



05 April 2023

C164905

Tēnā koe [REDACTED]

Thank you for your email of 10 February 2023 to the Department of Corrections – Ara Poutama Aotearoa, requesting information about transgender women in prison. Your request has been considered under the Official Information Act 1982 (OIA).

For ease of response, some of your questions have been re-ordered.

Corrections policy currently states a prisoner must be placed in a prison that manages prisoners of the sex specified on the birth certificate if staff have a copy of it, however, this is generally assessed on a case-by-case basis. For example, if a person has previously spent time in custody, they may be transferred straight to a prison of the gender they identify with, or some people may not wish to go to a prison of the gender they identify with. Due to our privacy obligations, we are not able to discuss the management of individual prisoners, but the person you have mentioned in your article is no longer in a women's prison.

See '*M.03.05.01 Initial determination of prisoner's placement*' available at the link below for the policy procedures applicable to the receipt of trans people into custody:

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

Prisoner placement in accordance with gender identity and the M.03.05 policy applies to both remand and sentenced prisoners.

Corrections' policy regarding the management of transgender prisoners regardless of whether they are housed in a prison that aligns with their gender identity is publicly available at: https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I.10-Management-of-transgender-prisoners

Managing the safe accommodation of all people in prison is a duty Corrections takes extremely seriously. Corrections has a range of policies, processes, and tools in place to ensure people are not placed in units where they could pose a risk to the safety of other prisoners or be at risk themselves.

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. When a transgender person is first received into prison they are asked if they want to discuss a placement review. If they have arrived at a prison which is the same as their gender identity staff check the person understands the reasons for their placement and discuss any concerns they may have with them.

Transgender prisoners can apply to transfer to a prison that matches their gender identity if they are eligible under the Corrections Regulations. Prisoners are not eligible to apply for a review of their placement if they:

- a. are serving a sentence for serious sexual offence against a person of the prisoner's nominated sex, or
- b. are on remand for a serious sexual offence against a person of the prisoner's nominated sex, or
- c. have previously served a sentence of imprisonment for a serious sexual offence:
 - i. against a person of the prisoner's nominated sex, and the sentence expiry date for that sentence was within 7 years ago or less.

A discussion with a newly received transgender prisoner about their support and management takes place within three days of their reception under the I.10 policy, even if they have been received into a prison which is the same as their gender identity. An individualised support plan is completed and effective within four days of the person's reception in prison. 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. Frontline staff have also been provided with training material to develop an understanding of gender diversity.

Our staff actively engage with prisoners on their support plans to ensure they are working for them and will change them where it is needed. If an individual is concerned with their plan, or the support they are receiving, we encourage them to raise this with staff or with someone they trust to pass this on for us to look into.

In March 2018, Corrections' Transgender Policy became operational. This determined processes and practices for managing transgender people in custody. (POM I.10 Management of transgender prisoners and M.03.05 Transgender and intersex prisoner (placement)).

These include a range of policy measures designed to better protect the rights of trans people in our care and support officers in their practice, including the transgender alert, which is the only means we have for counting and recording data. Accordingly, we are unable to count transgender prior to this date. Our general policy is to report data for whole financial years only, so have started reporting from 1 July 2018.

You requested:

1. *How many trans identifying biological males (transwomen) are in women's prisons in New Zealand to date?*

5. How many transwomen have been housed with women in the last 10 years?

Corrections began collecting data on transgender individuals starting from the 2018/19 financial year. All the data provided in this response is provided by financial year, which run from 1 July to 30 June.

Overall People	Jun-22
16	1

Overall, there have been 16 transgender people in prison. As at 31 January 2023 there are three transwomen in women's prisons.

2. What are their names and offences please?

When reading this data please note that people can have more than one sentence for different offences, therefore more than 16 records have returned.

Offence type	Overall People	June 2022
Breaches	1	0
Burglary	3	0
Dishonesty	5	0
Property	1	0
Traffic	1	0
Violence	7	1
Other	2	0

Corrections has statutory obligations to protect private information we hold, including information relating to the names of all people in prison.

We have considered whether the release of this information would have a harmful effect on people's privacy, such as harassment and distress.

We are unable to release the names of the transgender people you have requested as we have determined that doing so would contravene those obligations under the OIA. Therefore, this part of your request is refused under section 9(2)(a) of the OIA, to protect the privacy of natural persons, including that of deceased natural persons.

In accordance with section 9(1) of the OIA, we have also considered countervailing public interest relating to the release of the information. We are satisfied that in this case, public interest considerations do not outweigh the withholding reasons outlined above.

3. How many of these transwomen have a medium to high-risk security rating?

Security classification	Overall People	June 2022
Minimum	2	0
Low	5	1
Low Medium	8	0
High	5	0
Unclassified	3	0
Remand	8	0

Because people move through the security classification system over time, these figures represent the classifications at month end across the period so more than 16 records are returned.

No transwomen currently in custody have a medium-to-high security classification.

4. Have there been any violent incidents in the last decade in NZ women's prisons involving transwomen?

The following table shows all assault incidents in prison since 2018/19 involving transwomen.

	2018/19	2019/20	2020/21	2021/22	2022/23
Assault- Sexual Perpetrator	1				
Victim					2
Assault- Serious Perpetrator		1			
Assault- No Injury Perpetrator	2	3	2	2	
Victim	2	3	4	3	1
Assault- Non-Serious Perpetrator	4	3	1	1	2
Victim	2	5	3	1	
Total	11	15	10	7	5

The following table shows all assault incidents in women's prisons since 2018/19 involving transwomen.

	2018/19	2019/20	2020/21	2021/22	2022/23
Assault- Sexual Perpetrator	1				
Assault- No Injury Perpetrator	1	2			
Victim			2		
Assault- Non-Serious					

Perpetrator	4				2
Victim	2		1		
Total	8	2	3	0	2

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
National Commissioner