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A message to stakeholders and the public

In response to the COVID-19 pandemic, the Inspector of Custodial Services (ICS) is changing the way we provide oversight of adult and youth custodial centres.

We postponed our scheduled visits and inspections of NSW custodial centres from 13 March 2020 until 25 May 2020. This decision was not taken lightly. However, we believed it was necessary to ensure the safety of our staff and the staff, inmates and detainees of NSW custodial centres. Further postponements may occur where necessary due to outbreaks of COVID-19 in NSW. It is vital that relevant agencies continue to focus their resources on responding to COVID-19.

We continue to monitor the conditions and treatment of inmates and detainees in NSW custodial centres and provide guidance on best practice. From 26 May 2020, the ICS began a series of visits focused on the response of relevant agencies to COVID-19. Other in-person visits will be considered on a case-by-case basis.

We are liaising closely with Corrective Services NSW, Youth Justice NSW, the Justice Health and Forensic Mental Health Network and individual custodial centres on their response to COVID-19 and other matters relevant to our functions. We are also continuing with existing work where possible, particularly in relation to the preparation of inspection and thematic reports.

The Inspector of Custodial Services is exempt from any restrictions that may be applied to visitors to custodial centres under section 275 of the Crimes (Administration of Sentences) Act 1999 and section 110 of the Children (Detention Centres) Act 1987. Our ability to access to all people detained in NSW custodial centres, including those in isolation, is consistent with interim guidance provided by the World Health Organisation.

The Official Visitor Program also continues to operate. Adjustments were made so that Official Visitors could safely provide support to inmates and detainees, however Official Visitors have since returned to operating at full capacity. A dedicated mail address to allow inmates and detainees to raise enquiries and complaints directly and confidentially with Official Visitors continues to operate.
1. Purpose of the Inspector of Custodial Services COVID-19 plan

The purpose of the Inspector of Custodial Services (ICS) COVID-19 plan is to:

- ensure the safety of ICS staff and stakeholders
- ensure business continuity for the duration of the COVID-19 pandemic
- respond and adapt to emerging issues in the custodial environment
- ensure the continuity of the Official Visitor Program.

The purpose of this plan is to outline how the ICS will operate for the duration of the COVID-19 pandemic having regard to applicable legislative requirements, international human rights standards, NSW Health directives and applicable workplace health and safety requirements.

1.1 The COVID-19 pandemic

The coronavirus disease 2019 (COVID-19) is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2 virus). The SARS-CoV-2 virus is one of a family of coronaviruses that cause illnesses ranging in severity from the common cold to severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS). SARS-CoV-2 is a ‘novel’ coronavirus, meaning it is a new strain of coronavirus not previously identified in humans.

COVID-19 was first detected following an outbreak in Wuhan, China in December 2019. On 30 January 2020, the World Health Organization (WHO) declared the outbreak to be ‘a public health emergency of international concern. On 12 March 2020, the WHO declared the outbreak to be a pandemic. A pandemic is the worldwide spread of a new disease.

In the period since COVID-19 was first detected, its genetic structure has changed. Changes to COVID-19 that make it easier to spread or make people more unwell as are known as ‘variants of concern’.

According to NSW Health, COVID-19 is spread through contaminated droplets from coughing or sneezing, or contact with contaminated hands, surfaces or objects. Aerosol transmission may also occur, particularly in crowded, indoor spaces with poor ventilation where an infected person may spend a long period of time with others.

COVID-19 symptoms may include fever, fatigue, cough, aches and pains, nasal congestion/runny nose, and a sore throat. In more severe cases, COVID-19 can cause pneumonia with severe acute respiratory distress. A person will typically begin to experience COVID-19 symptoms five to six days after exposure to the virus, although this may range from 1 to 14 days. This is why people who have had contact with a person confirmed to have COVID-19 should self-isolate for 14 days.
People with compromised immune systems (e.g. those with cancer), chronic medical conditions (e.g. diabetes, high blood pressure, heart problems) and older people are more likely to become seriously ill. People in detention facilities, such as correctional centres and youth justice centres, are considered to be at greater risk of being exposed to COVID-19 outbreaks if a case is diagnosed among staff or inmates or detainees. They are also more likely to have health conditions that make them more susceptible to developing a serious COVID-19 infection.¹

1.2 Inspector of Custodial Services legislative requirements

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

The Inspector is independent of Corrective Services NSW (CSNSW) and Youth Justice NSW (YJNSW) and reports directly to NSW Parliament.

Section 6 of the ICS Act sets out the principal functions of the Inspector as follows:

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

advise, train and assist Official Visitors in the exercise of the functions conferred or imposed on them under those Acts

such other functions as may be conferred or imposed on the Inspector under this or any other Act.

The Inspector also has a responsibility to ensure that ethical and professional practice is observed across the custodial environment in NSW.

Sections 7 and 8 of the ICS Act detail the powers of the Inspector. Section 7 provides that, in the exercise of the Inspector’s functions, the Inspector:

• is entitled to full access to the records of any custodial centre (including health records) and may make copies of, or take extracts from, those records and may remove and retain those copies or extracts

• may visit and examine any custodial centre at any time the Inspector thinks fit

• may require custodial centre staff members to supply information or produce documents or other things relating to any matter, or any class or kind of matters, concerning a custodial centre’s operations

• may require custodial centre staff members to attend before the Inspector to answer questions or produce documents or other things relating to a custodial centre’s operations

• may refer matters relating to a custodial centre to other appropriate agencies for consideration or action

• is entitled to be given access to persons in custody, detained or residing at any custodial centre for the purpose of communicating with them.

Section 8 of the ICS Act further provides that:

The Inspector has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of the Inspector’s functions. Any specific powers conferred on the Inspector by this Act are not taken to limit by implication the generality of this section.
2. Principles of the Inspector of Custodial Services COVID-19 plan

The ICS is mindful of the ‘do no harm’ principle. This principle underpins the ICS COVID-19 plan and the ICS endeavours to realise the ‘do no harm’ principle in carrying out the Inspector’s functions.

This involves adapting how the ICS operates to prevent the transmission of COVID-19 to inmates, detainees and staff of custodial centres as well as ICS staff. In addition, the work of the ICS should not place a burden on custodial centres in such a way that undermines their ability to respond to the COVID-19 pandemic.

However, it is important that the ICS continues to exercise oversight of CSNSW and YJNSW and develops innovative methods for undertaking the Inspector’s functions. This is particularly crucial in connection with the treatment and conditions of inmates and detainees in relation to the COVID-19 pandemic.
3. Inspector of Custodial Services COVID-19 plan

3.1 Inspector of Custodial Services staff

3.1.1 Health

Prevention of transmission of COVID-19

Staff should observe general instructions by NSW Health to prevent the transmission of COVID-19. NSW Health is regularly updating their website with relevant information. See: https://www.health.nsw.gov.au/Infectious/diseases/Pages/coronavirus.aspx

If ICS staff identify that they have been to a COVID-19 transmission hotspot and may have been exposed to COVID-19 they must notify the Inspector immediately and follow official advice on what further action they must take (e.g. if they are required to get tested and self-isolate). See: https://www.nsw.gov.au/covid-19/latest-news-and-updates#latest-covid-19-case-locations-in-nsw

If ICS staff suspect they may have COVID-19 they should follow NSW Health advice in relation to testing and self-isolation. If ICS staff test positive to COVID-19 and have had in-person contact with work colleagues or custodial centres in the previous 14 days, they should advise the Inspector immediately.

ICS staff can only return to the office (if required) or visits and inspections of adult and youth custodial centres if they have been approved to return by the Inspector and follow guidelines provided by the Inspector and Justice Health. The applicable guidelines as at June 2021 are:-

- ICS staff who have asymptomatic illness may return to work if at least 14 days have passed since the first positive specimen for COVID-19 was taken and no symptoms have developed during this period.
- ICS staff who have symptomatic illness may return to work if at least 14 days have passed since the onset of symptoms and there has been a resolution of all symptoms of the acute illness for the previous 72 hours.

ICS staff will work from home as necessary and directed by the Inspector.
Custodial centre visit protocols

- In-person custodial centre visits and/or inspections should only occur at the request of the Inspector. The necessity of visits will be assessed on a case-by-case basis. See section 110 of the Children (Detention Centres) Act 1987 and section 275 of the Crimes (Administration of Sentences) Act 1999 (inserted by the COVID-19 Legislation Amendment (Emergency Measures) Act 2020) and the interim guidance of the World Health Organisation.

- If the Inspector requests a staff member visit a custodial centre, that staff member does not have to attend the custodial centre if they are concerned about the spread of COVID-19. Staff should make themselves aware of the NSW Health advice in relation to COVID-19 in this regard.

- The necessity of a 14 day gap between visits to custodial centres by ICS staff will be determined on a case by case basis.

- ICS staff must not visit a custodial centre or the office if they
  - Have been in a location identified by NSW Health as a COVID-19 hotspot that requires 14 day isolation and a COVID-19 test.
  - Have been in contact with a suspected or confirmed case of COVID-19 14 days prior.
  - Have any acute respiratory infection symptoms (e.g. cough, shortness of breath, sore/ scratchy throat, nasal congestion) or a fever (or history of fever) or a loss of smell or taste.

- If visiting a custodial centre ICS staff must:
  - Submit to screening on arrival. This will involve screening questions and a temperature or health check.
  - Observe physical distancing advice: do not shake hands, limit the length of time speaking to individuals to less than 15 minutes, and keep a distance of 1.5 metres from others.
  - Wash their hands regularly in the method directed by NSW Health or utilise hand sanitiser.
  - Use a disposable tissue to cover their mouth when sneezing or coughing. Dispose of the tissue in a bin with a lid and wash their hands or use hand sanitiser.
  - Avoid touching their face if their hands are not clean.
  - Wear personal protective equipment, such as face masks or gloves, when deemed necessary.
3.1.2 Working from home arrangements

Meetings
Meetings can be held by Microsoft Teams or teleconference if necessary.
ICS has access to a teleconference facility. A designated conference line is available for our use 24 hours a day, 7 days a week.
In person meetings should observe physical distancing.

Computers
All permanent and temporary ICS staff have means to work from home by way of an ICS laptop or Citrix.
Office landlines should be forwarded to an office mobile or another number. Office mobiles should be utilised for teleconferences and phone calls for work purposes.

Contact with colleagues
Regular team meetings are to be held to provide regular updates on matters impacting the ICS and its work; to keep all staff informed of work activities and priorities; and to allow any issues or concerns that may impact the entire team to be raised.
Connection with colleagues is encouraged through the use of email, phone, Microsoft Teams, and SharePoint.
3.2 Impact of COVID-19 on our work

Physical visits and inspections of custodial centres may be limited where necessary if there is an outbreak of COVID-19 in the NSW community, in accordance with our principles.

Visits and on-site inspections will only take place at the request of the Inspector. Alternative inspection methodologies will be considered on a case-by-case basis during this time. For example, utilising teleconference and video technology.

Themed inspections not requiring on-site inspection of custodial centres are able to continue.

Preparation of reports for tabling is able to progress at this time.

3.3 Continuity

Regular communication with stakeholders is critical during this period. This includes:

- Regular communication with CSNSW, YJNSW and the Justice Health and Forensic Mental Health Network regarding their response to COVID-19 and suspected or confirmed cases of COVID-19 among staff and inmates/detainees of NSW custodial centres and other matters relevant to the functions of the ICS.

- Teleconferences with ICS staff and the Governors/Managers of Security/Managing Directors of custodial centres instead of in-person visits where necessary. These teleconferences should provide an update of the custodial centre’s response to COVID-19 and a more general update of the custodial centre’s operations.

- Stakeholder consultation on work not related to COVID-19 may still occur; however, timeframes for feedback may need to be extended to allow stakeholders to prioritise their response to COVID-19.

- Stakeholder meetings and consultation should be conducted using teleconference facilities to ensure confidentiality.

Preparation for announced inspections may continue during this period.

Preparation of inspection and theme based reports can continue utilising ICT assets that are currently available.

Monitoring and reporting activities will continue through desktop means, including requests for data whenever possible.

Annual Report preparation should commence after the 30 June 2021 for tabling by 30 October 2021.

Reviews of ICS manuals and standards can be prioritised with feedback and consultation phases able to be performed on a desktop basis.
All professional development opportunities that can be undertaken through online mechanisms are encouraged.

Participation in Inspection and Oversight Networks is a priority during this period.

### 3.4 Additional monitoring and oversight work

ICS is required to monitor the planning and response to COVID-19 undertaken by the agencies we oversight and individual custodial centres.

ICS also needs to respond to any serious issues or concerns in relation to the treatment and conditions of inmates that may arise as a result of COVID-19. This may require visits and/or inspections of individual custodial centres.

This may also include preventive advisory work regarding international best practice in relation to responding to a pandemic.

A review of agency responses will be necessary after the COVID-19 pandemic.

### 3.5 Official Visitor Program

An Official Visitor COVID-19 Plan has been prepared to ensure the Official Visitor Program continues to perform its statutory functions through visits and alternative means of communication between inmates and detainees and Official Visitors. See Appendix A.

### 3.6 Recovery

Preparations for returning to business-as-usual will continue during this period. This includes re-prioritising inspections and visits to comply with statutory timeframes for inspections and annual reporting requirements. See Appendix B.

On site visits recommenced on 26 May 2020.

Preparation of reports for tabling continues.

A COVID-19 Workplace Safety Plan has been completed for the ICS office space to ensure appropriate COVID-19 safety measures are in place.
Appendix A – Official Visitor Program COVID-19 plan

1. Purpose of the Official Visitor COVID-19 plan

The role of Official Visitors is to visit correctional and youth justice custodial centres within New South Wales to receive complaints and enquiries from inmates, to resolve matters at the local level and to examine the centres. Official Visitors attend their appointed custodial centre regularly (usually fortnightly visits, except for some court/police cells which are monthly).

The Official Visitor Program has continued to operate, although necessary adjustments were initially made in response to the COVID-19 pandemic so that Official Visitors could safely provide support to inmates and detainees.

Where necessary, Official Visitor visits to custodial centres have been reduced. Official Visitors attending centres are practising strict physical distancing precautions and focusing primarily on examining the general functioning and physical appearance of a custodial centre, with particular attention given to places of confinement, separation and segregation. At the onset of the pandemic a dedicated phone line and mail address was established for inmates and detainees in custodial centres. The mail address continues to operate, to allow inmates and detainees access to the Official Visitor Program. The phone line was suspended as restrictions were lifted. The suspension continues but may be reinstated if required.

COVID-19

As outlined on the Australian Government Department of Health\(^2\) website COVID-19 is a respiratory illness caused by a new virus. Symptoms include fever, coughing, a sore throat and shortness of breath. The virus can spread from person to person, but good hygiene can prevent infection.

Symptoms of COVID-19 can range from mild illness to pneumonia. Some people will recover easily, and others may get very sick very quickly. People with coronavirus may experience:
- fever
- respiratory symptoms such as coughing, a sore throat and shortness of breath

Other symptoms can include runny nose, acute blocked nose (congestion), headache, muscle or joint pains, nausea, diarrhoea, vomiting, loss of sense of smell, altered sense of taste, loss of appetite and fatigue.

The virus can spread from person to person through:

• close contact with an infectious person (including in the 48 hours before they had symptoms)
• contact with droplets from an infected person’s cough or sneeze
• touching objects or surfaces (like doorknobs or tables) that have droplets from an infected person, and then touching your mouth or face

In Australia, the people most at risk of getting the virus are:
• travellers who have recently been overseas
• those who have been in close contact with someone who has been diagnosed with COVID-19
• people in correctional and detention facilities
• people in group residential settings

People who are, or are more likely to be, at higher risk of serious illness if they get the virus are:
• Aboriginal and Torres Strait Islander people 50 years and older with one or more chronic medical conditions
• people 65 years and older with chronic medical conditions
• people 70 years and older
• people with compromised immune systems

1.1 Legislative requirements

Official Visitors within New South Wales are required by legislation to:

Corrective Services NSW Official Visitors

• Be appointed in a way to ensure that there is at all times at least one Official Visitor for each correctional complex and correctional centre\(^3\)
• Visit a correctional complex or centre at least once a month unless prevented by illness or other sufficient cause
  (ii) for the purpose of giving interviews to inmates (and staff for inmate related issues) held in custody at the complex or centre, and
  (iii) for the purpose of examining the complex or centre\(^4\)
• Receive and deal with complaints\(^5\)
• Report to the Minister and the Inspector of Custodial Services at least once every 6 months.\(^6\)

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\(^3\) *Crimes (Administration of Sentences) Act 1999 (NSW) s 228(4).*
\(^4\) *Crimes (Administration of Sentences) Act 1999 (NSW) s 228(5a).*
\(^5\) *Crimes (Administration of Sentences) Act 1999 (NSW) s 228(5c).*
\(^6\) *Crimes (Administration of Sentences) Act 1999 (NSW) s 228(5d).*
Youth Justice NSW Official Visitors

- To enter and inspect a detention centre at any reasonable time and confer privately with any person who is a resident, employed or detained in the detention centre
- To provide to the Minister and the Inspector of Custodial Services advice or reports on any matters relating to the conduct of the detention centre.7

2. **Principles of the Official Visitor COVID-19 plan**

The Inspector of Custodial Services is mindful of the 'do no harm' principle. This includes harm to inmates, detainees and staff of custodial facilities as well as Official Visitors.

The work of Official Visitors should not place a burden on custodial facilities that undermines the ability to respond to COVID-19 pandemic.

The COVID-19 plan also considers the 'continuity of service' principle. We will continue to provide Official Visitor services to inmates and detainees to the best of our ability during the COVID-19 pandemic period. We will also provide opportunities for Official Visitors to provide these services remotely if they cannot attend the centre in a face-to-face manner.

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7 *Children (Detention Centres) Act 1987 (NSW)* s 8A(4).
3. **Official Visitor Program during COVID-19**

Official Visitors will be screened on entry into a custodial centre and must:

- Observe physical distancing advice: do not shake hands, limit the length of time speaking to individuals to less than 15 minutes, and keep a distance of 1.5 metres from others.

- Wash their hands regularly in the method directed by NSW Health or utilise hand sanitiser.

- Use a disposable tissue to cover their mouth when sneezing or coughing. Dispose of the tissue in a bin with a lid and wash their hands or use hand sanitiser.

- Practise good hygiene and avoid touching their face if their hands are not clean.

- Wear personal protective equipment, such as face masks or gloves, when deemed necessary.

Official Visitors attending a custodial centre must also regularly complete a centre visit and examination of the centre checklist and return the completed checklist to the Official Visitor Coordinator.

Official Visitors must not and cannot enter a correctional or youth justice custodial centre if they:

- Have been in contact with a suspected or confirmed case of COVID-19 14 days prior to entering a custodial centre

- Have been to a COVID-19 hotspot declared by NSW Health which requires the Official Visitor to self-isolate for 14 days and be tested for COVID-19.

- Have any acute respiratory infection symptoms (e.g. cough, shortness of breath, sore/scratchy throat) or a fever (or history of fever) or a loss of smell or taste.

Official Visitors should monitor the latest news and updates in relation to COVID-19, including any developing transmission hotspots. See


If an Official Visitor identifies that they have been to a COVID-19 transmission hotspot and may have been exposed to COVID-19 they must notify the Official Visitor Coordinator immediately and follow any current public health guidance (e.g. self-isolate for 14 days if required, get tested).

If an Official Visitor at any time develops acute respiratory infection symptoms (e.g. cough, shortness of breath, sore/scratchy throat) or a fever (or history of fever) or a loss of smell or taste than they must inform the Official Visitor Coordinator and be tested for COVID-19. Official Visitors must self-isolate until
they receive their test results, and inform the Official Visitor Coordinator of their results, their health condition and when they expect to return to visits.

An Official Visitor can only return to visits of adult and youth custodial centres if they have been approved to return by the Inspector and follow guidelines provided by the Inspector and Justice Health. The applicable guidelines as at June 2021 are:-

- Official Visitors who have asymptomatic illness may return to visits if at least 14 days have passed since the first positive specimen for COVID-19 was taken and no symptoms have developed during this period.
- Official Visitors who have symptomatic illness may return to visits if at least 14 days have passed since the onset of symptoms and there has been a resolution of all symptoms of the acute illness for the previous 72 hours.

- Mail

Inmates and detainees can confidentially raise enquiries or complaints to the Official Visitor Program via mail addressed to the Inspector of Custodial Services.

An inmate or detainee is entitled to send letters confidentially to, and receive letters confidentially from the Inspector of Custodial Services as an exempt person under the Crimes (Administration of Sentences) Regulation 2014\(^8\) and the Children (Detention centres) Regulation 2015.\(^9\) Any mail addressed to the Inspector of Custodial Services must not be opened by corrective services or youth justice staff.

The Official Visitor Coordinator will refer complaints and enquiries received via mail to the Inspector of Custodial Services to Official Visitors for action.

If required Official Visitors will arrange times with the centres to discuss matters with staff or inmates. Official Visitors will also respond in writing to inmates if required via the confidential mail system.

\( ^8 \) Crimes (Administration of Sentences) Regulation 2014 (NSW) cl 113.
\( ^9 \) Children (Detention Centres) Regulation 2015 (NSW) cl 41.
Official Visitor referral form

Official Visitors are independent of this custodial centre’s management and staff. If you have any questions or complaints you can raise these with an Official Visitor who will assist you to resolve them. **Any matter raised with an Official Visitor is confidential.**

If you would like to raise an enquiry or complaint with an Official Visitor please fill out this form and send it to

**Inspector of Custodial Services**  
PO Box 85  
MARRICKVILLE NSW 1475

Examples of matters you can raise with Official Visitors (if you have been unable to resolve the matter locally or by contacting resources such as the Corrective Services Support Line)

- Registration of phone contacts and access to calls
- Medical issues

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<thead>
<tr>
<th>Name: (and MIN number if applicable)</th>
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<tbody>
<tr>
<td>Centre/ custodial centre location:</td>
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<tr>
<th>Do you give your consent for an Official Visitor to raise your matter with relevant staff and management if required?</th>
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<tr>
<td>□ Yes</td>
</tr>
<tr>
<td>□ No</td>
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<tr>
<th>Enquiry or complaint you would like to raise with an Official Visitor:</th>
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</thead>
</table>
Official Visitor action form

Official Visitors should complete this form once an enquiry or complaint has been resolved if they need to communicate an outcome to an inmate or detainee.

Please complete and email to the Official Visitor Coordinator or mail to

Inspector of Custodial Services
PO Box 85
MARRICKVILLE NSW 1475

| Name |  
|------|---
|      |  

| Centre/ custodial centre location: |  
|---------------------------------|---
|                                  |  

| Outcome or action taken in relation to enquiry or complaint raised |  
|--------------------------------------------------------------------|---
|                                                                   |  

# Appendix B – Due dates for inspection in 2020/2021

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<tr>
<th>Centre</th>
<th>Due Date for inspection</th>
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<tbody>
<tr>
<td>Emu Plains Correctional Centre</td>
<td>4 May 2021</td>
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<tr>
<td>Metropolitan Remand and Reception Centre</td>
<td>10 June 2021</td>
</tr>
<tr>
<td>Goulburn Correctional Centre</td>
<td>22 June 2021</td>
</tr>
<tr>
<td>Lithgow Correctional Centre</td>
<td>4 August 2021</td>
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<tr>
<td>High Risk Management Correctional Centre</td>
<td>8 August 2021</td>
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