

15 December 2021

C144233

S 9(2)(a)

Tēnā koe S 9(2)(a)

Thank you for talking with me on 19 November 2021, and the discussion relating to your Official Information Act 1982 (OIA) request made to the Department of Corrections requesting regarding housing for people released from prison in the Rotorua area. Following this discussion, I agreed to provide further information about the overall framework and processes Corrections have in place for releasing a person from prison.

Following consultation within Corrections, I have put together a detailed narrative of the framework and processes Corrections have when releasing people from prisons. I hope this more helpfully addresses your request.

When people are to be released from prison, Corrections ensures they receive all of their entitlements, property, and information and ensures that all persons of interest have been advised of the upcoming scheduled release. This is only after rigorous checks have been completed confirming the person we manage is to be released. This process is quite detailed and is explained below.

### **Preparing for Release**

There are four types of standard releases from prisons:

- Released on their statutory released date (SRD).
- Parole.
- Compassionate grounds.
- Christmas early release.

Generally, two months prior or when notified a person we manage is nearing upcoming release, such as a release on parole or sentence less than two months, the Case Manager will review the person's file to check their identity and that their release date is accurate.

There is a form called the R.07.Form.01 Release Planning Checklist, which you will find attached, and contains the names of the persons and/or organisations that are to be notified of the person's upcoming release. This is filled in by the Case Manager. The Controlling Officer at the Community Probation Service Centre (closest to where the person being released will reside) must be advised at least one week beforehand, of the person in prison's date of release, and the details and duration of release conditions. Police must be advised on the release of all people

from prison. People who are registered on victim notification register (VNR) are notified. The Case Officer ensures that requirements regarding enrolment on release to the Electoral Commission are complete on this form too. If the person in prison would like to be enrolled to vote, the Case Officer ensures this is done one month out from the release date.

The Case Manager and Case Officer will then complete section A of the R.07.Form.02 Address, Travel on Release (attached), and will then provide section B for the person we manage to complete.

Unit Principal Corrections Officers (PCO), trust account clerks, offender employment staff, VNR coordinators and property staff must all access the Discharge Diary at least once a week to identify all people with an upcoming release date within the next four-week period.

Resources for release are provided to the person on release, if applicable. They are:

- Keep safe pamphlet
- Electoral pack (for people sentenced to 3 years or more who do not want corrections assistance to enroll on release)
- You are now smoke free pamphlet
- Steps to Freedom (No. 1) (if the person is in custody for 31 days or more)
- Steps to Freedom (No. 2) (if the person has been sentenced and served less than 31 days)
- Child Sex Offender (CSO) Register Information Booklet (to be provided to all Registered CSOs at every release).

You will find a copy of some of these resources attached.

One month out from release, the unit PCO will check to see whether the scheduled release falls on any of the non-release days. If the scheduled release date happens to fall on a non-release day then the actual release date will be the nearest preceding Wednesday, Tuesday or Monday. However, a person must be released from prison on their SRD if they fit any of the following criteria:

- Are serving a sentence of fourteen days or less, or
- Imprisoned for non-payment of fines and the fine(s) for which the warrant of commitment was issued have been paid, or
- The prisoner is not physically in the prison.

If a person is being released by the New Zealand Parole Board (the Board), they must be released on the date specified by the Board. This date will normally be a release day, however under exceptional circumstances, the Board may set the release date on a Thursday or Friday. People must be released from prison between 7:00am to 8:00pm, except under arrangement between the Prison Director and Police, a Court Registrar, security contractors, or in exceptional circumstances.

A release licence must be prepared for all people who are serving a determinate sentence of imprisonment, or a sentence of imprisonment for life or preventive detention, except prisoners released from a short-term sentence, and if on release

the person is not subject to any release conditions. The unit PCO must identify and prepare the appropriate release licence which is dependent on the person's type and length of sentence and any conditions imposed.

There is a long process for checking conditions of release, to ensure all information is correct.

The unit PCO must check:

- People subject to a long-term determinate sentence to be released on parole must have standard release conditions.
- Prisoners subject to an indeterminate sentence, the Board must impose the standard release conditions on the offender for the rest of the offender's life.
- The duration of any imposed special conditions must not exceed the duration of the standard conditions imposed.
- For any sentences of 24 months or less, where the Court has imposed standard and / or special conditions the period cannot exceed the sentence expiry date by more than six months.
- For sentences of more than 24 months both the standard and special parole conditions imposed can exceed the sentence expiry date by six months.
- For any sentence over twelve months and up to 24 months where the Court does not impose conditions, the prisoner is subject to standard release conditions up to the sentence expiry date. If the release conditions include a condition that the prisoner is not to possess or use an electronic communication device or a device capable of accessing the internet, the PCO must check the prisoner's property to determine whether there are any devices that if handed to a prisoner on release, would be in breach of the condition.

If the person has an electronic device in their property they must be advised in advance (using the P.10.01 Removal of prisoner property procedures) to arrange for the device to be removed from the prison as failure to do so could result in a breach of their release conditions.

People who are released early (e.g. Christmas early release) are subject to the conditions up to their SRD, and the person continues to be subject to these conditions for the period specified by the Board beginning from the SRD. Staff will need to manually modify the Corrections Integrated Offender Management System (IOMS) so the start date of the conditions coincides with the SRD.

Prisoners who are paroled but are detained in a hospital or in a secure facility under a compulsory care order, the conditions of release will not take effect until the prisoner has been discharged from that facility.

Once the unit PCO has completed the release licence, (and after confirming the release date and code is correct) they must print three copies of the release warrant and, if applicable, attach copies of:

- The warrants
- Summary of facts, and
- Judge's sentencing notes, and
- Update IOMS and forward completed file to the Receiving Office.

One week prior to the release, on receipt of the file from the unit PCO the Receiving Office staff must:

- Prepare three copies of the advice to Service Manager CP Notification of Release On Licence (R.07.Form.08 Notification on release on licence).
- Prepare 3 copies of the R.07.Form.10 Receipt for release licence.
- For all Registered CSOs prepare the R.08.Form.01 Notice of Reporting Obligations (NORO) via the Release Details screen on IOMS.
- Check the file for the completed Electoral Commission registration forms to be sent to the Electoral Commission on the day of release.
- If Electoral forms are not on file, the receiving officer will check with the unit and ensure follow up is noted for completion on the day of release.

All these documents are then attached to the person's file and forwarded to the Prison Director.

From here, the Prison Director needs to approve the release. The Prison Director on receipt of the file from the Receiving Office must:

- Confirm the person's identity
- Check release date and code is correct on IOMS
- Approve release on IOMS
- Sign the front cover of the person's file
- Sign all copies of the release licence (R.07.Form.03 Release licence for person subject to short-term sentence released from prison on court-imposed conditions, R.07.Form.04 Release licence for person subject to long-term sentence released on parole from prison, R.07.Form.05 Release licence for offender released on compassionate release, R.07.Form.06 Release licence for a person subject to long-term sentence released from prison at SRD) and Notification of release on licence (R.07.Form.08 Notification of release on licence).

The file will then be returned to the Receiving Office.

On receipt of the file from the Prison Director, Receiving Office staff must:

- Scan and email a copy of the release licence (with attachments) and the copy of the Notification of release on licence to the Community Corrections.
- Arrange the travel and confirm bookings.
- Obtain the person's trust and earnings monies and steps to freedom from the trust account clerk.
- Check if there is any required follow up regarding enrolment to vote on release of people who have been sentenced to 3 years or more.
- All property checked.

## Preparing for Parole

When preparing people we manage for release into the community onto a community-based sentence or order, Case Management considers the following:

- What is the person's static risk and offending type?
- Where does the person intend to reside and who with?
- What were the person's conduct related issues during imprisonment?
- What type of pre-release contact with community probation would encourage the person's compliance?
- What are the community-based risk scenarios in the most recent dynamic risk assessment and how might you share that information with community probation prior to release?
- If the person is known to community probation, what are the notable changes in the person since last under the supervision of community probation?
- What are the person's special conditions (including residential restrictions (RR)) and how could early contact with community probation help to plan for these conditions?
- Who else should be involved in supporting community probation contact before release?
- What risks to children exist in the proposed home address in the person's plan?
- Who is best placed to act as a key support for the person on release?
- What worked well the last time this person was released and how could you build on this to create long-term success?
- What are the person's cultural needs and how could they be addressed during release preparation?
- Has the individual served in the Armed Forces and eligible for service support?

## The New Zealand Parole Board

The Board make the final decision for a person being released on parole, on conditions, Extended Supervision Orders, Public Protection Orders, Compassionate Releases, monitoring hearings, recalls, as well as varying and discharging conditions.

Nearly all the time a person's special conditions contain:

*"To reside at [specified address/or an address], or any other address approved in writing by a probation officer, and not move from that address unless you have the prior written approval of a probation officer"*

This condition gives Corrections the responsibility to approve or deny addresses. If any issues arise then the person can apply to the Board via their Probation Officer or lawyer to have their conditions varied and either a discussion will be held in a variation hearing between the Board, Corrections and the person being managed by Corrections, or the Board meeting will occur on the papers. A papers hearing is a non-offender facing hearing where the person has given their consent to not represent themselves or have someone represent them for a hearing. The Board will

discuss their decision and then the person will be given the decision via their Probation Officer or lawyer.

If the person does not have the part of the special condition in their parole decision, “or any other address approved in writing by a Probation Officer”, then every time they need to change address, they will have to apply to have this condition varied by the Board, after the right checks have been carried out by Corrections. It is important to note that the Board do not make enquiries or have policies around the addresses people are released to, they go off the guidance of Corrections. On rare occasions if there is a proposed address but it has not been canvased by Corrections yet, the Board will direct release to that address and then have Corrections canvas the address, if any problems arise then Corrections will apply to the Board to have the persons parole revoked.

Compassionate release is a rigorous process. The application must first be referred to the Chairperson of the Board from the Prison Director. From here, the Chairperson will conclude if it is appropriate or not that he refers the person to a Board for compassionate release under section 41(1) of the Parole Act 2002. The information provided should contain professional opinions and information from medical professionals. Along with deteriorating health, limited mobility and short life expectancy, the person must be assessed as low risk of reoffending. A person can be considered regardless of their sentence type or parole eligibility date.

### **Assessing the Suitability of an Address**

There is a process of assessing the suitability of an address. Details of the address should be confirmed with the following points:

- residential address
- details of surrounding community such as schools, amenities, access to programmes
- the owner of the property
- other occupants living there - including names and details of occupants.

If the address is in another area, the transfer process must be followed.

Independent enquiries are made to confirm the accommodation. If the person managed by Corrections is a CSO, a home visit must be carried out for all CSO who have requested accommodation or need to change address. I have attached a flow chart used to assist Probation Officers to assess whether an address is suitable for a CSO. A home visit may be carried out at the Probation Officer’s discretion to assess the suitability of the address for other people if it is considered this would assist the assessment.

More detailed enquiries are made if the person's offence type is sex offending, domestic violence or involves other victim related offending. The more detailed enquiries made are generally about:

- the location
- other occupants living at the property
- people regularly visiting the property

- proximity to the victim, whether or not they are subject to the VNR.

If the person is subject to the victim notification register, consider proximity to the victim and check with the area VNR coordinator.

If there are issues with the proposed address, a discussion is held between the Probation Officer and person managed by Corrections and a written instruction for that person to not move into the proposed address is issued to them and a record of the decision is made in the case notes in IOMS.

### **Assessing the Suitability of an Address for Electronic Monitoring**

When determining if an address or environment is suitable for Electronic Monitoring (EM), the following steps are considered by Probation Officers:

- Consent of person being sentenced
  - A Probation Officer or other corrections staff member must gain the consent of the person being considered for sentences of Community Detention (CD), Home Detention (HD) and Parole with RR that will be monitored by electronic monitoring.
- Occupant consent
  - Relevant occupants must consent to have a person subject to electronically monitored home detention, community detention or residential restrictions reside at their address. As part of this process, consent to undertake background checks should also be provided.
- Criminal history check of occupants
  - When canvassing electronically monitored sentences Community Corrections carry out criminal history checks on anyone age 16 years and over who will reside at the proposed address or residence. In addition to informing the assessment of suitability of the address, the checks assist in highlighting any safety or welfare concerns.
- Assessing the address suitability – the questions asked are:
  - What is the address and description of the residence and property, such as house, apartment, caravan, sleep out, fenced outdoor area.
  - Does the person being considered for EM have their own bedroom?
  - Does the property have running water, electricity and adequate heating?
  - Are there any significant health or safety problems identified? With HD/RR, is the residence of the type where a person could reasonably live for a period of time without leaving? (If it is not, such as a caravan, the residence may be deemed unsuitable.)
  - Is the proposed accommodation rented or leased? If so, ascertain the length of the rental period/lease. Request that the occupants confirm that there is nothing in their lease/rental agreement that may preclude the person from being at the address while subject to HD/RR.
  - What is the location of the residence in relation to support services, major shopping centre's, and public transport? (This is especially relevant if considering home detention for a person who intends to

- reside by themselves as they may require absences to complete grocery shopping).
- Is there any other information relevant to the residence that may present a risk in terms of the successful completion of HD/RR? (such as schools, hotels, proximity to victim). Are there any access issues?
  - Are there any issues regarding the occupants of the address that would compromise HD/RR?
  - Does the address have unrestricted access 24/7?
  - Health and safety considerations
    - The assessment of health and safety is for Field officers and the property is assessed as whether there are dogs and if they are aggressive; gang affiliations of the occupants of the person under Corrections' management or if there are any obstructions or structures which could cause injury.
  - Medical considerations
    - Trackers are designed to be fitted on the smallest part of the ankle. If the person has a medical condition that impacts on their ability to wear a tracker (diabetes, swelling of ankles, sores on ankles, Elephantiasis) this should be mentioned in the PAC. Medical certificates should be supplied in the case that the person is not able to wear the tracker on the ankle as proof that they are unsuitable for electronic monitoring.
    - Trackers should only be installed on ankles. Wrists are not appropriate due to the increased flexibility of the wrist and increased movement which can lead to undetected removal or regular alerts.

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.

I trust the information provided is of assistance.

Ngā mihi



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People and Capability