

03 September 2018

C98063

Matt Stewart  
[matt.stewart@stuff.co.nz](mailto:matt.stewart@stuff.co.nz)

Dear Mr Stewart

Thank you for your email of 11 July 2018, requesting information about transgender male prisoners. Your request has been considered under the Official Information Act 1982 (OIA).

Managing prisoners' safety is one of Corrections' core functions, and a duty we take extremely seriously. We have a range of policies, processes and tools in place to ensure that concerns about prisoner safety are identified and mitigated. This includes prisoners at risk of self harm, at risk of harm to others and at risk of harm from others.

As at 1 May 2018, there were 33 people in our prisons identifying as transgender. While this accounts for a small percentage of the total prison population, we acknowledge that transgender prisoners are a vulnerable group with complex needs. We have worked hard in recent years to ensure the safety of all prisoners is protected, with regard to the placement and management of transgender persons.

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

Transgender is an umbrella term to refer to a person whose gender identity does not completely align with their assigned sex at birth. If it is established that a prisoner identifies as transgender during their initial reception process, or at any other point of their management, an alert is placed on their electronic prisoner file.

In accordance with the new policy, each transgender prisoner now has an individualised support plan and is able to choose the gender of staff who conduct searches. The provision of an individual support plan does not depend on whether the transgender prisoner has legal recognition of their gender identity, or whether they have undergone medical or surgical steps. Custodial staff are also being provided with training material to develop an understanding of gender diversity, with a focus on the use of correct pronouns and appropriate language.

Our new policy regarding the management of transgender prisoners is publicly available, at:

[http://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Induction/I-10.html](http://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I-10.html).

Alongside the implementation of new policy in prisons, Community Corrections and non-frontline management staff have recently begun intensive diversity training sessions, which focus on building an awareness and understanding LGBTQIA+ terminology, respecting dignity, and being aware of unconscious bias. To date, the diversity training has been delivered to almost 1,100 employees.

The placement of transgender and intersex prisoners in a men's or women's prison, including the process for a review of initial determination of placement, continues to be managed in accordance with existing Prison Operations Manual M.03.05 policy. This is publicly available, at:

[https://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html](https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html)

When reviewing this policy, you may also wish to note that an amendment to the Corrections Regulations 2005 came into effect in February 2014, which established new requirements for determining whether transgender or intersex prisoners should be accommodated in a male or a female prison. Amendments to regulation 190 of the Corrections Act 2005 have the following two elements:

- First, where a prisoner's birth certificate has been amended to record a different sex from that recorded at birth (this currently requires a Family Court order), the prisoner is entitled to be placed in accordance with the revised certificate.
- Second, a transgender prisoner who has not had their birth certificate amended may nevertheless apply to the Chief Executive of the Department of Corrections for placement in accordance with their nominated gender, if they are eligible for consideration. A range of factors will be considered for any application, related to the individual prisoner's commitment to living as a member of their nominated gender, and the safety of that prisoner and other prisoners.

A transgender prisoner whose detention relates to a serious sexual offence against a person of their nominated gender, or who was released from a prison sentence for such an offence within the last seven years, will not be eligible to apply to the Chief Executive.



You have asked:

- *How many trans-identified males are in New Zealand prisons.*
- *How many are in for violent crimes, including sexual assault?*
- *How many trans-identified males are in women's prisons?*

Your first three questions are answered together below.

As mentioned above, transgender is an umbrella term to refer to a person whose gender identity does not completely align with their assigned sex at birth. It is also important to note that some transgender people do not identify as exclusively female or male. Some people may identify as neither gender, or as gender fluid.

As your request focuses on 'trans-identified males' in prisons, each of these questions has been interpreted to relate to transgender individuals who may have been assigned female at birth, but identify as male.

Of the 33 transgender prisoners mentioned above, 26 were housed in a men's prison, and 7 were housed in a women's prison. Two of the transgender prisoners in men's prisons are recorded as identifying as male (although, that is not to say that these individuals were assigned female at birth). One transgender prisoner in a women's prison is recorded as identifying as male.

To date, all reviews of initial determination of placement have been where the transgender prisoner has sought to transfer from a men's prison to a women's prison.

Corrections has balanced your interest in information about the convictions of the three transgender prisoners who identify as male against the privacy interests of the individuals whose personal information is involved.

Due to the small number of individuals in question, we consider releasing information about their conviction histories could lead to their identification. We believe there are strong privacy rights attached to these individuals' personal information in this case. Therefore, information about these three prisoners' conviction histories or current sentences is withheld under section 9(2)(a) of the OIA, to protect the privacy of natural persons, including deceased natural persons.

I can advise, however, that no transgender individual housed at a women's prison (either identifying as male, or female) has been convicted of sexual offences.

- *Since 2017 how many assaults (including sexual assaults) were reported against women by trans-identified persons in women's prisons?*

We have a range of policies, processes and tools in place that ensure that concerns about prisoner safety are identified and mitigated. This includes prisoners at risk of self harm, at risk of harm to others and at risk of harm from others.

There are a variety of ways in which prisoners are able to notify staff of any potential risk to their safety in custody. When in their cell they are able to use a call alarm to alert staff. Prisoners are also encouraged to report concerns directly to staff, via a family member or friend, or by contacting an Inspector, the Office of the Ombudsman or the anonymous crime reporting line Crimestoppers.

A total of six prisoner on prisoner assault incidents occurred in women's prisons from January 2017 to the date of your request, where the prisoner alleged to have committed the assault had a transgender alert.

While no assault is acceptable, it is an unfortunate reality that they do occur from time to time, as we manage some of New Zealand's most difficult and challenging people. Understanding and managing risk is a challenge common to all correctional jurisdictions, and reducing violence in prisons is a priority for Corrections.

You may wish to note that as outlined in Corrections 2016/2017 Annual Report, across the prison estate (which comprises more than 10,000 prisoners at any one time), there were almost 1,500 non-serious/no injury assaults on prisoners and staff, along with 25 serious assaults, recorded for the 12 month period. This includes a considerable drop in the number of recorded prisoner on prisoner assaults compared to the previous year. As such, the number of assault incidents involving a transgender prisoner in a women's prison accounts for a very small proportion of all assault incidents.

Further information about assault incidents in prisons can be found on pages 43-44 and page 84 of Corrections' 2016/17 Annual Report, at: [http://www.corrections.govt.nz/data/assets/pdf\\_file/0006/898629/Annual\\_Report\\_2016-17.pdf](http://www.corrections.govt.nz/data/assets/pdf_file/0006/898629/Annual_Report_2016-17.pdf)

I hope the information provided is helpful. Should you have any concerns with this response, I would encourage you to raise these 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.

Yours sincerely

A handwritten signature in blue ink, consisting of a series of fluid, connected strokes that form a stylized representation of the name Rachel Leota.

Rachel Leota  
National Commissioner