

San Diego Police Department

TRAINING BULLETIN

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TITLE

POLICE INTERACTION WITH TRANSGENDERED INDIVIDUALS

I. BACKGROUND

The San Diego Police Department is committed to working with the diverse communities it serves. The Department has been working with stakeholders to establish procedures that create mutual understanding, prevent discrimination and conflict, and ensure the appropriate treatment of transgender individuals. In the absence of exigent circumstances, the guidelines below apply to all Department employees.

II. KEY TERMS

Transgender: A term used to refer to a person who is born with the genetic traits and anatomy of one gender (i.e., male or female) but self-identifies as another gender (i.e., feminine or masculine). A transgender person can be pre-operative, post-operative, or non-operative.

Gender identity: A person's sense of being a man, a woman, or both, or neither

Gender expression: Quite apart from one's gender at birth as male or female, how a person represents or expresses one's gender identity to others; for example, external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine, or neutral in one culture may not be assessed similarly in another.

Biological Sex: Refers to the objectively measureable organs, hormones and chromosomes of an individual.

Sexual Orientation: A term describing a person's physical and/or emotional attraction to members of the same sex and/or a different sex.

III. GENERAL GUIDELINES

The following guidelines are established to ensure police contacts with transgender individuals are professional, respectful, and courteous:

- Do not use language that a reasonable person would consider demeaning to another person, in particular language that references a person's gender identity, gender expression, or sexual orientation;
- When referring to or talking about a transgender individual, the terms “Transvestite” and “Transsexual” are out-dated terms and should not be used. The correct term is transgender.
- Treat transgender persons in a manner that reveals respect for the individual's gender identity and gender expression, which includes addressing them by their preferred name and using gender pronouns appropriate to the individual's gender self-identity and expression.

A. Determining How to Address a Transgender Individual

- When a person identifies himself/herself as transgender, respect the expressed gender and do not question it;
- If the individual does not self-identify as transgender, the following guidelines apply:
 1. When the intention of a person's gender presentation is clear to a reasonable person (based on attire and other cues), use this as a basis for gender determination.
 2. When a person's sex is unclear or the officer is not certain of the person's gender identity, it is appropriate to inquire how the individual wishes to be addressed (e.g., Sir, Ma'am) and the name by which the individual wishes to be addressed. This name shall be noted as an (AKA) if it differs from the individual's legal name.
 3. If a transgender person is unwilling to provide information that enables the officer(s) to know what name and/or gender is preferable, then the officer(s) should make a determination about the person's gender based on the person's gender expression (i.e., clothing, language demeanor, etc.) and any other evidence available to the officer(s). For example, if the person is clearly dressed like a woman and presenting as a woman, then the person should be recognized and addressed as a woman.
 4. A Department of Motor Vehicle Identification shall not be acceptable as an initial proof of gender identity as it can often reflect the gender the individual is transitioning from (as part of the transition process) and not the biological gender the individual possesses.
 5. Any other government-issued form of identification (such as a passport) shall only be acceptable as initial proof of gender identity in the absence of self-identification by the individual or some other obvious expression of gender identity.

- Any information obtained about an individual's transgender status (e.g., preferred name and pronoun) should be (when appropriate) documented and provided to relevant Department employees for the purpose of ensuring continuity of appropriate treatment (e.g., in the narrative of the report put a line that says, "It should be noted that Victim Smith is a transgender woman and will be referred as female throughout this report"); and,
- The mention of transgender status should be noted in the narrative of the report to avoid confusion if the individual's presentation may differ when appearing in court; and,
- Under no circumstances shall Department employees disclose to non-involved persons that an individual is transgender. As with other policies, a "need to know" basis should guide decisions about disclosure.

B. During Field Searches Involving Transgender Individuals

- A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender;
- Transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals;
- When an individual is identified as a transgender person, Department employees shall respect the gender identification expressed by the individual and shall not question this identity;
- Officers should not inquire about intimate details of an individual's anatomy or surgical status to determine an individual's gender because no proof of an individual's gender is required. This requirement can change for purposes of booking, as addressed in policies on booking;
- Requests to remove appearance-related items, such as prosthetics, clothing that conveys gender identity, wigs, and cosmetics, shall be consistent with requirements for the removal of similar items for non-transgender individuals;
- When an arresting officer has reason to believe that the arrestee is a transgender person, the officer shall specifically inform the arrestee that, as with any other arrestee, he/she must be searched. Ask the arrestee if there is a preference to be searched by a male or female officer. If the arrestee's gender request can be reasonably and expeditiously accommodated without risk to officer safety, the request should be granted;
- When an immediate cursory search for weapons is necessary for safety, it may be conducted in the field by an officer of either sex;
- When frisking or searching a transgender person the frisk/search will be conducted in a way that reflects their gender identity. For Example: Individuals who identify as female but are still biologically male should be frisked/searched as if the person was female, per existing Department procedures on searching persons;
- Recognize that non-traditional gender identities and gender expressions do not constitute reasonable suspicion or *prima facie* evidence that an individual is or has engaged in prostitution or any other crime.

C. Arresting and booking procedures involving transgender individuals

- An individual's lower anatomy or surgical status determines which jail facility the individual is booked into; no other changes or surgeries apply;
- For purposes of booking, it is necessary to inquire about details of an individual's anatomy or surgical status to determine the appropriate jail facility;
- Officers will accept a verbal a response as accurate when determining which facility to book the suspect into; if, during the booking process, deputies determine the information provided to the officer was not accurate, the officer will transport the individual to the appropriate facility;
- Once the individual is booked into the appropriate jail facility the officer **must** alert the intake deputy that the individual is transgender or transitioning. The officer shall then document in the report the name of the deputy that was alerted and that the advisement was given to deputies;
- Often transgender individuals are taking a number of medications as part of their transition. Missing dosage or coming off those medications can be life threatening to the individual;
- The officer must make every reasonable attempt to recover medications for the individual and take those medications to the jail facility with their personal property;
- In the case when the officer cannot retrieve medications a list of current medications should be gathered and given to the nurse at the jail facility.