



22 April 2016

C76659

Ti Lamusse

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Dear Mr Lamusse

Thank you for your email dated 2 March 2016, requesting information about strip searches conducted in New Zealand prisons. Your request has been considered under the Official Information Act 1982 (OIA).

The Department's overarching vision is to create lasting change by breaking the cycle of re-offending. We place considerable emphasis on preventing contraband from entering prisons, apprehending those who attempt to smuggle it in, and stamping out opportunities for organised crime. These measures all contribute toward our bottom line of improving public safety, and our ultimate goal of reducing re-offending.

Contraband in prisons includes alcohol, communication devices, drugs, drug paraphernalia, tattoo equipment, weapons and other items. Items that are prohibited may include everyday and seemingly innocent items that while not illegal, may be used inappropriately by prisoners.

On 1 July 2011, all prisons became smokefree, and all tobacco and smoking equipment were considered contraband from this date. There are differences in contraband finds between prisons. Factors affecting this include prisoner numbers, the volumes of new arrivals and transits from courts, the profile of the prisoners and their visitors, and the design and layout of the prison and grounds. For example, some prison perimeter fences are close to public roads and prisoners' associates may attempt throw-overs. For these reasons, caution is urged when directly comparing data across prisons. Our intelligence staff are constantly working to identify and mitigate risk areas in the physical environment and to stay informed about new methods of concealment.

The Department currently employs a range of screening methods to prevent contraband, such as tobacco and related products, from entering prisons. These measures include:

- prison perimeter security and limiting the number of entry points to prisons
- camera surveillance in prison visit rooms, perimeter and entry points
- completing background checks on all potential prison visitors
- searches of any vehicle and its occupants entering prison property
- strip searches and reasonable cause strip searches of prisoners
- using scanners and x-ray machines at entry points
- banning visitors who attempt to bring contraband into prisons

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- banning visitors who attempt to bring contraband into prisons
- requiring prisoners to wear closed overalls when in visiting areas, to prevent the smuggling of contraband
- prisoner mail and property being subject to checks for contraband
- specialist detector dog teams patrolling prison perimeters, visitor areas, and cells
- identifying and analysing criminal activities in prisons through operational intelligence teams, and
- the Crimestoppers free telephone service (0800 555 111) that enables information about crime to be provided anonymously by offenders, staff, or members of the public.

The power to strip search prisoners is one of Corrections Officers' (officers) most coercive powers and impacts on a prisoner's right to privacy and dignity. However, in appropriate circumstances it is a necessary imposition on those rights to ensure the safety and security of prisoners and staff.

Officers have the power to conduct searches on prisoners, and of their cells, to detect unauthorised items. Under section 98 of the Corrections Act 2004 officers are authorised to carry out scanner searches, rub-down searches and strip searches of prisoners.

Strip searches are carried out when a prisoner is first admitted to a prison, immediately before the prisoner is transferred to another prison, when the prisoner is received in a prison on transfer from another prison, or leaves or returns to or from a prison for outside employment, court appearances, medical appointments, or any other reason in accordance with the Corrections Act 2004.

Searches of prisoners, their property, and the places where they work, sleep and congregate are an important part of our contraband prevention strategy. Searches are a means of finding contraband, and they are also vitally important as a deterrent, as our search policy is designed to deter prisoners and their associates from attempting to introduce contraband into prisons.

You have asked a number of questions about strip searches in prisons, and these are addressed below:

1. *How many strip searches are conducted within any given reporting period?*
6. *How often is contraband or other concealed material found as a result of a strip search?*

Data showing the total number of strip searches from June 2011 to June 2015 is provided as Appendix One.

This appendix also provides you with a breakdown of contraband finds as a result of strip searches, broken down by month. As you will note, the majority of strip searches do not result in contraband finds.

I can advise that approximately 15 percent of the conducted searches were completed in accordance with section 98(3) of the Corrections Act 2004 and categorised as *reasonable cause*.

2. *How often are strip searches conducted on any given prisoner?*
3. *What criteria exists allowing strip searches to be conducted on prisoners, other than when they enter and leave the prison?*

Strip searches are carried out when a prisoner is first admitted to a prison, immediately before the prisoner is transferred to another prison, when the prisoner is received in a prison on transfer from another prison, or leaves or returns to or from a prison for outside employment, court appearances, medical appointments, or any other reason in accordance with the Corrections Act 2004.

Additional searches may be conducted if staff strongly believe a prisoner may be concealing, or trying to introduce contraband. In determining whether it is necessary in the circumstances to undertake a strip search of a prisoner, they must also consider alternatives to strip searching. If a scanner search or a rubdown may be sufficient to detect an unauthorised item, staff should undertake it as the least intrusive search method.

It is worth noting the Department manages approximately 20,000 prisoner movements annually, inclusive of remand prisoners. The high number of prisoner movements necessitates vigilance by Corrections staff for all aspects of prisoner management, including the prevention of contraband introduction. You will understand that due to the high number of prisoner movements, this requires a large number of searches be conducted to prevent any potential introduction of contraband.

Strip searching is a task that staff do not undertake lightly. Staff are extremely careful to ensure they follow the correct legislation and procedures and to conduct the search with decency and sensitivity, maintaining the prisoner's dignity and privacy.

The strip searching of prisoners is governed by the Corrections Act 2004. Please find an extract from the relevant legislation below.

An officer may conduct a strip search of a prisoner—

(a) if the officer—

(i) has reasonable grounds for believing that the prisoner has in his or her possession an unauthorised item; and

(ii) has obtained the manager's approval to the conduct of a strip search; or

(b) in the situations referred to in subsection (6).

You can find further information in relation to the Corrections Act via this link: <http://www.legislation.govt.nz/act/public/2004/0050/latest/DLM296038.html>

4. *Are there different rules and regulations for undertaking a strip search of men or women?*

Practice guidance that we provide to our staff does differ to take into account the physical differences between men and women. However, as mentioned above, the strip searching of prisoners is legislated in the Corrections Act 2004.

5. *Can someone refuse strip search?*

If a prisoner refuses to comply with the instruction to undertake a strip search the officers attempt to de-escalate at every opportunity. In the event that a prisoner refuses to submit to a search, the prisoner may be charged with an offence against discipline, and the search carried out, using reasonable force if necessary in accordance with the Corrections Act 2004.

7. *Who conducts strip searches? I.e. do male officers search male prisoners and women officer's women prisoners?*
8. *Do male or female officers conducts strip searches on transgender prisoners?*

As above, the strip searching of prisoners is governed by legislation. Please find an extract from the Corrections Act 2004 Section 94 below.

94(1) A rub-down search or strip search may be carried out only by a person of the same sex as the person to be searched, and no strip search may be carried out in view of any person who is not of the same sex as the person to be searched.

The Department is very aware and sympathetic to the particular needs of transgender prisoners including the issues surrounding their placement and safety. Corrections is undertaking a comprehensive programme of work to help support transgender prisoners. This will cover accessibility to support services, appropriate healthcare, appropriate rehabilitation and safety plans for vulnerable prisoners.

Also, an amendment to the Corrections Regulations 2005 came into effect on 10 February 2014, putting in place new requirements for determining whether transgender and intersex prisoners should be accommodated in either a male or female prison. Amendments to regulation 190 of the Corrections Act 2005 have the following two elements:

- Where a prisoner's birth certificate has been amended to record a sex different from that recorded at birth (this requires a Family Court order), the prisoner is entitled to be placed in accordance with the revised certificate.
- Secondly, 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.

In considering such applications, the Chief Executive will consider a range of factors relating to the prisoner's commitment to living as a member of their nominated gender, and the safety of that prisoner and other prisoners.

Prisoners 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 can find additional publicly available information at the link below:

<http://www.corrections.govt.nz/resources/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html>

I trust the information provided is of assistance. Should you have any concerns with this response, I would encourage you to raise these with the Department. 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 black ink, appearing to be 'Jeremy Lightfoot', written over a circular scribble.

Jeremy Lightfoot
National Commissioner

Appendix One – Strip Searches from June 2011 to June 2015.

Strip Searches that have resulted in Contraband finds from June 2011 to June 2015		
Month	Total Number of Strip Searches	Number of Contraband Finds during Strip Search
June 2011	14,298	35
July 2011	13,531	23
August 2011	13,818	44
September 2011	13,821	43
October 2011	13,358	28
November 2011	14,833	25
December 2011	12,676	20
January 2012	13,127	18
February 2012	14,358	16
March 2012	15,726	20
April 2012	11,770	26
May 2012	12,731	38
June 2012	12,100	22
July 2012	11,956	29
August 2012	13,157	26
September 2012	12,441	43
October 2012	12,216	24
November 2012	13,000	25
December 2012	11,146	37
January 2013	11,106	28
February 2013	10,698	25
March 2013	12,700	36
April 2013	11,048	20
May 2013	12,865	28
June 2013	10,596	18
July 2013	11,854	30
August 2013	11,270	38
September 2013	11,424	38
October 2013	11,113	34
November 2013	11,562	48
December 2013	10,479	33

Strip Searches that have resulted in Contraband finds from June 2011 to June 2015		
Month	Total Number of Strip Searches	Number of Contraband Finds during Strip Search
January 2014	10,086	31
February 2014	10,128	30
March 2014	11,971	43
April 2014	10,146	32
May 2014	10,677	54
June 2014	10,056	41
July 2014	10,831	57
August 2014	11,471	50
September 2014	10,634	24
October 2014	10,668	32
November 2014	10,078	43
December 2014	9,026	37
January 2015	9,116	60
February 2015	8,399	39
March 2015	9,060	35
April 2015	8,236	27
May 2015	9,439	28
June 2015	8,208	40