitioning back into mainstream.

COPP 4.11 is scheduled for review in Q1 2024. This review will consider the feasibility of the development of risk-based behaviour expectations in a prisoner's assessment and review processes.

### **2 Explore targeted behaviour management interventions that could be introduced in the SHU to assist prisoners to address their behaviour.**

Level of Acceptance: Supported – Current Practice / Project  
Responsible Division: Corrective Services  
Responsible Directorate: Adult Male Prisons

#### Response:

Prisoners placed in the SHU are managed in accordance with the Department's policies and procedures including COPP – 10.1 Prisoner Behaviour Management and COPP 10.7 – Separate Confinement.

All interventions provided to prisoners in the SHU are individual for security and safety reasons. Where appropriate, a multi-disciplinary approach is used to identify and implement an individualised plan which details and describes the key elements for managing the prisoner. This may include individual therapeutic interventions to address problematic behaviour that will enable prisoners to exit the SHU and transition to mainstream. Prisoners are also given the opportunity to provide their views to the SHU Committee regarding their ongoing placement in the SHU and have input into the development of their individualised plan.

Expectations around behaviour and improvements required to transition to mainstream are discussed at case conferences and interviews with prisoners. The prisoner's ongoing behaviour and the risks they pose if returned to mainstream is continually assessed by the SHU Committee and only when satisfied the prisoner's risk behaviours have been mitigated or can be managed, the Committee may recommend removal from the SHU.

The Department will continue to look at ways to improve intervention opportunities to prisoners in the SHU as part of ongoing business review and improvement processes.

**3 Ensure forced removal of clothing practices are consistent with COPP 11.3 – Use of Force and performed as a last resort and as planned use of force.**

**Level of Acceptance:** Supported – Current Practice / Project  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Adult Male Prisons

**Response:**

COPP 11.3 Use of Force and restraints emphasises that: *'...If the requirement to remove the prisoner's clothing remains, the planned use of force procedures shall apply'*.

The COPP also re-iterates that the search must be conducted in accordance with COPP 11.2 – Searching and recorded on TOMS. To further ensure that custodial officers are complying with COPP 11.2, Superintendent Casuarina will issue a notice to officers reminding officers that:

1. The removal of clothing is only used as a last resort; and
2. Officers are to ensure, where practicable, that a prisoners clothing is not removed in common areas and that effort should be made to maintain the dignity of the prisoner.

**4 Introduce a maximum tenure period for SHU staff or identify alternative measures to mitigate the risk of grooming.**

**Level of Acceptance:** Not Supported  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Adult Male Prisons

**Response:**

The SHU is a unique correctional environment requiring a complement of experienced staff to manage the highest risk prisoners whilst maintaining the safety and security of all staff and prisoners. There is a fine balance between having experienced SHU staff and new staff within the SHU. Due to the multi-faceted and complex reasons for a prisoner's placement in the SHU, there are distinct advantages to having experienced SHU staff who are familiar with the prisoners' historical behaviours and personality traits.

To mitigate the risk of grooming and staff fatigue, there is a rolling roster in place for staff to move from the SHU to the Multi-Purpose Unit (MPU). This ensures that staff are frequently rostered out of the SHU while ensuring there are an adequate number of experienced SHU staff on shift on any given day to ensure the good order and security of the SHU. Should a staff member in the SHU be found to have been groomed and/or have engaged in inappropriate behaviour, the staff member's placement in the SHU will be reviewed by senior management and if it is deemed appropriate, the staff member will be removed from the SHU roster and referred to the Departments Professional Standards Directorate (PSD) for assessment and/or investigation.

Recruitment to the SHU is undertaken via Expressions of Interest and all staff, including females, are encouraged and supported to apply.

Additionally, prison staff receive ethical behaviour and grooming training as part of their employment with the Department. Locally, Casuarina Prison's Integrity and Ethics Committee provides oversight to mitigate against risks such as the grooming of staff, with additional oversight provided by PSD within the People Culture and Standards Division.

**5 Provide enhanced mental health and trauma informed practice training to custodial staff in the SHU.**

**Level of Acceptance:** Supported – Current Practice / Project  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Operational Support

**Response:**

The Department has a number of resources available to staff, including those who work in the SHU, to refresh previously acquired skills and knowledge related to Mental Health, Suicide Prevention and Trauma Informed Practice.

In addition to the essential training requirements, all officers are required to complete six online training modules developed in collaboration with the Mental Health Commission (MHC), and suicide prevention ARMS / SAMS modules. Both sets of modules have been designed specifically for custodial staff and must be completed every three years. All modules have recently been updated and are currently being programmed for compatibility with Corrective Services' new learning management system, iLearn, and will be made available through this mechanism commencing this financial year.

**6 Review the format and detail within SHU Committee minutes to ensure that they are a true and accurate recording of the meeting, capturing case management discussions, decisions and actions.**

**Level of Acceptance:** Supported  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Adult Male Prisons

**Response:**

The Department acknowledges the need for good governance practices to demonstrate accountability and transparency in decision making. Improvements with the way in which a prisoner's placement in the SHU is recorded in TOMS are ongoing. For example, changes have recently been implemented in TOMS to improve the way in which a prisoner's daily routine in the SHU is recorded (now within the Supervision Level module).

Additionally, changes to enable a prisoner's ongoing review to be documented within the Assessments module in TOMS are awaiting final approval prior to implementation.

Processes have also been implemented to ensure minutes of SHU Committee meetings are detailed and accurate.

The review of COPP 4.11 scheduled for Q1 2024 will consider the functions of the SHU Committee management, and how governance processes can be improved.

**7 Amend COPP 4.11 – Special Handling Unit to require all supporting evidence relied upon to support a decision to place a prisoner in the SHU must be included in the placement application.**

<b>Level of Acceptance:</b>	Not Supported
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Operational Support

**Response:**

The process of preparing and considering SHU placement applications are adequately outlined in COPP 4.11 in its current form. Provision 4.3.2 stipulates that applications for a prisoner to be placed in the SHU must clearly detail the reason for placement in the SHU and may include documentation or evidence to support such placement.

It is also noted that following the amendment of COPP 4.11 in December 2021, application and decision-making processes are now on TOMS which provide a further level of transparency and oversight into the decision-making process.



## Appendix B Methodology

Data sets for this review were obtained from the Department's offender database through a series of extractions using SQL Server Management Studio. We also used a series of pre-constructed reports from the Department's Reporting Framework and from the offender database and data provided to us by the Department. We examined data between 2018 and 2022.

We examined Western Australian legislation and departmental documentation including policy, strategy documents, and evaluations.

As part of the review we also conducted site visits to Casuarina Prison and spoke with staff and prisoners within the SHU.

This was a review of a custodial service in accordance with section 22 of the *Inspector of Custodial Services Act 2003*.

Key dates	
Review announced	29 August 2022
Key findings briefing to Department of Justice	27 February 2023
Draft report sent to Department of Justice	11 April 2023
Response received from Department of Justice	18 May 2023
Declaration of prepared report	20 July 2023

## Appendix C Bibliography

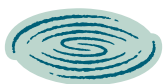
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