



23 October 2015

C73361

Sophie Buchanan  
FYI website  
[fyi-request-2867-4d0298b6@requests.fyi.org.nz](mailto:fyi-request-2867-4d0298b6@requests.fyi.org.nz)  
[fyi-request-2865-dbe004e1@requests.fyi.org.nz](mailto:fyi-request-2865-dbe004e1@requests.fyi.org.nz)

Dear Ms Buchanan

Thank you for your Official Information Act 1982 (OIA) requests of 17 August 2015, regarding number of appeals against prison placement for reasons of sex/gender, and related information, and the number of "transgender" alerts. Your requests have been considered under the Official Information Act 1982 (OIA).

The requests for information from your two email requests are individually addressed below.

From your email request [fyi-request-2867-4d0298b6@requests.fyi.org.nz](mailto:fyi-request-2867-4d0298b6@requests.fyi.org.nz):

*"...please provide the number and location of all "Transgender" alerts within at least the last 5 years."*

The transgender alert was added to the Integrated Offender Management System (IOMS) on 29 January 2014. Although we cannot extract the data for the period you have requested, as it is not held in a form that is readily retrievable, we can advise that as at 28 September 2015, there were 19 prisoners recorded as transgender in IOMS. Note the numbers of alerts may vary from day to day, dependent on numerous factors.

Unfortunately, we cannot readily extract this data from our electronic records for every day for the period 29 January 2014 to 17 August 2015. In addition to compiling the data for this time period, we would be required to manually review a large number of files to ensure the robustness of the information provided.

In accordance with the OIA, we have considered whether to affix a charge or extend the time limit for responding. However, given the scale of the request we do not consider that this would be an appropriate use of our publicly funded resources. Therefore, this part of your request is declined under section 18(f) of the OIA, as the information cannot be made available without substantial collation or research.

As we cannot provide this information for the period requested prior to 29 January 2014 when the alert was added, this part of your request is declined under section 18(e) of the OIA, as the document alleged to contain the information requested does not exist or cannot be found.

In addition, we have concerns about compromising the safety of the individuals if we release their prison location and protecting the privacy of those prisoners who may be identifiable if we did so. After careful consideration of your request for the location of these prisoners, we have to advise you that we are withholding this information under section 6(c) of the OIA, as the making available of that information would be likely to prejudice the maintenance of the law, including the prevention of offences, and section 9(2)(a) of the OIA to protect the privacy of natural persons.

As per section 9(1) of the OIA, we have also considered whether there are countervailing public interest considerations favouring the release of the requested information. We acknowledge you may be disappointed with our response but do not believe such considerations outweigh our concerns about the release of this information.

*"...please provide details such as the nominated gender of the prisoners and the prison they are currently in."*

The nineteen transgender prisoners recorded in IOMS as at 28 September 2015 advised their nominated gender was female.

As noted above, the information requested about *"the prison they are currently in"* relating to the transgender prisoners as at 28 September 2015 is withheld under sections 6(c) and 9(2)(a) of the OIA.

From your email request [fyi-request-2865-dbe004e1@requests.fyi.org.nz](mailto:fyi-request-2865-dbe004e1@requests.fyi.org.nz):

*"...please disclose the number of appeals against prison placement that have been made under section M.03.05 (link above) in the Prison Operations Manual; that is, how many transgender people have requested to be moved to a different facility under the Department of Corrections' purview for reasons of sex/gender."*

There have been six transfer requests from prisoners since the Transgender and Intersex Prisoner policy took effect in February 2014.

*"With respect to the privacy of the individuals involved, please also provide the outcomes of those appeals, i.e. the number of successful movements or refusals."*

Five of those have been approved and one was withdrawn as they were rendered not eligible to apply when further charges were laid.

*"Please include any documentation or guidelines consulted by the Department in the process of making such decisions...."*

Guidelines used by the Department include those available from the link below:

<http://www.corrections.govt.nz/resources/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html>

See Appendix One for other relevant documentation as requested:

- M.03.05.Res.01 Schedule of serious sexual offences
- M.03.05.Res.02 Transgender prisoners flow diagram
- M.03.05.Form.02 Application for review of prisoner's placement
- M.03.05.Form.03 Review application recommendations
- M.03.05.Form.04 Decision on determination of prisoner's placement
- M.03.05.Form.05 Review of National Commissioner's placement decision
- M.03.05.Form.06 Revocation of determination of prisoner's placement

*"...and where possible please give details such as the nominated gender of the inmates...."*

As noted above, the nineteen prisoners recorded as transgender in IOMS as at 28 September 2015 advised their nominated gender was female.

*"...where possible please give details such as the nominated gender of the inmates and the facility they were in/requested to move to."*

As above regarding *"the nominated gender of the inmates"*.

As noted above, the information requested about *"the prison they are currently in"* relating to the transgender prisoners as at 28 September 2015 is withheld under sections 6(c) and 9(2)(a) of the OIA.

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.

Yours sincerely



Jeremy Lightfoot  
National Commissioner