



04 November 2016

C80401

B E Goodsir
fyi-request-4635-08e20101@requests.fyi.org.nz

Dear B E Goodsir

Thank you for your email of 21 September 2016, requesting information about allegations made by prisoners against prison staff of serious or sexual assault in the last five years. Your request has been considered under the Official Information Act 1982 (OIA).

The Department demands a high standard of conduct from all employees, and staff are expected to role model positive law-abiding behavior. A significant emphasis is placed on these aspects throughout the recruitment and selection processes.

A number of measures have been implemented to strengthen integrity and ensure that it is embedded in the culture of our workplace. This series of initiatives includes:

- Increased pre-employment checks, including integrity questions and conflict of interest questionnaires.
- Credit checking for staff who will have significant financial responsibility in their roles.
- Establishment of an Integrity Committee and the inclusion of an integrity focus into all Department risk management frameworks.
- Revision of the employee Code of Conduct.
- Resources for management teams to consider integrity examples and issues on a regular basis.
- Launching the 0800 Integrity Line for staff to get confidential advice, support or report concerns of wrongdoing.
- Drug testing for staff

The overwhelming majority of our staff fulfil their duties with integrity and commitment, in what is often a pressured and challenging environment. Any large organisation may encounter a few staff who cannot maintain the high standards set by the majority, and when staff do not meet the standards required of them we take the appropriate action regarding the employee involved.

You have requested the following information:

- 1) *The number of complaints over the past 5 years, made by prisoners incarcerated in New Zealand, of Serious Assault or Sexual Assault by Prison Staff.*
 - a) *Please provide a breakdown of this information by prison and gender of prisoner.*
 - b) *Please provide the number of these complaints which were investigated by the Department of Corrections or any other body or company responsible for the employment of Prison staff*
 - c) *Please provide the number of these complaints which were upheld.*
 - d) *Please provide the results of the investigations.*

I can advise that any allegations involving a member of prison staff must be reported by the prison through the IR.07 notification of staff related incident process.

IR.07 notifications, which include but are not limited to allegations of an assault on a prisoner, are distinct from the Department's standard prisoner complaint process. Notifications are provided to the Inspector of Corrections, who is then responsible for monitoring the conduct and outcome of any subsequent Department investigation, if applicable. In accordance with Prison Operations Manual (POM) policy, these notifications are not recorded in the Integrated Offender Management System (IOMS).

Details of IR.07 notifications that include an allegation of serious or sexual assault by a staff member against a prisoner are not centrally held on our electronic records, and the Department would be required to initiate a project to extract data from all notifications made during the last five years in order to provide the information in this part of your request.

This part of your request is therefore declined under section 18(g) of the OIA, as the information requested does not currently exist in a form that can be readily supplied to you and would instead require initiation of a project to extract, analyse and present the data in the form requested.

Information about the outcome of Departmental investigations resulting from IR.07 notifications may also be contained within individual employee records. In order to identify this type of specific information, we would be required to manually review a large number of files. The Department is also statutorily obligated to protect all private information that we hold. Your requests for 'the number of these complaints which were upheld' and 'the results of the investigations' are therefore additionally declined under the following sections of the OIA:

- 9(2)(a), to protect the privacy of natural persons, including that of deceased natural persons;
- 18(f) of the OIA, as the information requested cannot be made available without substantial collation or research

In accordance with the OIA, we have considered whether to affix a charge or extend the time limit for responding. However, given the scale of the request we do not consider that this would be an appropriate use of our publicly funded resources.

Please also note that information about any alleged assaults in prisons that resulted in a charge of a criminal offence, prosecution, and/or conviction would be held by the NZ Police or the Ministry of Justice.

- 2) *Please provide the number of prison staff, currently employed in New Zealand, against whom a complaint of serious or sexual assault has been made.*

The information in this part of your request cannot be readily extracted from our electronic records. This part of your request relates to information contained within individual employee records, and may relate to ongoing investigations. This part of your request is therefore declined in accordance with the following sections of the OIA:

- 6(c), as the release of this information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial;
 - 9(2)(a), to protect the privacy of natural persons, including that of deceased natural persons;
 - 18(f), as the information cannot be made available without substantial collation or research.
- 3) *Any policies relating to how a complaint by a prisoner against prison staff can be laid, including copies of any forms required to be filled out.*
 - 4) *Any policies or procedures implemented by the Department of Corrections or any other body or company responsible for the employment of Prison staff for investigating these complaints.*
 - 5) *Any policies or procedures to be implemented in the event of a complaint, to ensure the safety of an incarcerated complainant.*

Please find enclosed POM 'IR.07 staff related incident reporting and investigation' policy; and the 'IR.07 notification of staff related incident' form. Note that some information has been withheld from the enclosed documents under section 6(c) of the OIA, as the making available of that information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial. Other information has been withheld as it is considered to be outside the scope of your request.

For your reference, information about the standard PC.01 prisoner complaints process is also available on the Department's website, at the following link:

http://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Prisoner-complaints.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



Vincent Arbuckle
Deputy Chief Executive
Corporate Services



Creating Lasting Change

IR.07 STAFF RELATED INCIDENT REPORTING AND INVESTIGATION

On this page

- Staff related incident reporting and investigation criteria
- IR.07.01 Initial notification response to staff-related incidents
- IR.07.02 Initial investigation
- IR.07.03 Departmental investigation
- IR.07.04 Investigation (including interviews / report)

OUT OF SCOPE



The purpose of these procedures is to ensure that all allegations are addressed, in a timely and professional manner, and to reduce the stress of both staff and prisoner(s) involved pending the outcome of any investigation undertaken to investigate allegations against staff.

STAFF RELATED INCIDENT REPORTING AND INVESTIGATION CRITERIA

1. These procedures apply in the event of any allegation of:
 - a. assault by staff on prisoner
 - b. assault by staff on other person
 - c. criminal offence by staff (other than assault) while on duty
 - d. misconduct by staff while on duty, or
 - e. accident to a staff member while on duty.

IR.07.01 INITIAL NOTIFICATION RESPONSE TO STAFF-RELATED INCIDENTS

1. On all occasions where staff become aware (e.g. receive information from any source) of an allegation, or incident involving a member of staff, they must immediately notify their manager or on-call manager.
2. The manager must immediately advise:
 - a. health staff (if the allegation relates to an assault on a prisoner) for the purpose of examining the prisoner as soon as possible after the making of an allegation, should this not already have occurred.
 - b. incident line **S6(c)**
 - c. the prison director. If the allegation relates to either a criminal offence by staff (other than assault) while on duty or misconduct by staff while on duty the prison director must advise their regional commissioner.
3. Staff must not use the Integrated Offender Management System (IOMS) prisoner incident reporting system for staff-related incidents.

IR.07.02 INITIAL INVESTIGATION

1. The prisoner is to be interviewed, as soon as possible following the allegation, by a senior manager (residential manager or above):
 - a. the details of the allegation are to be recorded.
 - b. the prisoner must be given the opportunity to make a complaint to the Police. If the prisoner elects to make a complaint to the Police, the manager must:
 - i. facilitate this process by contacting the Police
 - ii. ensure that the prisoner is contained in such a manner that ensures no duress or pressure can be said to have been placed upon him / her to modify or withdraw the complaint until any Police investigation is completed
 - iii. suspend the internal investigation pending notification from the Police that their investigation has been concluded.
2. Following, or as part of the interview, the manager must complete the IR.07.Form.01 Notification of staff related incident. Staff involved should be identified only by their official designation - CO, SCO, PCO etc. no names should be used in the reports at this stage. A copy must be emailed to S6(c)
3. S6(c) will notify all relevant person(s), including the inspector of corrections who is responsible for monitoring the conduct and outcome of any subsequent Corrections Services investigations undertaken in terms of the Protocol between National Commissioner Corrections Services and the senior inspector (SI).

IR.07.03 DEPARTMENTAL INVESTIGATION

1. If the prisoner elects not to complain to the Police, or the Police have advised the outcome of their investigation, the Chief Executive, National Commissioner Corrections Services, Senior Inspector or the regional commissioner may direct that an internal investigation is to be undertaken. The investigating staff member may be:
 - a. a staff member of the institution, or
 - b. if appropriate another institution that is sufficiently removed from the personnel involved to be considered impartial.
2. The regional commissioner will decide on the scope of any investigation based on the circumstances of the allegation. This should include drawing up formal terms of references and include specific details on the:
 - a. matter(s) to be investigated
 - b. methodology
 - c. information to be considered.

IR.07.04 INVESTIGATION (INCLUDING INTERVIEWS / REPORT)

1. The investigating staff member must complete their investigation and have reported their findings within one month of the allegation being made, or when notified the outcome of any Police investigation.
2. Before initiating the investigation, the staff member who is the subject of an allegation is to be advised that no record / details of the allegation will go on their personnel record as a result of the investigation. However, details of the allegation may be recorded as a result of any subsequent employment investigation.
3. The investigating staff member must interview the following person(s) unless there are exceptional circumstances:
 - a. the complainant (the prisoner)
 - b. prison staff
 - c. any person named by any of the parties as witnesses.

4. All interviews must be documented.
5. All available videotapes of the incident should be preserved and considered, and copies retained as part of the investigation records if relevant.
6. The investigating staff member must provide the monitoring inspector information relating to the progress of the investigation as and when requested pursuant to terms of the protocol between National Commissioner Corrections Services and the senior inspector.
7. The monitoring inspector must be provided a draft of the investigation report, and the investigating staff member and the monitoring inspector must agree on the final report. The report must include:
 - a. all the information / evidence collected as part of the investigation
 - b. options for management to improve or review procedures
 - c. recommendation on whether an Employment Investigation is required.
8. A copy of the final report is to be forwarded to the National Commissioner Corrections Services, in order that the statistical record of the allegation may be completed (e.g. identified as "allegation sustained" or "allegation not sustained").
9. The monitoring inspector will report to the Chief Executive on:
 - a. the reporting and notification process
 - b. the general management of the prisoner following the allegations
 - c. where appropriate, the internal investigation process.
10. Where the complaint is on-going, the manager should ensure that at monthly intervals the prisoner is notified in writing, and if practicable, orally, on the progress of the complaint.

OUT OF SCOPE



OUT OF SCOPE



IR.07.Form.01 Notification of staff related incident

(To be used for incidents relating to Staff)

INCIDENT LOCATION (if prison also show unit):

DATE/TIME OF INCIDENT:

INCIDENT CATEGORY : (list if more than one)

PRISONER DETAILS

SURNAME NAME:

SENTENCE:

FIRST NAMES:

ETHNICITY:

D.O.B:

PRN:

GANG:

GENDER:

OFFENCES:

SCD:

PED:

FRD/SRD :

SECURITY RATING (circle):

Maximum / High / Low Medium / Low /
Minimum / Remand / Unclassified

BRIEF SUMMARY OF INCIDENT (attach available reports)

ADDITIONAL INFORMATION (please tick)

Police involvement

VNR checked/actioned

Other (state):

NAME PERSON REPORTING INCIDENT:

POSITION:

SIGNATURE:

DATE/TIME: