

Terrorism offending in New South Wales

Stewart Boiteux

AIM

To describe terrorism offences finalised in New South Wales (NSW) criminal courts since the introduction of specific terrorism offences in Australia in 2002, and to provide an overview of the characteristics and offending history of offenders who have been convicted of these offences.

METHOD

Data on all terrorism offences finalised in NSW courts were extracted from the NSW Bureau of Crime Statistics and Research Re-offending Database. The number and types of terrorism offences are presented, and frequencies of both non-terrorism and total offences are presented to determine the degree to which offenders specialise in terrorism offending. Demographic and criminogenic characteristics, including Level of Service Inventory-Revised (LSI-R) scores, are then examined for both specialist and non-specialist terrorism offenders.

RESULTS

Between July 2002 and May 2020, 72 proven terrorism offences were finalised in NSW criminal courts for 48 offenders. Approximately two thirds of all principal terrorism offences related to the proactive policing of terrorism. Forty-two per cent (n=20) of terrorism offenders were convicted of only terrorism offences. The remaining 58 per cent were, or had previously been, convicted of at least one non-terrorism offence, most commonly offences against justice procedures, government security and government operations. While the demographic profile of those who committed terrorism offences was fairly similar, terrorism offenders convicted of only terrorism offences varied in terms of their criminogenic characteristics.

CONCLUSION

Terrorism-related charges are uncommon in NSW criminal courts, and most commonly relate to proactive policing.

KEYWORDS

terrorism

offenders

specialisation

criminogenic risk

INTRODUCTION

While terrorism offending is not a new phenomenon, it was not until the events of September 11 2001 in the United States, and the resulting *Resolution 1373 of the United Nations Security Council 2001*, that specific offences to criminalise terrorism were codified into Australian law (under the *Security Legislation Amendment (Terrorism) Act 2002* (Cth); Williams, 2011). Prior to the enactment of this legislation, terrorism offences were prosecuted under existing criminal law. A primary motivation for the direct criminalisation of terrorism was the need to react to terrorism proactively, focusing on the deterrence and prevention of terrorist offending rather than the prosecution of terrorism once it had occurred (Ruddock, 2007). Broadly, the amending legislation created new offences in the *Criminal Code Act 1995* (Cth) to criminalise terrorism on two levels – offences that when carried out would constitute terrorism offending, and proactive policing offences (McCulloch & Pickering, 2010).

Since the initial introduction of terrorism offences in July 2002, the legislative environment governing terrorism offending in Australia has expanded rapidly, incorporating further mechanisms to allow for proactive policing of terrorism offending. These include the introduction of control and supervision orders to restrict the actions of suspected and previously convicted offenders who pose an unacceptable risk of committing a serious terrorism offence, and a range of criminal offences for breaching these orders (McCulloch & Pickering, 2010; Smith & Nolan, 2016).

While some legal scholars have described the legislative environment as one of “hyper-legislation” (Roach, 2011), pointing to the 82 anti-terror laws that have been enacted since 2001 (McGarrity & Blackburn, 2019), little research exists examining the extent to which these laws have been utilised or the characteristics of offenders who have been convicted of terrorism offences. Despite the repeated recommendation for routine government reporting on terrorism offending, no government agency in Australia has adopted the practice (Independent National Security Legislation Monitor [INSLM], 2020).

In designing approaches to combat terrorism offending, a common theme of research, policy discussions and targeted prevention programs has been an emphasis on the criminogenic needs and motives of terrorism offenders compared with more general offenders (RTI International [RTI], 2017). This differentiation is often justified on the basis that terrorism offending is fundamentally different from other types of crime, as it requires a distinct and unique socio-political motive. This assumed difference has motivated the widespread development of terrorism specific prevention and countering violent extremism programs, with low or otherwise unknown degrees of success (Harris-Hogan, 2020; Lum, Kennedy, & Sherley, 2006). The treatment of terrorism offenders as a homogeneous group may however be problematic given both the wide range of offences that constitute terrorism offending, and that the degree to which offenders specialise in these types of crimes is currently not well understood.

Australian evidence

A key limitation of existing research on terrorism offending is that researchers have typically relied on secondary sources of information such as books, articles and media reporting rather than quantitative analysis of primary data from large scale administrative datasets (Schuurman, 2018). These secondary data sources may contain inaccurate or incomplete information, and/or reflect biases in the reporting of particular cases (Dugan & Distler, 2016). This is also true of Australian research undertaken to date. Shanahan (2020), for example, constructed a terrorism event database from publicly available media information to quantify terrorism related offending by Australian Jihadis.¹ Of the total sample of 183 people (86 from New South Wales [NSW]), most offenders were identified as being male (83 per cent) and the average age at the time of offence was 24 years. The average Australian Jihadi was also reported to have no prior offending history. While this study provides valuable information on the background of Jihadi terrorists in Australia, the restricted sample, the inability to verify the quality of underlying data, and the high degree of missing information in the sample, limits the usefulness of these results, particularly for generalising to the broader offender population.

¹ Defined as individuals who are known to have joined radical Islamist terrorist organisations or those that have been charged with terrorism offences.

A more concentrated analysis was recently undertaken by Victoria Police (2018). They reported the number of terrorism offences proceeded against by police in Victoria between 2005 and 2018, as well as the characteristics of offenders charged with these offences. The results are consistent with those reported by Shanahan (2020). Of the 41 people charged with a terrorism offence during this period, all but one was male and 47 per cent were aged between 21 and 25 years. At the time of publication, only 19 of the 41 people charged with a terrorism offence in Victoria had been found guilty. A further 9 people had been acquitted of all terrorism charges, or had their terrorism charges withdrawn or struck out,² while 13 were still on bail or remand pending finalisation of their matter in court.

The current study

The current study uses NSW population level information from a linked administrative database of court finalisations to describe the full population of offenders convicted of a terrorism offence. The purpose of this brief is to answer three questions:

1. How many, and what type of, terrorism offences have been finalised in NSW criminal courts since the introduction of specific offences to criminalise terrorism in 2002?
2. How many offenders have been charged with a terrorism offence in NSW? What are the demographic and criminogenic characteristics of these offenders?
3. To what degree are terrorism offenders specialists? What types of non-terrorism offences are committed by terrorism offenders?

METHOD

Data source

Information on finalised court appearances was sourced from the NSW Bureau of Crime Statistics and Research Re-offending Database (ROD) for all individuals charged with at least one terrorism offence between July 2002 and May 2020. The ROD provides information on all finalised court appearances in NSW since 1994. The final sample comprised information on 53 people charged with a terrorism offence, of whom 48 had at least one terrorism charge proven. Of the five people without a proven terrorism charge, three were found guilty of concurrent non-terrorism charges and two had no offences proven. The dataset contained information on the type of terrorism offences, whether the terrorism offence was the principal offence in that matter, prior and concurrent offending of the defendant, and any penalties imposed by the court. For this analysis the principal offence was defined as the offence which received the most serious penalty at the index court appearance.³ Note that in a few cases where the terrorism offence was proven, it was not the principal offence.

Definition of a terrorism offence

The definition of terrorism offences used in the study broadly follows the Australian legal definition of terrorism. This is defined in Section 3 of the *Crimes Act 1914* (Cth), to include an offence against:

- Subdivision A of Division 72 of the Criminal Code Act
- Subdivision B of Division 80 of the Criminal Code Act

² “When the Court has closed a case, usually with the right for the case to be brought again at a later date. This term also refers to when the Court rules that parts of a claim or defence cannot be relied on and these parts are struck out” (Supreme Court of Victoria, 2020).

³ If there was more than one offence which received the same quantum of the same penalty type, including the same quantum of total sentence and non-parole period, the offence with the highest Median Sentence Ranking (MSR) was selected as the principal terrorism offence. The MSR is a ranking measure of offence seriousness that is associated with the Australian and New Zealand Standard Offence Classification (ANZSOC) group of each offence (see MacKinnell, Poletti, & Holmes, 2010).

- Part 5.3 or 5.5 of the Criminal Code Act
- Part 4 of the *Charter of the United Nations Act 1945* (Cth)
- Part 5 of the Charter of the United Nations Act, to the extent that it relates to the *Charter of the United Nations (Sanctions—Al-Qaida) Regulations 2008* (Cth)

Additional offences are included from NSW legislation, specifically those related to compliance with interim and extended supervision orders under:

- Section 30 of the *Terrorism (High Risk Offenders) Act 2017* (NSW)

In developing a robust measure of terrorism offences, additional offences which might be considered to be terrorism related were identified, and convictions under these offences in NSW were also examined. Of all additional offences identified for potential inclusion, none had been used to convict an offender in NSW.

Descriptive statistics

Frequency counts of terrorism offences were examined by offence type, and the cumulative frequency of principal terrorism offence types were examined by year of offence. In assessing the degree to which terrorism offenders specialise, any other proven offences (i.e. non-terrorism offences) were also considered. Terrorism offending as a proportion of total offending, as well as frequency counts of non-terrorism offending, were examined by Australian and New Zealand Classification of Offences (ANZSOC) division category (see ABS, 2011). Terrorism offenders with no proven prior or concurrent non-terrorism offences were classified as specialist terrorism offenders for further analysis.

The demographic and criminogenic characteristics of offenders convicted of at least one terrorism offence were then examined by whether an offender specialised in terrorism offending. Demographic characteristics included age, sex, Aboriginality,⁴ socioeconomic disadvantage,⁵ and geographic remoteness.⁶ Criminogenic characteristics included whether an offender had any prior court appearances with a proven conviction or prison penalty. Risk categories and average scores from the Level of Service Inventory-Revised (LSI-R)⁷ were also examined. While the LSI-R has not been validated for the purpose of assessing re-offending in a terrorism context and has known problems in predicting criminogenic needs of terrorism offenders (Pressman & Flockton, 2014; Rafter, 2018), it captures descriptive information about offenders on fifty-four items across ten subscales, including:

1. Criminal History
2. Education/Employment
3. Financial
4. Family/Marital
5. Accommodation
6. Leisure/Recreation
7. Companions
8. Alcohol/Drug Problem
9. Emotional/Personal
10. Attitudes/Orientation

⁴ The study classifies an offender as an Aboriginal person if they were ever recorded as being an Aboriginal person by the NSW Police Force.

⁵ Socioeconomic disadvantage is measured using the Socio-Economic Indices for Areas (SEIFA) Index of Relative Disadvantage (see Australian Bureau of Statistics [ABS], 2016a). For ease of interpretation, SEIFA scores are broken into quartiles reflecting relative socioeconomic disadvantage in the population.

⁶ Geographic remoteness is organised into five categories using the Accessibility and Remoteness Index of Australia (ARIA+), a measure based on relative access to services in each area (see ABS, 2016b).

⁷ The LSI-R is a validated risk assessment tool designed to measure both re-offending risk associated with general offending, and an individual's correctional treatment needs to reduce this risk (see Andrews & Bonta, 1995).

RESULTS

Terrorism offences

Table 1 shows counts of proven terrorism charges by offence type. Since specific terrorism offences were introduced in 2002, there have been 72 proven terrorism charges finalised in NSW, involving a total of 48 unique offenders across 49 cases. The majority of these offences relate to legislation that has enabled the proactive policing and prevention of terrorism-related activities. The most common offence category, terrorism planning offences, comprised approximately 39 per cent of all proven terrorism charges. The second largest category, breaches of control and supervision orders, comprised a further 21 per cent of all proven terrorism charges. Foreign incursion and recruitment offences accounted for 6 per cent of all proven terrorism charges, with three quarters of these offences (4 per cent of total proven terrorism charges) being offences related to the proactive policing of terrorism. Overall, 36 per cent of proven terrorism charges represented offences that were carried out by offenders (hereafter, enacted offences), with the majority relating to the collection, manufacture or possession of terrorism related items (18 per cent). From the inception of terrorism-specific laws in Australia, only three charges relating to a terrorist act have been finalised with a guilty outcome in NSW criminal courts. This represents slightly more than 4 per cent of all proven terrorism charges in NSW.

Table 1. Proven terrorism offence charges by type

Terrorism offence type	Number of offences	Number of offenders	Average offences per offender	% of all terrorism offences
Planning offences	28	25	1.1	38.9
Control and supervision order offences	15	5	3.0	20.8
Collect/make/possess terrorism item offences	13	10	1.3	18.1
Terrorism financing offences	5	4	1.3	6.9
Foreign incursions and recruitment offences	4	4	1.0	5.6
Terrorist organisation offences	4	3	1.3	5.6
Terrorist act offences	3	3	1.0	4.2
Total	72	48	1.5	100.0

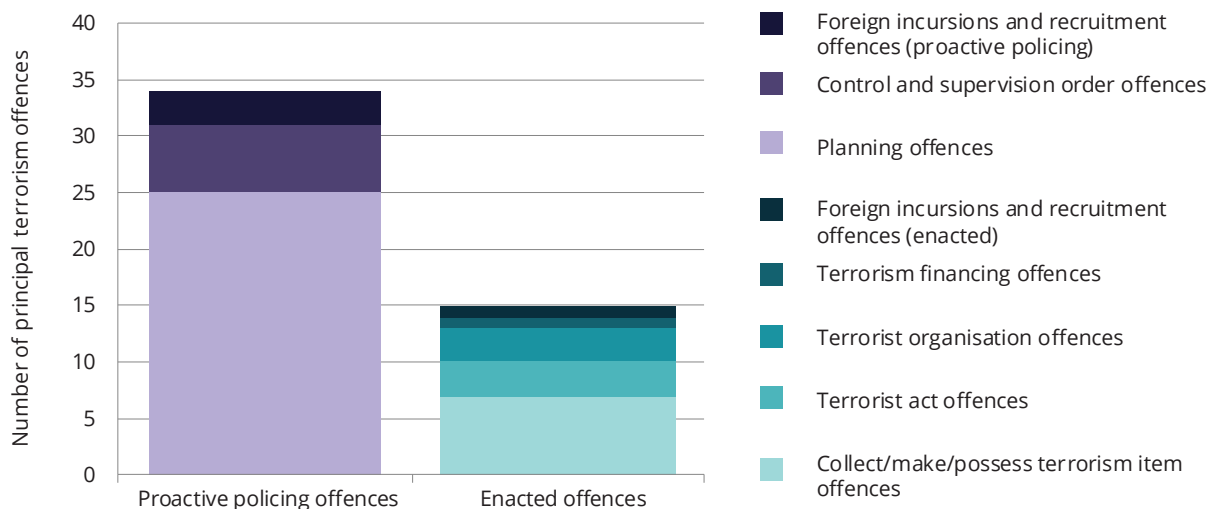
Note. Frequencies correspond to the total number of proven charges, with some offenders having been charged with multiple offences in a single case. As such, counts in the column labelled number of offenders do not sum to the total number of terrorism offenders. Percentage columns may not sum to the total due to rounding errors.

Principal terrorism offences

Figure 1 shows the frequency distribution of proven principal terrorism offences by type, and by whether they were related to either the proactive policing of terrorism or the prosecution of an enacted offence. Slightly more than two thirds of all terrorism offenders had a proactive policing offence as their principal terrorism offence, with over half of these being a planning offence.

Fifteen people have been convicted of enacted terrorism offences as their principal offence, with nearly half of these offences relating to the collection, manufacture or possession of terrorism items. A more detailed list of all proven principal terrorism offences and charges is presented in Appendix Table A1.

Figure 1. Proven terrorism offences by offence type



Penalties imposed for terrorism offences

Table 2 shows the penalties imposed on offenders in cases involving a proven terrorism offence. Of those convicted of terrorism offences, 94 per cent (n=46) received a prison sentence, with a median imprisonment duration of 108 months. The remaining 6 per cent received a community-based order (i.e., community correction order with supervision, intensive correction order, or bond without supervision) with a median order duration of 48 months. Total imprisonment terms for terrorism offenders were widely distributed with an interquartile range (IQR) of 216 months.

Table 2. Type of penalty received by offenders with a proven terrorism offence

	Number of offenders receiving penalty type		Principal penalty value (months)		Duration of total term for principal penalty (months)	
	n	%	Median	IQR	Median	IQR
Community-based sentence ^a	3	6.1	48	24		
Imprisonment	46	93.9	108	160	144	216

Note. For prison penalties, the principal penalty value corresponds to the non-parole period.

^a A combination of community correction orders with supervision, intensive correction orders, and bonds without supervision.

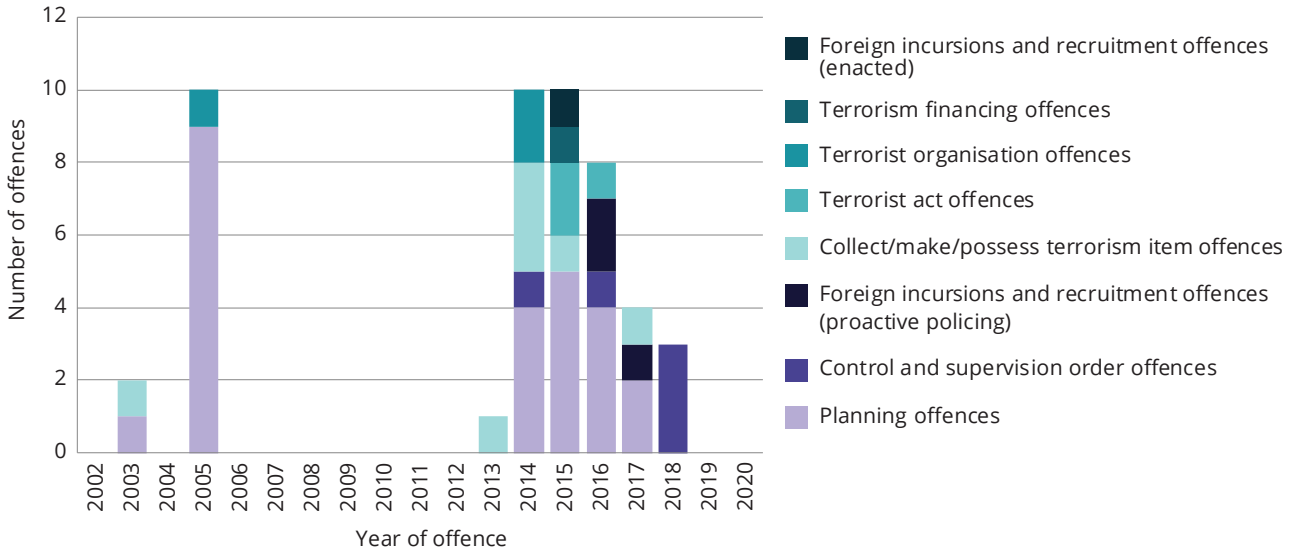
Terrorism offenders over time

Figure 2 shows the number of offenders by type of principal terrorism offence and year of occurrence.⁸ The timing of terrorism charges for different defendants is strongly correlated. This is expected as multiple terrorism offenders are often proceeded against simultaneously as part of a special police operation. For example the spike in offenders committing terrorism offences in 2005 seen in Figure 2 coincides with a well-known anti-terrorism operation, Operation Pendennis (see Australian Security Intelligence Organisation [ASIO], 2019). Prior to 2014 only 13 offenders had committed terrorism offences that were finalised in NSW courts.

⁸ When considering the timing of terrorism offences, it is important to note that data in this study only represent terrorism offences that have been finalised in court. It is possible that there are more recent terrorism offences, yet to be finalised, that are not included in the study. Appendix Figure A1 shows the cumulative frequency distribution of terrorism offence court finalisations by the number of years between the offence and court finalisation. Half of all terrorism offences were finalised within 3 years, and 94 per cent were finalised within 5 years.

In Australia, the Federal Government communicates the likelihood of an act of terrorism occurring through the National Terrorism Threat Advisory System; a five-tier risk categorisation that broadly outlines expected risk. In 2014, the threat level was raised from the second tier “Possible” to the third tier “Probable”, being defined as the level at which individuals or groups have developed both an intent and capability to conduct a terrorist attack in Australia (Department of Home Affairs, 2020). Since the threat level was raised in 2014, at least ten major counter-terrorism disruption operations have been run in NSW (ASIO, 2019), with a further 35 offenders committing terrorism offences that have been finalised in court during this period.

Figure 2. Number of offenders with a proven terrorism offence by year



Non-terrorism offending and specialisation by terrorism offenders

Table 3 shows the counts of proven prior and concurrent non-terrorism charges for offenders with at least one proven terrorism offence, broken down by offence type. Numbers and percentages of offenders correspond to the combined count of prior and concurrent offences. Only eight offenders (17 per cent) had proven concurrent non-terrorism charges, and 27 offenders (56 per cent) had proven prior non-terrorism charges. While there were a large variety of offences committed by terrorism offenders, a few offence categories stand out as particularly common. The most common non-terrorism offences were offences against justice procedures, government security and government operations (28 per cent of all non-terrorism offences). It is interesting to note that while the large number of offences of this type (n=124) does not include terrorism offences, this is the ANZSOC division into which terrorism offences would otherwise be categorised. The next most common non-terrorism offences were theft and related offences (12 per cent of non-terrorism offences), closely followed by acts intended to cause injury (11 per cent of non-terrorism offences). Notably, no terrorism offenders had prior or concurrent proven charges for sexual assault and related offences. Of those with any proven prior or concurrent non-terrorism offences (n=28), the average number of non-terrorism offences per person was 16 offences. Non-terrorism offences accounted for approximately 87 per cent of all offences committed by terrorism offenders, with terrorism offences representing the remaining 13 per cent.

Table 3. Non-terrorism offences by terrorism offenders

Offence type	Number of prior offences	Number of prior and concurrent offences	Number of offenders	Average number of non-terrorism offence type per offender	Percentage of all non-terrorism offences	Percentage of all offences committed by terrorism offenders
Homicide and related offences	0	1	1	1.0	0.2	0.2
Acts intended to cause injury	49	50	12	4.2	11.2	9.7
Sexual assault and related offences	0	0	0	0.0	0.0	0.0
Dangerous or negligent acts endangering persons	14	14	6	2.3	3.1	2.7
Abduction, harassment and other offences against the person	10	11	5	2.2	2.5	2.1
Robbery, extortion and related offences	20	20	7	2.9	4.5	3.9
Unlawful entry with intent/burglary, break and enter	28	28	3	9.3	6.3	5.5
Theft and related offences	52	52	10	5.2	11.7	10.1
Fraud, deception and related offences	5	6	5	1.2	1.4	1.2
Illicit drug offences	18	18	9	2.0	4.0	3.5
Prohibited and regulated weapons and explosives offences	26	31	10	3.1	7.0	6.0
Property damage and environmental pollution	24	24	5	4.8	5.4	4.7
Public order offences	36	37	10	3.7	8.3	7.2
Traffic and vehicle regulatory offences	28	28	9	3.1	6.3	5.5
Offences against justice procedures, government security and government operations	112	124	13	9.5	27.8	24.1
Miscellaneous offences	2	2	2	1.0	0.5	0.4
Total ^a	424	446	28	15.9	100.0	86.8

Note. Prior and concurrent charges relate to the first terrorism offence committed by terrorism offenders.

Numbers and percentages of offenders correspond to the combined count of prior and concurrent offences.

Percentage columns may not sum to total due to rounding.

Offender frequencies correspond to the total number of proven charges, with some offenders having been charged with multiple types of offence.

As such, counts in the number of offenders column do not sum to the total number of terrorism offenders.

^a Total number of offenders and average number of non-terrorism offences per offender relate to the number of offenders with any proven non-terrorism offences.

Given that offences against justice procedures, government security and government operations represent a large proportion (28 per cent) of all non-terrorism offending by terrorism offenders, this offence type is investigated further to provide a more comprehensive view of non-terrorism offending by terrorism offenders. Table 4 presents the count of offences against justice procedures, government security and government operations by the ANZSOC group associated with each offence. This breakdown is shown separately for prior offences only, and for prior and concurrent offences combined. Roughly one third of non-terrorism offences of this type were offences against justice procedures not elsewhere classified.⁹ This was closely followed by breach of bond – probation offences, which represented slightly over one quarter of non-terrorism offences against justice procedures, government security and government operations.

⁹ This ANZSOC group includes offences such as: accessory after the fact; misprision (concealing knowledge) of felony; contempt of court, not involving the perversion of justice proceedings; make false report to police; and fail to appear before court.

Table 4. Offences against justice procedures, government security and government operations committed by offenders charged with a terrorism offence

	Number of prior offences		Number of prior and concurrent offences	
	n	%	n	%
Breach of bond - other	18	16.1	18	14.5
Breach of bond - probation	31	27.7	38	30.7
Breach of violence order	2	1.8	2	1.6
Offences against justice procedures, nec	39	34.8	40	32.3
Prison regulation offences	1	0.9	1	0.8
Resist or hinder police officer or justice official	17	15.2	20	16.1
Subvert the course of justice	0	0.0	1	0.8
Other ^a	4	3.6	4	3.2
Total	112	100.0	124	100.0

Note. Prior and concurrent charges relate to the first terrorism offence committed by terrorism offenders.

^a A combination of breaches of community service orders, community-based orders, and suspended sentences.

By considering the proportion of each offender's total proven charges that are terrorism offences, it is possible to gauge the degree to which each offender specialises in terrorism offending. Table 5 describes the number of proven terrorism and non-terrorism charges committed by terrorism offenders, according to the extent of specialisation. The first column separates offenders into groups, based on the percentage of their total offences which are terrorism offences. The second and third columns describe the number and percentage of all terrorism offenders in each group, respectively. The fourth, fifth and sixth columns respectively describe the average number of total, terrorism, and non-terrorism offences committed by offenders in each category. The remaining columns describe the frequency of total, terrorism and non-terrorism offences committed by offenders in each category. Focusing on the third column, 42 per cent of all terrorism offenders (n=20) would meet our definition for specialising in terrorism offending, having no proven prior or concurrent charges for non-terrorism offences. This group is responsible for a total of 27 terrorism offences, representing slightly more than one offence per offender. Conversely, 19 per cent of all terrorism offenders (n=9) have terrorism charges representing less than 10 per cent of their total proven offences. This group might be considered more general offenders. These offenders had the largest number of offences of any sub-group, and were responsible for an average of 43 offences each, 42 of which were non-terrorism offences.

Table 5. Offending frequency by percentage of terrorism offences in criminal career

% of offences in career that are terrorism offences	Number of offenders	% of all terrorism offenders	Average number of offences	Average number of terrorism offences committed	Average number of non-terrorism offences committed	Total offences	Total terrorism offences committed	Total non-terrorism offences committed
0-9.9%	9	18.8	43.4	1.0	42.4	391	9	382
10-24.9%	6	12.5	7.0	1.0	6.0	42	6	36
25-49.9%	5	10.4	3.8	1.0	2.8	19	5	14
50-84.9%	8	16.7	4.4	2.6	1.8	35	21	14
85-99.9%	0	0.0	0.0	0.0	0.0	0	0	0
100%	20	41.7	1.4	1.4	0.0	27	27	0

Note. Prior and concurrent offences relate to the first terrorism offence committed by terrorism offenders.

Demographic and criminogenic characteristics of offenders

Table 6 shows the frequency distribution of demographic and criminogenic characteristics of terrorism offenders by whether they specialised in terrorism offending. Terrorism offenders in NSW were largely similar in their demographic composition: 96 per cent were male, 90 per cent were non-Aboriginal, most resided in a major city, and the majority lived in an area associated with the highest level of socioeconomic disadvantage at the time of offence. Over half of all terrorism offenders had at least one prior court appearance with a proven conviction, and one quarter had previously received a prison penalty. The median age of terrorism offenders at the time of court finalisation was 26 years. Age was weakly related to whether an offender was a specialist terrorism offender, with the age distribution for specialist terrorism offenders skewing slightly older. While only 4 per cent (n=2) of all terrorism offenders were female, female offenders comprised 5 per cent of all specialist terrorism offenders (n=1).

Of the 48 offenders with a proven terrorism offence in NSW, 77 per cent (n=37) had a valid LSI-R score recorded. Table 7 shows the frequency distribution of LSI-R risk categories for these offenders by whether they specialised in terrorism offending. In line with concerns about the validity and usefulness of the tool for measuring re-offending risk in the context of terrorism offending (Pressman & Flockton, 2014; Rafter, 2018), the majority of terrorism offenders with a valid LSI-R score (84 per cent) were rated as having a low to medium risk of re-offending.

While the re-offending risk measure from the LSI-R may not be accurate when assessing the likelihood of terrorism offending, LSI-R subscale scores provide descriptive and contextual information regarding the criminogenic risk profile of terrorism offenders in NSW. Table 8 describes the average LSI-R subscale and total scores of terrorism offenders by whether they specialised in terrorism offending. A higher LSI-R score is related to a higher risk of general re-offending. The average terrorism offender had a total LSI-R score of 25, interpreted as a medium risk score on the LSI-R scale. Average subscale scores for terrorism offenders as a group suggest that they have displayed low re-offending risk in terms of characteristics related to their family and marital background, alcohol and drug use, and both emotional and personal characteristics. While small sample size precludes formal statistical tests of difference, an informal comparison of mean subscale scores suggests that specialist terrorism offenders have displayed a quite different set of risk characteristics. Overall, specialist terrorism offenders had a mean LSI-R score approximately 20 per cent lower than non-specialist terrorism offenders. As expected, this difference is largely driven by differences in the criminal history subscale score as specialist terrorism offenders had no prior proven general offences recorded. Differences in the average criminal history subscale score account for 2.6, or nearly 45 per cent, of the 5.9 difference in total LSI-R score between specialist and non-specialist terrorism offenders. Beyond this expected difference, average scores for specialist terrorism offenders were also lower or near equal across all ten LSI-R subscale domains. After accounting for average differences between specialist and non-specialist terrorism offenders in the criminal history subscale, the largest differences were driven by the subscale scores for alcohol and drug use (29 per cent of the difference), emotional/personal (20 per cent of the difference), education and employment (5 per cent of the difference), and type of companions (3 per cent of the difference).

Table 6. Demographic and criminogenic characteristics of terrorism offenders by specialisation status

		Non-specialist terrorism offenders		Specialist terrorism offenders		Total	
		n	%	n	%	n	%
N		28	100.0	20	100.0	48	100.0
Sex	Female	1	3.6	1	5.0	2	4.2
	Male	27	96.4	19	95.0	46	95.8
Age	10-17	1	3.6	0	0.0	1	2.1
	18-29	21	75.0	13	65.0	34	70.8
	30-39	2	7.1	5	25.0	7	14.6
	40+	4	14.3	2	10.0	6	12.5
Socio-economic disadvantage	Quartile 1 (Most disadvantaged)	15	53.6	11	55.0	26	54.2
	Quartile 2	3	10.7	1	5.0	4	8.3
	Quartile 3	4	14.3	0	0.0	4	8.3
	Quartile 4 (Least disadvantaged)	1	3.6	2	10.0	3	6.3
	Missing	5	17.9	6	30.0	11	22.9
Remoteness^a	Major cities	21	75.0	14	70.0	35	72.9
	Inner or outer regional	2	7.1	0	0.0	2	4.2
	Missing	5	17.9	6	30.0	11	22.9
Aboriginality	Aboriginal	3	10.7	0	0.0	3	6.3
	Non-Aboriginal	24	85.7	19	95.0	43	89.6
	Missing	1	3.6	1	5.0	2	4.2
Prior court appearances	None	1	3.6	20	100.0	21	43.8
	One	9	32.1	0	0.0	9	18.8
	Two or more	18	64.3	0	0.0	18	37.5
Prior prison penalties^b	None	16	57.1	20	100.0	36	75.0
	One	6	21.4	0	0.0	6	12.5
	Two or more	6	21.4	0	0.0	6	12.5

Note. ^a No offenders were found to have resided in remote or very remote areas.

^b Including juvenile control orders.

Table 7. LSI-R risk categories by specialisation status

		Non-specialist terrorism offenders		Specialist terrorism offenders		Total	
		n	%	n	%	n	%
Valid LSI-R score		24	100.0	13	100.0	37	100.0
LSI-R risk category	< Medium	9	37.5	7	53.8	16	43.2
	Medium	9	37.5	6	46.2	15	40.5
	> Medium	6	25.0	0	0.0	6	16.2

Table 8. Average LSI-R subscale scores by specialisation status

		Non-specialist terrorism offenders	Specialist terrorism offenders	Total
		mean	mean	mean
LSI-R subscale scores	Criminal history (0-10)	5.4	2.8	4.5
	Education/ employment (0-10)	6.1	5.8	6.0
	Financial (0-2)	1.0	0.9	1.0
	Family/ marital (0-4)	1.4	1.6	1.5
	Accommodation (0-3)	1.3	1.4	1.4
	Leisure/ recreation (0-2)	1.8	1.7	1.7
	Companions (0-4)	2.5	2.3	2.5
	Alcohol/ drugs (0-9)	2.3	0.6	1.7
	Emotional/ personal (0-5)	2.3	1.1	1.8
	Attitudes/ orientation (0-4)	2.9	2.8	2.9
LSI-R score	Overall score (0-54)	27.0	21.1	24.9

Note. Numbers in brackets refer to the possible range of each score.

DISCUSSION

The purpose of this brief was to answer three questions:

1. How many, and what type of, terrorism offences have been finalised in NSW criminal courts since the introduction of specific offences to criminalise terrorism in 2002?
2. How many offenders have been charged with a terrorism offence in NSW? What are the demographic and criminogenic characteristics of these offenders?
3. To what degree are terrorism offenders specialists? What types of non-terrorism offences are committed by terrorism offenders?

Since the introduction of specific offences to criminalise terrorism in July 2002, there have been 72 proven terrorism charges finalised in NSW, involving a total of 48 offenders. The majority of these offences relate to legislation that has allowed proactive and preventative policing of terrorism-related activities. Focusing on offenders' principal offences, the analysis showed that 52 per cent of all terrorism offenders (n=25) were convicted of planning offences, 11 per cent (n=5) were convicted of control and supervision order offences, and 6 per cent (n=3) were convicted of foreign incursions and recruitment offences related to the proactive policing of terrorism. The remaining 31 per cent of offenders (n=15) were convicted of enacted terrorism offences. These included offences relating to the collection, manufacture and possession of terrorism items (15 per cent, n=7), terrorist act offences (6 per cent, n=3), terrorist organisation offences (6 per cent, n=3), terrorism financing offences (2 per cent, n=1), and enacted foreign incursions and recruitment offences (2 per cent n=1). The majority of these terrorism offences were finalised in NSW courts within the last six years; coinciding with the Federal Government raising the National Terrorism Threat to "Probable" in 2014.

In line with existing Australian evidence (Shanahan, 2020; Victoria Police, 2018), terrorism offenders in NSW are a homogenous group in terms of their observable demographic characteristics. The average terrorism offender could be described as a non-Aboriginal male, aged between 18 and 30 years at the time of court finalisation, from a major city, and predominantly from an area of socioeconomic disadvantage. Despite the strong demographic similarities between terrorism offenders, it is important to recognise that notable outliers exist. For example, while the majority of terrorism offenders were from an area associated with the highest level of socioeconomic disadvantage (54 per cent), some offenders were from areas associated with the lowest level of socioeconomic disadvantage.

Despite being broadly similar in terms of their observed demographic characteristics, our analysis suggests that there are significant differences with regard to prior contact with the criminal justice system and other risk factors associated with general offending. Over 40 per cent of terrorism offenders in our sample (n=20) could be considered specialists, having no proven prior or concurrent charges for non-terrorism offences. Conversely, for 19 per cent of all offenders in our sample (n=9) terrorism charges represented less than 10 per cent of their criminal convictions. Further examination of the average LSI-R subscale scores for the specialist offender group suggests that they may have different risk profiles to those who have committed other non-terrorism related offences; scoring lower on several domains including alcohol and drug use, employment and education, and emotional/personal. While this result provides some support for the notion that a proportion of terrorism offenders can be considered as a distinct group with criminogenic needs and motives that differ from more general offenders, further research is clearly needed. A more complete understanding of the degree to which terrorism offenders specialise is particularly important for the design of programs or interventions aimed at reducing terrorism offending as well as for the development of valid risk assessment tools.

This brief has provided new data on the number and background of offenders found guilty of terrorism offences in NSW. There are however key limitations of this research which prevent the extrapolation of the results to terrorism offenders as a whole. Most notably, while terrorism offending and the operation/structure of counter-terrorism agencies cross jurisdictional boundaries, the current study is limited to proven cases of terrorism finalised in NSW courts. This means that we have been unable to capture the full extent of terrorism offending in Australia, or indeed in NSW, as only offences that have been successfully prosecuted in this jurisdiction are included here. Acknowledging these limitations, and in line with the repeated call for routine government reporting on terrorism offending (INSLM, 2020), further work utilising data at a national level is needed to quantify the cross-jurisdictional use of specific terrorism offences to convict offenders, and to examine the demographic and criminogenic characteristics of offenders who have been convicted of terrorism offences.

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REFERENCES

- Andrews, D. A., & Bonta, J. (1995). *The Level of Service Inventory-Revised*. Toronto: Multi-Health Systems.
- Australian Bureau of Statistics (ABS). (2011). *Australian and New Zealand Standard Offence Classification (ANZSOC)* (cat. no. 1216.0). Retrieved 24 August 2020 from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1234.0>
- Australian Bureau of Statistics (ABS). (2016a). *Census of Population and Housing: Socio-Economic Indexes for Areas (SEIFA), Australia, 2016* (cat. no. 2033.0.55.001). Retrieved 24 August 2020 from [https://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/756EE3DBEFA869EFCA258259000BA746/\\$File/SEIFA%202016%20Technical%20Paper.pdf](https://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/756EE3DBEFA869EFCA258259000BA746/$File/SEIFA%202016%20Technical%20Paper.pdf)
- Australian Bureau of Statistics (ABS). (2016b). *Australian Standard Geographical Classification (ASGC)* (cat. no. 1216.0). Retrieved 24 August 2020 from <https://www.abs.gov.au/ausstats/abs@.nsf/mf/1270.0.55.005?OpenDocument>
- Australian Security Intelligence Organisation (ASIO). (2019). *ASIO annual report 2018-19: Part 3. Australia's security environment and outlook*. Retrieved 24 August 2020 from <https://www.asio.gov.au/sites/default/files/2018-19%20Annual%20Report%20WEB2.pdf>
- Department of Home Affairs. (2020). *National Terrorism Threat Advisory System*. Retrieved 24 August 2020 from <https://www.nationalsecurity.gov.au/Securityandyourcommunity/Pages/National-Terrorism-Threat-Advisory-System.aspx>
- Dugan, L., & Distler, M. (2016). Part IV. Research methods: Measuring terrorism. In G. LaFree, & J. D. Freilich (Eds.), *The handbook of the criminology of terrorism* (pp. 187-205). West Sussex: Wiley.
- Harris-Hogan, S. (2020). How to evaluate a program working with terrorists? Understanding Australia's countering violent extremism early intervention program. *Journal of Policing, Intelligence and Counter Terrorism*, 15(2), 97-116.
- Independent National Security Legislation Monitor (INSLM). (2020). *Annual report 2018-2019*. Retrieved 24 August 2020 from <https://www.inslm.gov.au/sites/default/files/2020-02/INSLM%20Annual%20Report%20-%202018-2019.pdf>
- Lum, C., Kennedy, L. W., & Sherley, A. (2006). Are counter-terrorism strategies effective? The results of the Campbell systematic review on counter-terrorism evaluation research. *Journal of Experimental Criminology*, 2(4), 489-516.
- MacKinnell, I., Poletti, P., & Holmes, M. (2010). *Measuring offence seriousness* (Crime and Justice Bulletin No. 118). Retrieved 24 August 2020 from NSW Bureau of Crime Statistics and Research website: <https://www.bocsar.nsw.gov.au/Publications/CJB/cjb142.pdf>
- McCulloch, J. & Pickering, S. (2010). Part 2. Counter-terrorism: The law and policing of pre-emption. In N. McGarrity, A. Lynch, & G. Williams (Eds.), *Counter-terrorism and beyond: The culture of law and justice after 9/11* (pp. 13-29). New York: Routledge.
- McGarrity, N., & Blackburn, J. (2019, September 30). Australia has enacted 82 anti-terror laws since 2001. But tough laws alone can't eliminate terrorism. *The Conversation*. Retrieved 24 August 2020 from <https://theconversation.com/australia-has-enacted-82-anti-terror-laws-since-2001-but-tough-laws-alone-cant-eliminate-terrorism-123521>
- Pressman, E., & Flockton, J. (2014). Violent extremist risk assessment: Issues and applications of the VERA-2 in a high-security correctional setting. In A. Silke (Ed.), *Prisons, terrorism and extremism: Critical issues in management, radicalisation and reform* (pp. 273-316). Abingdon: Routledge.

- Rafter, F. (2018). *The management of radicalised inmates in NSW*. Retrieved 24 August 2020 from <http://www.custodialinspector.justice.nsw.gov.au/Documents/The%20management%20of%20radicalised%20inmates%20in%20NSW.pdf>
- Roach, K. (2011). Australia responds: Hyper-legislation. In *The 9/11 effect: Comparative counter-terrorism* (pp. 309-360). Cambridge: Cambridge University Press.
- RTI International (RTI). (2017). *Countering violent extremism: The use of assessment tools for measuring violence risk: Literature review*. Retrieved 24 August 2020 from https://www.dhs.gov/sites/default/files/publications/OPSR_TP_CVE-Use-Assessment-Tools-Measuring-Violence-Risk_Literature-Review_March2017-508.pdf
- Ruddock, P. (2007). Law as a preventative weapon against terrorism. In A. Lynch, G. Williams, & E. MacDonald (Eds.), *Law and liberty in the war on terror* (pp. 3-8). Sydney: Federation Press.
- Schuurman, B. (2018). Research on terrorism, 2007-2016: A review of data, methods and authorship. *Terrorism and Political Violence*, 32(5), 1011-1026.
- Shanahan, R. (2020). Typology of terror: The backgrounds of Australian Jihadis. *Australasian Policing*, 12(1), 32-38.
- Smith, C., & Nolan, M. (2016). Post-sentence continued detention of high-risk terrorist offenders in Australia. *Criminal Law Journal*, 40(3), 163-179.
- Victoria Police. (2018). *Appendix B, Counter Terrorism Strategy 2018-2021*. Retrieved 24 August 2020 from <https://www.police.vic.gov.au/sites/default/files/2019-01/201821VicPolCounterTerrorismStrategy.pdf>
- Supreme Court of Victoria. (2020). *Glossary of legal terms*. Retrieved 24 August 2020 from <https://www.supremecourt.vic.gov.au/about-the-court/glossary-of-legal-terms>
- Williams, G. (2011). A decade of Australian anti-terror laws. *Melbourne University Law Review*, 35(3), 1136-1176.

APPENDIX

Table A1. Terrorism offence frequency and groupings

Offence group 1	Offence group 2	Offence description	Law part code	Number of proven charges	Number of proven principal terrorism offences
Enacted offences	Collect/make/possess terrorism item offences	Knowingly possess thing connected with terrorism	51390	5	1
		Recklessly possess thing connected with terrorism	51391	1	1
		Knowingly collect/make document connected with terrorism	51409	7	5
	Terrorist act offences	Commit terrorist act	51385	3	3
		Terrorist financing offences	Knowingly make funds available to terrorist organisation	58898	4
	Recklessly make funds available to terrorist organisation		58901	1	1
	Terrorist organisation offences	Knowingly be member of terrorist organisation	51414	1	1
		Knowingly give support/resources to terrorist organisation	51425	3	2
	Foreign incursions and recruitment offences	Engage in hostile activity in foreign country	85236	1	1
		Prepare to engage in commission of offence against s 119.1	85238	2	2
Give/receive goods/services to promote s 119.1 offence		85242	1	1	
Control and supervision order offences	Contravene control order	58911	8	2	
	Fail to comply with extended supervision order	91744	4	1	
	Fail to comply with interim supervision order	91745	3	3	
Planning offences	Do act in preparation/planning for terrorist act	51411	28	25	

Note. Offences are included if they correspond to at least one proven charge.

Figure A1. Time between offence and court finalisation

