

10 November 2020

C126581

Equal Justice Project
Asylum Seeker Team
fyi-request-13830-65c88da2@requests.fyi.org.nz

Tēnā koe Sir/Madam

Thank you for your email of 17 September 2020, requesting various information about asylum seekers. Your request has been considered under the Official Information Act 1982 (OIA).

Firstly, I understand the concern for the welfare of asylum seekers and would like to assure you that Corrections is committed to the safe and humane management of all people in prison.

You requested (please note that some of your questions have been re-ordered for ease of response):

We would like to request information regarding the detention of asylum seekers under the Official Information Act 1982. In particular, we would like to know:

- 1. The number of asylum seekers currently being held in prison;*
- 2. The average length of time these asylum seekers have been held in prison;*
- 5. The number of asylum seekers currently being held in detention (not living in the community freely); and*
- 6. The average length of time asylum seekers have been held in detention (and where they are located).*

We note that your questions were also directed to Immigration NZ. They will provide a response to you directly regarding questions 1, 2, 5 and 6 as above.

- 3. The support mechanisms in place for asylum seekers during their detention in prison;*

All prison facilities are operated in accordance with New Zealand legislation, and based on other agreements including the United Nations Standard Minimum Rules for the Treatment of Prisoners. All Corrections' facilities operate in line with guidelines contained within the Prisons Operations Manual to ensure the safe, secure, humane and effective operation of the prisons.

All people in New Zealand prisons, including asylum seekers, have the ability to request being placed on voluntary segregation for the purpose of protective custody, if an individual has concerns for their own safety. This does not mean they are automatically denied association with all other prisoners, only with those prisoners located in the mainstream environment. A prisoner can withdraw from voluntary segregation at any time. Typically, around 32 percent of the prison population is voluntarily segregated at any time, due to concerns for their safety in the mainstream prison environment.

Further information regarding voluntary segregation is publicly available here: www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.01-Movements-internal-directed-and-specified/M.01.05-Voluntary-protective-custody-voluntary-segregation

At any one time, there may be people in prison who are seeking asylum. However, their asylum claims are not the reason for their detainment in custody. Asylum seekers may be detained in a Corrections facility in accordance with a warrant or order issued under the Immigration Act 2009.

There is no distinct policy for the management of people in prison who are seeking asylum. In accordance with regulation 184 of the Corrections Regulations 2005, people in prison who are detained under the Immigration Act 2009 are subject to the same regime and have the same entitlements as all other accused prisoners.

In accordance with the Immigration Act 2009, Immigration New Zealand is generally unable to share personal information with Corrections regarding an individual's reason for detention, or asylum seeker status. As such, Corrections does not hold comprehensive records about the immigration status of immigration detainees.

Therefore, your request is declined under section 18(g) of the OIA, as the information requested is not held by Corrections, and we have no grounds for believing that it is held by another agency or is more closely connected with the functions of another agency besides Immigration New Zealand, who are already preparing a response to your query.

4. The particular support systems for asylum seekers who are members of the LGBTQIA+ group;

As previously noted, people in prison who are detained under the Immigration Act 2009 are subject to the same regime and have the same entitlements as all other prisoners. As such, Corrections does not facilitate particular support systems for people in prison who are seeking asylum and are members of the LGBTQIA+ group.

However, thousands of Corrections staff have completed a flexible learning module entitled Working with Trans People, which raises awareness around gender identity, pronouns, support and the new policy including searches and access to items. In addition, over 1,500 staff have attended diversity workshops, which focus on building awareness and understanding of LGBTQIA+ terminology, respecting dignity, and being aware of unconscious bias.

Work is also ongoing to provide more resources for frontline staff to develop their understanding and more effectively engage with LGBTQIA+ people in custody.

Corrections also has prison operations manual policies that support the management and placement of transgender and intersex prisoners specifically.

These policies can be found on Corrections' website at the following links:
www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I.10-Management-of-transgender-prisoners

www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03.05-Transgender-prisoner

As recommended by formal policy, staff are able to provide all individuals in custody with contact details for different forms of support on request. Some such organisations may not engage with Corrections, but may work directly with individuals in custody. Staff can use their discretion to facilitate this contact, as appropriate.

Individuals in custody also have access to contact with government agencies and other relevant organisations via free phone numbers. This includes the Human Rights Commission, the Office of the Ombudsman and the Health and Disability Commission Advocacy Service.

Further information about these numbers is publicly available on Corrections' website at: www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Public-RL/C.02.Sch.01-Schedule-of-global-0800-and-0508-numbers

I trust the information provided is of assistance. Should you have any concerns with this response, I would encourage you to raise these with the Department. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Contact details are: Office of the Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi nui



Brydie Raethel
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People and Capability