

27 May 2022

C150895

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Tēnā koe Dianne

Thank you for your email of 21 April 2022 to the Department of Corrections – Ara Poutama Aotearoa, requesting information about transgender individuals in women’s prisons. Your request has been considered under the Official Information Act 1982 (OIA).

On 20 May 2022, you were advised that Corrections extended the due date of our response to you pursuant to section 15A(1)(b) of the OIA.

New Zealand law, consistent with international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners, requires male and female people to be detained in separate prisons or in separate units within a prison. This is necessary for the safety and welfare of people in prison, and for the security and good order of prisons. While placement in a men’s or women’s prison is a straightforward matter for most people, for a small group, it can be more challenging.

At any one time there are around 30 to 40 people in our prisons who identify as transgender. This accounts for a small percentage of the current total prison population of around 7,500 people. However, we acknowledge that transgender individuals are a vulnerable group in prison with complex needs.

In 2018, Corrections introduced strengthened policy for the management of transgender individuals, with a focus on being more responsive to them and their circumstances.

If it is established that an individual identifies as transgender during their initial reception process, or at any other point of their management, an alert is placed on their electronic file. Each transgender individual has a customised support plan and is able to choose the gender of staff who conduct searches.

The provision of a support plan does not depend on whether the transgender individual has legal recognition of their gender identity, or whether they have undergone medical or surgical steps. These guidelines align our approach with comparable jurisdictions internationally, as well as other Government agencies such as New Zealand Police (Police) and New Zealand Customs.

This policy is available in full at:

https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I.10-Management-of-transgender-prisoners

In addition, thousands of Corrections staff have completed a flexible learning Working with Trans People module that raises awareness around gender identity, pronouns, support and the new policy including searches and access to items. Over 2,000 staff have attended diversity workshops, which focus on building an awareness and understanding of LGBTQIA+ terminology, respecting dignity, and being aware of unconscious bias.

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

The placement of transgender people in prison is currently determined in accordance with separate policy, available at:

https://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 you may be aware, the Births, Deaths, Marriages, and Relationships Registration (BDMRR) Bill includes a number of policy changes, including updating and modernising the BDMRR Act 1995. These include changes, to the self-identification provisions that make it easier for people to amend the sex on their birth certificate, which may have implications for the way Corrections currently places people in male and female prisons if a birth certificate is used for that placement.

Corrections is exploring a policy change that would remove the current regulatory provisions that enable a birth certificate to be the single factor considered when determining placement in a male or female prison. Policy decisions have not been decided yet, but any changes that are made are planned to come into force alongside the self-identification provisions in the BDMRR in 2023.

You requested

- 1. How many trans identifying biological males are in women's prisons in New Zealand to date 21 April 2022.*
- 2. How many of these above mentioned individuals have a medium to high risk security rating.*

Transgender is a term to refer to people who have a gender identity or gender expression that differs from the sex that they were assigned at birth.

We have interpreted your request to relate to people in women's prisons who identify as transgender women but were likely to have been assigned male at birth and were therefore subject to the Prison Operations Manual *M.03.05 Transgender and intersex prisoner movements* policy linked above.

As at 26 April 2022, there were four people in women's prisons identifying as transgender. Of these, two identify as female, one of whom has a high security classification. The other two identify as male.

More information about security classifications can be found on Corrections' website at the following link: www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.02-Security-classification

Please note that this response may be published on Corrections' website. Typically, responses are published quarterly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

I trust the information provided is of assistance. I encourage you to raise any concerns about this response with Corrections. 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



Leigh Marsh
Acting National Commissioner