

**M.03.05.Res.01 Schedule of serious sexual offences**

Prisoners are ineligible to apply for a review of their placement if they:

- are currently serving a sentence of imprisonment for a serious sexual offence against a person of the prisoner's nominated sex
- are remanded in custody charged with, or awaiting sentence for a serious sexual offence against a person of the prisoner's nominated sex; or
- have served a sentence of imprisonment for a serious sexual offence:
  - against a person of the prisoner's nominated sex, and
  - the sentence expiry date is 7 years or less before the date on which the prisoner wishes to make an application.

Section	Offence	Penalty
128B	Sexual violation	20 years
129 (1)	Attempted sexual violation with intent to commit sexual violation	10 years
129 (2)	Assault with intent to commit sexual violation	10 years
129A(1)	Sexual conduct with consent induced by certain threats	14 years
130	Incest	10 years
131 (1)	Sexual conduct with dependent family member under the age of 18 years	7 years
131 (2)	Attempted sexual connection with a family member under the age of 18 years	7 years
131B	Meeting young person following sexual grooming	7 years
132 (1)	Sexual connection with child under 12	14 years
132 (2)	Attempted sexual connection with child under 12	10 years
132 (3)	Performing an indecent act (including indecently assaulting) on a child under 12	10 years
134 (1)	Sexual connection with a young person under 16	10 years.
134 (2)	Attempted sexual connection with a young person under 16	10 years
134 (3)	Performing an indecent act (including indecently assaulting) on a young person under 16	7 years
135	Indecent assault	7 years
138 (1)	Exploitative sexual connection with a person with a significant impairment	10 years
138 (2)	Attempted exploitative sexual connection with a person with a significant impairment	10 years
142A (1)	Compelled any person by the actual or threatened application of force to perform, submit or acquiesce in any act of indecency with an animal	14 years
144C (1) (a)	Making or organising any travel arrangements for or on behalf of any other person with the intention of facilitating the commission of an offence against a young person which if committed in New Zealand would be an offence under Sections 132 and 134	Refer below*
144C (1) (a)	Making or organising any travel arrangements for or on behalf of any other person with the intention of facilitating the commission of an offence against a young person which if committed in New Zealand would be an offence under Section 23 (1) of the Prostitution Reform Act 2003	7 years
144C (1) (b)	Transports any other person outside of New Zealand with the intention of facilitating the commission of an offence against a young person which if committed in New Zealand would be an offence under Sections 132 and 134	Refer below*
144C (1) (b)	Transports any other person outside of New Zealand with the intention of facilitating the commission of an offence against a young person which if committed in New Zealand would be an offence under Section 23 (1) of the Prostitution Reform Act 2003	7 Years

\*The penalty that applies to that offence if committed in New Zealand

# M.03.05.Res.02 TRANSGENDER PRISONERS FLOW DIAGRAM

Version: 01

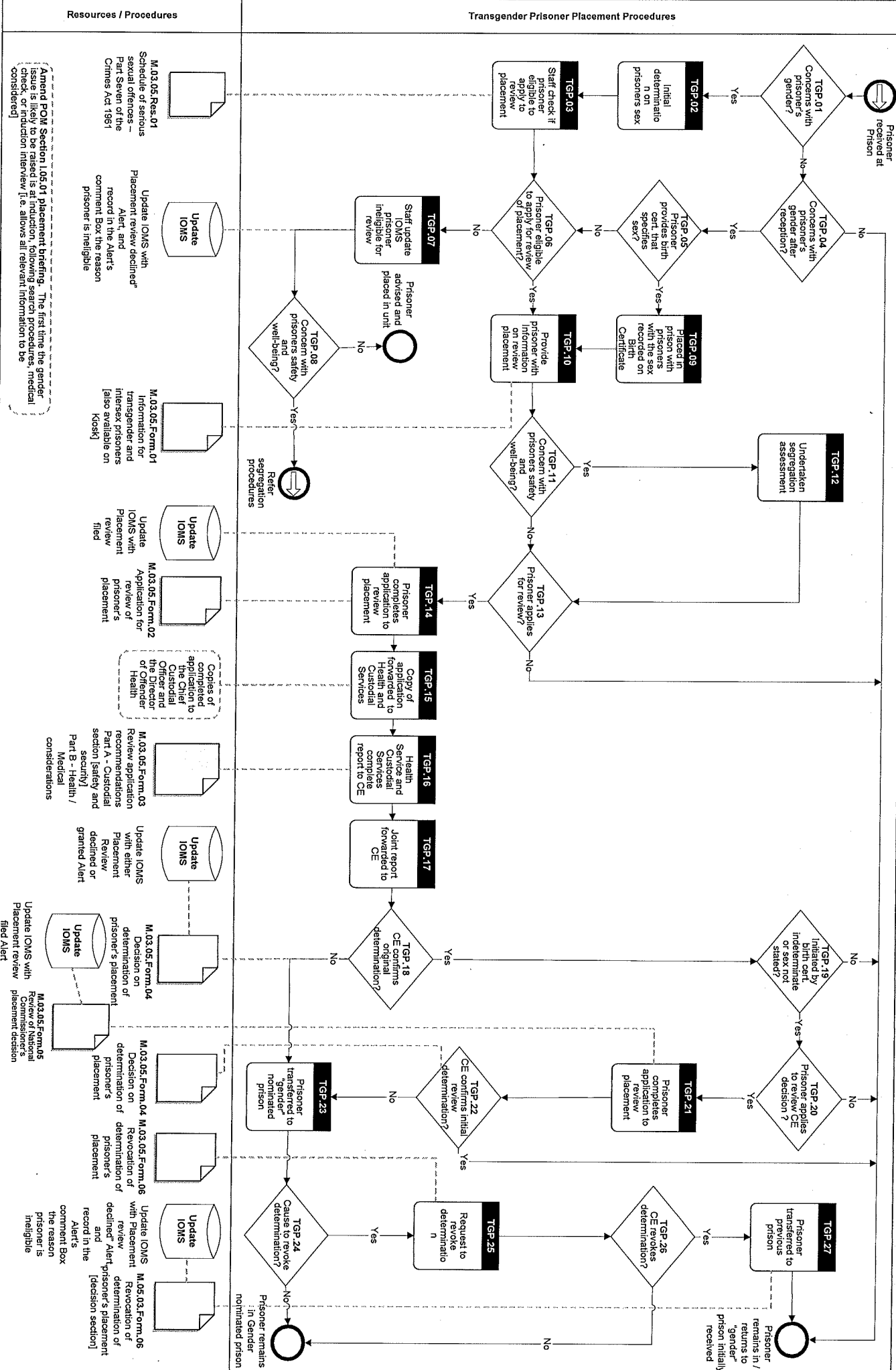
Owner: [Redacted]

Author: Damien Aupa au, Team Leader National Systems

Date Created: 19 December 2013

Last Updated: 10 February 2014

Description: Provides a high level view of the transgender prisoner placement procedures



**M.03.05.Form.02 Application for review of prisoner's placement**



**Part A: Application for review by prisoner**

(Prisoner's full name) _____	PRN _____
at (Prison) _____ Unit _____	Cell _____
(Select the option that applies)	
<input type="checkbox"/> I apply to the Chief Executive of the Department of Corrections for a review of the determination made that I am a <input type="checkbox"/> Male / <input type="checkbox"/> Female (Select option that applies) prisoner for the purpose of my placement in a New Zealand prison.	
My nominated sex is, <input type="checkbox"/> Male / <input type="checkbox"/> Female (Select option that applies), and I believe I should be detained in a prison that manages prisoners of my nominated sex.	
Signature _____	Date ____ / ____ / ____
(prisoner)	

**Or**

(Prisoner's full name) _____	PRN _____
at (Prison) _____ Unit _____	Cell _____
<input type="checkbox"/> Has provided a birth certificate that (select the option that applies):	
<input type="checkbox"/> Records sex as Indeterminate	
<input type="checkbox"/> Records no sex	
and my preference is to be placed in a:	
<input type="checkbox"/> Male prison	<input type="checkbox"/> Female prison
<input type="checkbox"/> No preference	
Please briefly state why you have selected that preference	
_____	
_____	
_____	
_____	
_____	
Signature _____	Date ____ / ____ / ____
(prisoner)	

**Part B – Information to support an application for a review**

The following information is required, under Regulation 65C(3) of the Corrections Regulations 2005 as amended, to be taken into account by the Chief Executive of the Department of Corrections when considering your application. Please complete this information as fully as possible.

**Information about your nominated sex**

For how long have you lived as a person of your nominated sex? Do you intend to live permanently as a person of your nominated sex? <input type="checkbox"/> Yes <input type="checkbox"/> No If you answered "No" to the last question, please explain why.
Have you undergone, or are you undergoing, medical assessment and/or treatment to acquire the physical appearance of a person of your nominated sex? <input type="checkbox"/> Yes <input type="checkbox"/> No If you answered yes to the previous question, please ensure that the health professional providing the medical treatment is listed as one of the health professionals we can contact.

**Health professionals who can provide information to support your application**

What is the name of your current GP _____ Your GP's contact details: Street name and number _____ Suburb _____ Town / city _____ Name of practice _____ Practice phone number _____ Have you consulted any other health professional about your gender identity?: <input type="checkbox"/> Yes <input type="checkbox"/> No If you answered yes and you have consulted more than 1 health professional please give contact details for up to 2 health professionals you have consulted.
Name of health professional _____ Street name and number _____ Suburb _____ Town / city _____ Name of practice _____ Practice phone number _____
Name of health professional _____ Street name and number _____ Suburb _____ Town / city _____ Name of practice _____ Practice phone number _____

**Other people we can contact who can provide information to support your application**

Is there anyone who could verify how long you have lived as a person of your nominated sex? If so, and you are willing for us to contact that person or these people, please ensure their contact details are included here.

Please provide details for up to 2 other people that we can contact to support your application. These could be your partner, other family members or support persons.

Given name(s)	_____			Surname	_____
Relationship to you	_____				
Street name and number	_____				
Suburb	_____				
Town / city	_____				
Phone numbers	(Home)	(Work)	(Cell phone)		

Given name(s)	_____			Surname	_____
Relationship to you	_____				
Street name and number	_____				
Suburb	_____				
Town / city	_____				
Phone numbers	(Home)	(Work)	(Cell phone)		

**Additional information**

Is there anything you would like to add in support of this application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes please state what you would like to add		

**Part B – Authority to access prisoner medical and personal information**

**Authorisations and signatures**

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I declare that I have disclosed in this application all information that is relevant to a review of my placement and that all of the information I have given in this application is, to the best of my knowledge and belief, correct.

I give authority for the Chief Executive of the Department of Corrections to obtain any information relevant to this application that the Chief Executive of the Department of Corrections considers necessary to make an informed decision about the best placement option for me, from any or all health professionals or private persons listed in this application.

I am aware that collection of this information is authorised by the Corrections Regulations 2005, and that information provided by me or any persons I have named in this application will not be used for any purpose other than for the determination of my placement in a men's or women's prison.

The principles of the Privacy Act 1993 will apply to any information collected.

(Prisoner's full name) \_\_\_\_\_ PRN \_\_\_\_\_

Signature \_\_\_\_\_

Once you have fully completed this application and the supporting information, you can hand it to any staff member, who will sign to confirm they have received it and arrange for its delivery. Alternatively you can seal a copy of the application in an envelope addressed to the prison manager and then request delivery.

**Received by**

				(officer's name)
Designation	_____	Tag No.	_____	
Signature	_____	Date	____ / ____ / ____	Time _____
Copy received by the Prison Manager		Date	____ / ____ / ____	
Copy received by Prison Health Centre Manager		Date	____ / ____ / ____	



## Internal Memorandum

To: The Chief Custodial Officer /The Director Offender Health  
 (Delete not applicable) File Reference

cc:

From: Date:

Subject Application for a Chief Executive's review of placement decision for:  
 insert prisoners name) PRN: (insert PRN Number)

- 1 (insert name of prison) has received an application for a review of a placement decision by prisoner (insert prisoner's name) under regulation 65B(1) of the Corrections Regulations 2005 (The Regulations); and

The prisoner is not disqualified from making an application under regulation 65B(2) of the Regulations.

or

Prisoner (insert prisoner's name) has produced a birth certificate which does not record the prisoner's sex or records the prisoner's sex as indeterminate requiring a placement review under regulation 65(4) of the Regulations.

**(Delete non-applicable)**

### Part A: Prisoner Management considerations

Are there any concerns about the safety or wellbeing of the prisoner in the prison where the prisoner is currently located or in any prison to which the prisoner may be transferred? R65C(3)(g)	Y / N
(ensure that you consider all active alerts and incident reports for the previous 12 months)	
If yes, please state why	
Are there any concerns about the safety or wellbeing of other prisoners in the prison where the prisoner is currently located or in any prison to which the prisoner may be transferred? R65C(3)(h)	
Y / N	
(ensure that you consider all active alerts and incident reports for the previous 12 months)	
If yes please state why	

Are there any concerns about the security of the prison in which the prisoner is currently located or of any prison to which the prisoner may be transferred? R65C(3)(i)		Y / N
(Prisoners security classification? Review any incidents in the previous 12 months?)		
If yes please state why		
Will a determination that the prisoner is accommodated at a prison catering for either sex make it more likely that the prisoner will be segregated from other prisoners? R65C(3)(j)		Y / N
If yes please state which accommodation option and why		
Will any placement decision have an impact on either the prisoner's rehabilitation or the prisoner's access to programmes? R65C(3)(k)		Y / N
If yes please state why		
Have any other matters been raised by the prisoner concerning the prisoner's application which should be taken into account in determining placement? R65C(3)(l)		Y / N
If yes please state what		
Based on your analysis of the evidence, what is your recommendation as to the appropriate placement of this prisoner?		



### Part B: Health Centre Management considerations

What is the prisoner's nominated sex? R65C(3)(a)	M / F
For how long has the prisoner lived as a person of that nominated sex?	
Has the prisoner produced evidence confirming how long the prisoner has lived as a person of that nominated sex? R65C(3)(b)	Y / N
Has the prisoner provided any evidence as to whether they intend to live permanently as a member of the prisoner's nominated sex? R65C(3)(c)	Y / N
If No please advise why	
Have you obtained advice from any medical practitioner who has seen the prisoner? R65C(3)(e)	Y / N
Has the prisoner provided any evidence about whether the prisoner has undergone or is undergoing medical treatment to acquire the physical conformation of a person of the prisoner's nominated sex? R65C(3)(f)	Y / N
Has the prisoner provided evidence from any persons other than a medical practitioner in support of the prisoner's application? R65C(d)(iii)	Y / N
If yes please advise who has provided this evidence	
Have any other matters been raised by the prisoner concerning the prisoner's application which should be taken into account in determining placement? R65C(3)(l)	Y / N
If yes please state what	
Do you have any concerns about the safety and wellbeing of the prisoner or of other prisoners in any facility where the prisoner might be located? R65C(3)(g) & (h)	Y / N
If yes please advise why	
Based on your analysis of the evidence, what is your recommendation as to the appropriate placement of this prisoner?	

(Attachments)

Ensure all supporting documents are attached, in particular

- Medical practitioner reports
- Evidence on medical treatment the prisoner is undergoing
- All evidence provided by the prisoner or any other person in support of the prisoner's application
- Any IOMS reports.

**M.03.05.Form.04 Decision on determination of prisoner's placement**



(Prisoner's full name) \_\_\_\_\_ PRN \_\_\_\_\_  
 at (Prison) \_\_\_\_\_ Unit \_\_\_\_\_ Cell \_\_\_\_\_

(Select the option that applies)

Has applied for a review of the initial placement determination.  
 After considering all the available information, and the recommendations of the Chief Custodial Officer and the Director Offender Health  
 I, \_\_\_\_\_ (Insert name)  
 being \_\_\_\_\_ (Insert position)  
 (Select the option that applies)

Decline the prisoner's application to be placed according to their nominated sex, or  
 Approve the prisoner's application to be placed according to their nominated sex of:  
 (Select the option that applies)  Male  Female  
 and direct that the prisoner is to be immediately placed in a prison that accommodates prisoners of that sex.

Or

Has supplied a birth certificate that: (Select the option that applies)  
 does not record their sex  records their sex as Indeterminate  
 After considering all the available information,  
 I, \_\_\_\_\_ (Insert name)  
 being \_\_\_\_\_ (Insert position)

Confirm, that the prisoner's current placement is appropriate, or  
 Approve the prisoner's application to be placed in a prison that accommodates prisoners who are:  
 (Select the option that applies)  Male  Female  
 and direct that the prisoner is to be immediately placed in a prison that accommodates prisoners of that sex.

Or

Has requested a review of the decision dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ relating to placement where the prisoner provided a birth certificate that: (Select the option that applies)  
 does not record their sex  records their sex as Indeterminate  
 After considering all the available information,  
 I, \_\_\_\_\_ (Insert name)  
 being \_\_\_\_\_ (Insert position)

Confirm the decision and that the prisoner is to remain in their current placement, or  
 Approve the placement of the prisoner according to their nominated sex of:  
 (Select the option that applies)  Male  Female  
 and direct that the prisoner is to be immediately placed in a prison that accommodates prisoners of that sex.

Signature \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

The reasons, in summary, for this decision are:

**M.03.05.Form.05 Review of National Commissioner's placement decision**



Made under regulation 65(4)(a)

(Prisoner's full name) _____	PRN _____
at (Prison) _____	Unit _____ Cell _____
(Select the option that applies)	
<input type="checkbox"/> provided a provided a birth certificate that: (Select the option that applies)	
<input type="checkbox"/> Records my sex as Indeterminate	<input type="checkbox"/> Does not record my sex
<input type="checkbox"/> I apply to the Chief Executive of the Department of Corrections for a review of the determination made under regulation 65(4)(a) on (date) _____ / _____ / _____ that I be treated as:	
(Select the option that applies) <input type="checkbox"/> Male	<input type="checkbox"/> Female
for the purpose of my placement in a prison, as my nominated sex is:	
(Select the option that applies) <input type="checkbox"/> Male	<input type="checkbox"/> Female
and I believe I should be detained in a prison that manages prisoners of my nominated sex.	
The reasons I believe that the determination of my sex requires further consideration include:	
(set out reasons for further review)	

Signature \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 (prisoner)

**M.03.05.Form.06 Revocation of determination of prisoner's placement**



**Part A:**

On \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ prisoner:

(Prisoner's full name) \_\_\_\_\_

PRN \_\_\_\_\_

at (Prison) \_\_\_\_\_

Unit \_\_\_\_\_

Cell \_\_\_\_\_

was determined on application to the Chief Executive under Regulation 65B(1) to be recognised as:

(Select the option that applies)  Male  Female

for the purpose of their placement in prison.

I request that this determination be revoked as: (Select the option that applies)

- the prisoner has supplied a copy of the prisoner's birth certificate that records their sex as M/F and the prisoner requests to be recognised in accordance with the sex recorded on the birth certificate; or
- the prisoner has been charged with a serious sexual offence against a person of the same sex as the prisoner's nominated sex; or
- I believe that there are reasonable grounds to believe that, one or more of the factors on which the determination was based have changed to such an extent that the determination is no longer appropriate.

(if the request to revoke the prisoner's placement is on the basis of reasonable grounds, a copy of this form should be sent to the Chief Custodial Officer and the Director Offender Health, otherwise forward directly to the Chief Executive).

(Record which factors are no longer appropriate and reasons why)

Signature \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Position Prison Manager

**Part B: Decision of the Chief Executive of the Department of Corrections**

- I decline to revoke my determination of the prisoner's placement, or
- I revoke my determination of the prisoner's placement and order their return to the prison where they were accommodated prior to my determination.

(record reasons for decision)

Signature \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Position Chief Executive of the Department of Corrections