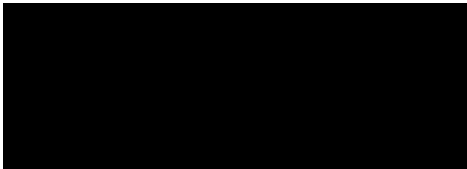



16 August 2023

C169290



Tēnā koe 

Thank you for your email of 29 May 2023 to the Department of Corrections – Ara Poutama Aotearoa, requesting information about segregation in prisons. Your request has been considered under the Official Information Act 1982 (OIA).

Corrections is committed to the safe and humane management of people in prisons and operating prison facilities in accordance with New Zealand legislation and based on other agreements, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners.

In accordance with sections 58 to 60 of the Corrections Act 2004 (the Act), people in prison can be lawfully denied association with other prisoners if:

- their behaviour presents a risk to the security of the prison;
- their behaviour presents a risk to the safety of others;
- the prison's Health Centre Manager considers that it is necessary to assess or ensure their mental or physical health; or,
- the Prison Director feels it is the only reasonable way to keep the prisoner safe from themselves.

The Act is publicly available on the New Zealand legislation website at the following link: www.legislation.govt.nz/act/public/2004/0050/latest/DLM294849.html.

Solitary confinement is not used in New Zealand prisons. At all times, segregated prisoners can continue to be provided opportunities for exercise, access to visitors, mail, telephone calls and other minimum entitlements as set out in the Act. They also have regular and ongoing contact with Corrections staff, including our health services staff and mental health professionals as required.

There are two ways prisoners can be segregated while in prison, either directed or voluntary.

When a person is placed on directed segregation, they are not automatically restricted or denied association with other people in prison. The Prison Director assesses the risks the person presents and will deny association where it is appropriate. The initial decision to place a person in segregation expires after 14 days unless a request to continue is approved by the Senior Advisor to the Regional Commissioner or a Visiting Justice. The Prison Director (or their delegate) must conduct regular reviews within this timeframe to ascertain if there ceases to be any justification for the direction or there are grounds to change the persons association status.

People in prison have the ability to request to be placed in voluntary segregation for the purpose of protective custody if they fear for their own safety, or if it is deemed to be in the best interests of the individual, such as removing them from gang members as the individual tries to rehabilitate away from that lifestyle. People who are placed in voluntary segregation are accommodated in units that house other people subject to voluntary segregation, who they can associate with. Those on voluntary segregation can withdraw from the units at any time.

Prison Directors have a responsibility to ensure everyone is safe and the public are protected. The option to place people on directed segregation is a preventative measure to a known or potential risk. Being placed on directed segregation is to ensure the safety of themselves and others and does not serve as a punishment. Directed segregation is a management tool used when appropriate to protect all people in prison from harm.

When making decisions on the segregation of people in custody, Prison Directors consider a range of available factors, information and intelligence, and use their professional judgement in reaching such decisions.

Further information about the segregation of people in prison can be found in the Prison Operations Manual, which can be found on Corrections' website [here](#).

The Office of the Inspectorate recently completed a review of use of force and segregation in prisons. The report is available on the Inspectorate website [here](#).

As noted in our response to that report, the Chief Executive has welcomed the feedback provided by the Office of the Inspectorate. Corrections acknowledges the challenges involved in segregating prisoners and the impact on those who are segregated, and we are committed to ensuring we are targeting our efforts at those areas where we are at greatest risk of creating harm to those we choose to separate. Importantly, Corrections has accepted all seven recommendations made, and work has begun to ensure that a system wide plan for enduring change that recognises the potential risks that prolonged isolation can have on people is put in place.

A copy of the Chief Executive's response to the report has been attached to this response as **Appendix Two**, for convenience.

For ease of response, some of your questions have been responded to collectively. You requested:

1. *Per prison per year over the last three years, what is the number of people that are placed in isolation/segregation (solitary confinement)?*
2. *Per prison per year over the last three years, what is the number of people whose period in isolation/segregation has exceeded 15 consecutive days?*
3. *For those people who have been in isolation/segregation for over 15 consecutive days, how many of them are still residing in a correctional facility?*

Information requested in the above three questions is attached as **Appendix One**. When reviewing these figures, please note that we have interpreted your requests as being for the count of unique individuals who have been segregated in the time period listed, broken down by prison and the following sections under the Corrections Act 2004:

- 58 1A – Directed Security Good Order
- 58 1B – Directed Safety of Others
- 59 1B – Directed Prisoner Safety
- 60 1A – Directed Physical Health
- 60 1B – Directed Mental Health
- 59 1A – Voluntary Prisoner Safety

As the information collated is for the unique individuals over the specified time period, it is not comparable to a snapshot as at any specific date, or a different time period.

4. *What is the longest period that a prisoner has been in isolation/segregation for? – And can I request that the documents for this individual case be provided or a reason for their period being in isolation/segregation?*

We can advise that the longest time an individual has been in segregation, who ended their segregation period between 1 July 2019 and 31 May 2023 was 4,299 days. Please note that this was voluntary segregation due to fears for their safety under section 59 1A of the Corrections Act 2004.

We have considered whether to release the documents for this individual to you, and upon balancing that individual's privacy interests, we have concluded that the documents should be withheld under section 9(2)(a) 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 outlining the full documentation. However, we acknowledge the public interest in segregation is strong, in that Corrections is accountable to the public for the administration of justice and that people in prison are being treated humanely. With this in mind, please find below additional information about how this person is managed.

People who have segregated themselves voluntarily from the general population are housed in a unit alongside other people who have voluntarily segregated. The people in the voluntary segregated unit are treated and managed in the same manner as those in a general population unit.

People who voluntarily segregate are not isolated from other people in prison and is able to mix and associate with others who have voluntarily segregated. Risk is assessed and monitored via alerts on people's files and non-association orders. The risk assessment identifies which voluntary segregated prisoners can safely mix and associate with each other. Additionally, this person can attend education, and rehabilitation programmes, as long as any potential risks can be managed as specified in their management plan and offender plan. This person has previously undertaken employment in the prison kitchen and is currently employed as a laundry worker.

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