

16 August 2021

IR-01-21-20458

Terry Thomas
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Tēnā koe Terry Thomas

I refer to your request under the Official Information Act 1982 (OIA) regarding the Births, Deaths, Marriages and Relationships Registration Bill (BDMRR), dated 30 June 2021.

On 12 July 2021, you refined your request as follows:

“What I am looking for is assessments made by NZ Police of how the self identification aspects of the bill might impact your operations, including:

how it might affect and/or change your procedures around treatment of prisoners and/or allocation of staff in terms of housing, personal searches, and prisoner transfer;

Also assessments of how it might affect your recording of offenders and/or searches of criminal records, and any flow on effects such as issuing of suspect descriptions and arrest reports to the public. I'm particularly interested in any assessments of whether a person changing their sex identifier will affect NZ Police's ability to see their complete record for things such as employment and safeguarding checks.

The law was proposed in 2020 so since 1 Jan 2020 should be reasonable.”

I have interpreted your request to be asking for internal and external assessments made by Police, from 1 January 2020 to receipt of your OIA request on 12 July 2021, as to how proposals within the BDMRR Bill to ease the existing process to change an individual's sex marker on their birth certificate may impact the following three broad areas:

- treatment / procedures around treatment of prisoners and allocation of staff
- internal record keeping/intelligence files
- vetting/background checks.

Police has provided advice as to the impacts of the BDMRR on Police in the course of interagency consultation with the Department of Internal Affairs. It is not clear whether this feedback qualifies as assessment. However, I am releasing it to you and hope you find it informative.

Police National Headquarters

180 Molesworth Street. PO Box 3017, Wellington 6140, New Zealand.
Telephone: 04 474 9499. Fax: 04 498 7400. www.police.govt.nz

Police also provided advice to Ara Poutama Aotearoa / Corrections as to the anticipated impacts of gender self-identification at custody. This is also being released to you.

You will note that in the attached documents, some information has been redacted under the following sections of the OIA:

- section 9(2)(a): to protect the privacy of natural persons
- section 9(2)(f)(ii): to maintain the current constitutional conventions protecting collective and Ministerial responsibility
- section 9(2)(f)(iv): to maintain the current constitutional conventions protecting confidentiality of advice by Ministers of the Crown and officials
- section 9(2)(g)(i): to maintain the effective conduct of public affairs through free and frank expression of opinions

The information you requested has been broken down into three parts as above and is appended to this letter:

1. Internal correspondence and external advice provided to the Department of Internal Affairs on policy proposals as part of interagency consultation in April 2021, with the Department's response for your context
2. Internal correspondence and external advice provided to the Department of Internal Affairs on the Supplementary Order paper (the draft Bill) and the Cabinet paper as part of interagency consultation in July 2021, with the Department's response for your context
3. Internal correspondence and external advice provided to Ara Poutama Aotearoa / Corrections as to the anticipated impacts of gender self-identification at custody in July 2021.

The associated Cabinet materials are expected to be proactively released within 30 days of being finalised under Cabinet Office Circular 18(4), therefore email attachments containing these Cabinet materials have been withheld under section 18(d) of the OIA.

I have also summarised internal guidance on how Police currently treats people in our custody regarding gender and sex in case this may further assist you.

In summary, Police practice is to:

- Segregate female detainees from male detainees, and
- Segregate transgender detainees, where identified or made known, from the detainees whose gender they do not identify with.

If you are not satisfied with my response to your request, under section 28(3) of the OIA you have the right to ask the Office of the Ombudsman to seek an investigation and review of my decision.

Yours sincerely



Jeremy Wood
Executive Director, Policy and Partnerships