

10 September 2019

C111201

Lance O'Riley
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Tēna koe Mr O'Riley

Thank you for your email of 12 August 2019, further requesting information about transgender prisoners' conviction histories. Your request has been considered under the Official Information Act 1982 (OIA).

As you are aware, Corrections previously refused your request for the following information, as it relates to each of the 35 transgender prisoners in custody as at 16 July 2019, in accordance with sections 9(2)(a) and 6(d) of the OIA:

A list of all convictions which relate to or contribute to their current period of incarceration.

A list of all previous convictions for each person

You were however provided with the most serious offence type associated with the current imprisonment of each these individuals.

You have now revised your request as follows:

A list of all convictions which relate to or contribute to their current period of incarceration. This part of the question can be provided as a total sum of all offences for all offenders

A list of all previous convictions for each person. This part can be answered in a similar format, where a total sum is given rather than a specific need to break this down by offender. For this part of the question please (if possible) show only crimes which have been committed previously and do not contribute to a current period of incarceration.

While we have noted your views about the privacy rights attached to this information, we do not consider that there are countervailing public interest considerations favouring its release, which outweigh the reasons for refusal explained in Corrections' response to your previous request.

Corrections is statutorily obliged to protect private information that we hold, including information relating to offenders. Much of the information you have requested will not be in the public domain.

Although you have specified an amended format in your revised request, we consider that the release of each specific offence a transgender prisoner has been convicted of could still lead to the identification of individuals involved, and may directly compromise their safety, or the security of prisons. Furthermore, the identification of some of these individuals could lead to their victims being identified.

Corrections has worked hard in recent years to better recognise and protect the gender identity and dignity of transgender prisoners, while securing the safety and accountability of our staff, policy and procedures. We have a duty to ensure that transgender prisoners are afforded a standard of care that is professional, respectful, preserves dignity, and ensures safety and privacy.

Transgender individuals are well recognised as a vulnerable group within prisons. Across the prison estate, we manage some of New Zealand's most difficult and dangerous people. Prisons, as microcosms of society, reflect the tensions surrounding the acceptance and exclusions of others.

Like all prisoner populations, the number of transgender prisoners may be subject to change on a daily basis due to arrests, Court decisions, and sentence end dates. Transgender prisoners also make up a very small proportion of the total prison population. As such, data relating to their offending histories on any given date is not comparable to that of the general prison population.

Further, around one third of the total prison population is held in prison on remand for charges that they have not yet been convicted of by the Court. It is therefore possible that releasing some of the specific information you have requested could negatively impact ongoing Court proceedings. To determine this by looking into the status of every relevant charge 'relating or contributing' to each of the 35 transgender prisoners' imprisonment, including any changes to the status of those charges since the date of your original request, would be a very time consuming exercise. This would not amount to an appropriate use of our publicly funded resources.

While we recognise there may be some public interest in these matters, Corrections considers that the release of the specific information you have requested has genuine potential to be used by certain members of the public, or the wider prison population, to target a small group of individuals who already face stigmatisation on a day-to-day basis.

Consideration was also given to the victims of these offenders. Identification of some of these offenders could lead to the identity of the victims of their offending being revealed.

For these reasons, Corrections is maintaining the decision to withhold the information you have requested in accordance with the following sections of the OIA:

- 9(2)(a), to protect the privacy of natural persons
- 6(d), as the release of this information would be likely to endanger the safety of any person.

You also requested:

information regarding if the two people currently incarcerated for drugs offences are convicted for either supply or possession

I can advise that both individuals within the group of 35 transgender prisoners held in custody as at 16 July 2019, whose lead offence related to drug offending, were imprisoned in relation to the supply, or alleged supply, of a Class A drug.

I trust the information provided is of assistance. 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.

Ngā mihi nui



Rachel Leota
National Commissioner