

1.36 INTERACTIONS WITH TRANSGENDER INDIVIDUALS



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BACKGROUND

The purpose of this policy and procedure statement is to establish guidelines for the appropriate treatment of transgender individuals who come into contact with and/or require the services of, the Department. As police interactions with transgender individuals become more common, it is important that our personnel know, understand and utilize the appropriate nomenclature, preferable manners of address, and be aware of laws as to public accommodations and other poignant issues attendant to this population.

While the act of treating all our citizens with the respect and dignity continues to be fundamental tenets of this department and our officers, the following considerations are simply a codification of existing procedures and practices.

POLICY

It is the policy of the Department to interact with the transgender community in a manner that is professional, respectful, and courteous. Additionally, it is the Department's policy to handle transgender arrestees in a manner that ensures they are processed and housed safely and efficiently to the greatest extent possible. Personnel of this department will not engage in activity that will serve to embarrass, humiliate or otherwise shame transgender individuals.

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PROCEDURES

I. DEFINITIONS

- A. Gender:** Describes the characteristics that a society or culture delineates as masculine or feminine.
- B. Sex:** Refers to biological differences; chromosomes, hormonal profiles, internal and external sex organs, and individual's biology or anatomical identity as male or female.
- C. Gender Identity:** A person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned gender at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, as part of a person's core identity; provided however, gender-related identity shall not be asserted for any improper purpose. *(The gender that the individual feels is his or her true gender notwithstanding birth sex.)*
- D. Gender Expression:** External and outward characteristics and behaviors that are socially viewed as masculine or feminine. Gender expression is the external manifestation of one's gender identity. *(The gender that the individual presents to others as.)*
- E. Transgender Individual:** A person whose gender identity differs from his/her birth-assigned sex.
- **Female-to-Male ("FTM")** – A person who transitions from "female-to-male," meaning a person who was assigned female at birth, but identifies and lives as a male. A "female-to-male" individual should be addressed using masculine pronouns (i.e. he, him, his), regardless of surgical status.
 - **Male-to-Female ("MTF")** – A person who transitions from "male-to-female," meaning a person who was assigned male at birth, but identifies and lives as a female. A "male-to-female" individual should be addressed using feminine pronouns (i.e. she, her, hers), regardless of surgical status.

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- F. Adopted Name:** This is a non-birth name that a transgender individual uses in self-reference. This may or may not be the individual's legal name, and may or may not be the same name that the transgender individual's personal documents (i.e. driver's license, passport, etc.) reflect. Be aware that the use of an adopted name does not automatically equate to an attempt to hide one's legal identity or that the individual is misrepresenting his or herself.

II. FORMS OF ADDRESS

- A. As always, during verbal discourse with citizens, Officers shall remain professional and speak with the level of decorum that is appropriate for the given situation.
- B. Officers shall address transgender individuals by the individual's adopted name. This is true even if the individual has not received legal recognition of the adopted name.
- C. In addressing or discussing a transgender person, officers will use pronouns appropriate for that person's gender identity (e.g., she, her, her's for a person who is male-to-female; he, him, his for a person who is female-to-male). If officers are uncertain about which pronouns are appropriate, then officers will respectfully ask the individual as to what is their preferred pronoun.

III. CALLS FOR SERVICE

Calls for service or complaints generated by transgender individuals shall be addressed and investigated in a manner that is consistent with all Department policies. No officer shall fail to respond to a call for service based on the gender identity or expression of the caller.

IV. FIELD SEARCHES

- A. For the purposes of Stops and Frisks, Exigency Searches, Consent Searches, Personal Searches Pursuant to a Warrant and all other lawful searches of a person, officers shall continue to use standard practices and procedures when conducting these searches.
- B. In effecting the search of a transgender individual, the search, ideally and where possible, should be conducted by an officer of the sex who the transgender individual expresses; if the transgender individual presents feminine expression, the search shall be conducted by a female officer. If the individual presents masculine expression, the search shall be conducted by a male officer. If searching officers are uncertain as to the subject's gender expression, then officers will respectfully and in a professional manner

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ask the individual as to what their preference is with respect to the sex of the searching officer. [1.2.8 (b)]

- C. At least two officers should be present for these searches when possible.
- D. It is understood that the dynamic, fluid and emergent nature of some situations are such that immediate searches are necessary to preserve officer and public safety and to prevent the destruction of evidence. Accordingly, searches may be undertaken by any sex officer where made necessary by these emergent conditions.
- E. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender, and transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.

V. HANDLING DETAINEES

Also see the following Policy and Procedures: Transportation of Detainees; Booking Procedures and Holding Facility - 3.02; Detainee Processing - 3.03; and Detaining Prisoners - 3.04

A. TRANSPORTATION

1. Whenever possible, a transgender detainee shall be transported alone.
2. If it is necessary to transport multiple detainees, the transgender individual may be transported with other detainees according to the gender expression; a transgender individual with feminine gender expression may be transported with women and a transgender individual with masculine gender expression may be transported with men.
3. Transport via cruiser may be effected provided all safety and security measures are taken; i.e. seatbelts, time, mileage and optimally with another officer following in another cruiser.

B. BOOKING

1. The Booking Officer and associated cell room staff will process transgender detainees, including persons held in protective custody and juveniles held in custody, according to normal booking procedures as outlined in the Department Policy & Procedure 3.02.
2. As always, booking personnel will conduct the booking proceeding in a manner that preserves the dignity of the detainee without undue embarrassment to him or her.

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3. The transgender detainee is to be booked with the appearance that is consistent with the manner in which that individual was arrested. Removal of clothing, wigs, hair pieces, makeup and other appearance items are not to be conducted from the detainee prior to booking. If, during the booking process, the officer has reasonable suspicion to believe that the detainee may be hiding contraband or a weapon under a wig, the wig may be briefly removed for the purpose of conducting a search for such items. Removal of appearance items that represent a danger to the detainee in-cell may be effected post-booking prior to placement in that detainee's cell.
4. When possible, a transgender detainee pending the booking process, shall be temporarily held in one of the interview rooms rather than in the larger holding cell.
5. When booking a transgender detainee, the Booking Officer will include the detainee's adopted name (i.e. name that the individual uses in self-reference) in the booking, either as the primary name or as the "also known as" (A.K.A.) name. The transgender detainee will be booked under the name appearing on the detainee's government-issued identification, as well as under an A.K.A. name, where applicable. If no identification is available, then the Booking Officer will use the adopted name for booking purposes, either as the primary or the A.K.A. name. The detainee's birth name will be used only if it is the detainee's legal name or it is required by a legitimate law enforcement purpose, including but not limited to, a prior arrest record.

C. BOOKING SEARCHES [1.2.8 (b)]

1. All searches of the transgender detainee's person will be conducted by two officers of the gender requested by the transgender detainee, whenever possible. If two officers of the preferred gender are not available, the search shall nonetheless be conducted by two available officers.
2. If the detainee does not specify a preference, then the search will be conducted by officers of the same gender as the transgender prisoner's gender expression (e.g., a female-to-male detainee's expressing no preference should be searched by a male officer).
3. The detainee will also be required to identify their search preference prior to any search while being audio and video recorded at the booking desk. Any detainee who refuses to identify their search preference on tape at booking shall be searched by officers of the same gender as the transgender detainee's gender expression.
4. A booking search shall not be performed for the sole purpose of determining an individual's anatomical gender, and transgender individuals shall not be subject to more invasive search procedure than non-transgender individuals.

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D. CONDITIONS DURING POLICE CUSTODY

1. Whenever possible, a transgender detainee shall be held in a cell without other detainees.
2. Whenever possible, transgender detainee shall be placed into an interview room alone pending booking.
3. Post booking, transgender detainees shall be placed into a cell corresponding with his or her gender expression; a transgender individual with feminine gender expression must be placed into the female cellblock area and a transgender individual with masculine gender expression shall be placed into the male cellblock area.

E. CONFIDENTIALITY

All information relative to arrests and police investigations, to include photographs, is in varying degrees, considered to be Criminal Offender Record Information, or CORI. As such, information of this nature is to be kept confidential and excluded from public record. As this information is protected by federal and state law and by the rules and regulations of this department, improper disclosure of this sensitive information is prohibited.