



PHILADELPHIA POLICE DEPARTMENT DIRECTIVE 152 (12-20-13)

SUBJECT: DEPARTMENT INTERACTIONS WITH TRANSGENDER INDIVIDUALS PLEAC 1.8.3

I. PURPOSE

- A. This directive establishes policies for interactions with transgender individuals to provide for the safety of police officers and citizens, and for the protection of the constitutional rights of citizens in all official interactions.
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II. POLICY [PLEAC 1.8.3]

- A. Consistent with the Philadelphia Police Department Mission Statement and Oath of Office, personnel will safeguard the rights of all people, without consideration to a person's actual or perceived race, color, sex, gender, gender identity/expression, religious creed, sexual orientation, age, national origin, ancestry, handicap or disability.
- B. Treat all persons with the courtesy and dignity which is inherently due to every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous and professional attitude during all contacts with the public.
- C. Officers will not exhibit any bias or prejudice, or discriminate against an individual or group of members based on their actual or perceived sexual orientation, gender, or gender identity/expression.
- D. Officers will address the public using pronouns, titles of respect, and preferred name as expressed by the individual.
- E. Officers will not use discourteous or disrespectful remarks regarding another person's actual or perceived ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.
- F. Officers will adhere to the following procedures during departmental contacts with and arrests of transgender individuals.

III. DEFINITIONS

Gender:

The term "gender" shall include a person's actual or perceived sex and shall also include a person's gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

Transgender:

Transgender is an umbrella term, which refers to a variety of individuals whose gender identity or expression diverges from societal expectations regarding how a person of that individual's birth-assigned sex should identify or express their gender. The term may include, but is not limited to:

Intersex individuals:

individuals who, because of their chromosomal make-up or other biological reasons are born with physical characteristics that make their biological sex ambiguous.

Cross-dressers:

individuals whose gender identity matches their birth-assigned sex, but who sometimes prefer to wear clothes not traditionally associated with their sex. Most individuals who consider themselves cross-dressers do not wear cross-gendered attire all of the time. The term "cross-dressers" should not be used to refer to individuals who are living as members of the opposite sex, in accordance with their gender identity.

Transsexual:

an older term, that originated in the medical and psychological communities, and which is used to refer to individuals who wish to change, or have changed their birth-assigned sex, through hormones, surgery or other physical procedures. Just as many gay people prefer the term "gay" to the term "homosexual," many transgender people prefer "transgender" to "transsexual." Some transgender people, however, still prefer to use the medical term to describe themselves.

Gender Identity:

self-perception, or perception by others, as male or female, a combination of both, or neither, and shall include a person's appearance, behavior, or physical characteristics that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth; and shall include, but is not limited to, persons who are undergoing or have completed sex reassignment. Phila. Code. § 9-1102(h.1).

Gender Expression:

the actual or perceived identity or behavior of a person as being male, female, a combination of both, or neither. The terms refer both to an individual's self-identification as male, female, a combination of both, or neither, or transgender; and other people's perceptions or interpretations of an individual's gender as male, female, a combination of both or neither, or transgender. Expression includes the outward manifestations of an individual's gender, including the individual's behavior, dress, and appearance.

Sexual Orientation:

an individual's enduring romantic, emotional, and/or sexual attraction to individuals of a particular gender. Male or female homosexuality, heterosexuality, and bisexuality; by preference, practice or as perceived by others (Phila. Code §9-1102). It is not related to gender identity. Transgender people can be any sexual orientation [gay, lesbian, bisexual, heterosexual/straight, no label at all, or some other self-described label].

Officer:

For this directive, the term "officer" includes Philadelphia Police Correctional Officers [PCO's] and all sworn members of the Philadelphia Police Department.

IV. PROFESSIONAL GUIDELINES**A. Officers WILL:**

1. Respectfully treat individuals in a manner appropriate to the individual's gender, or gender identity/expression;
2. Use pronouns as requested by the individual (e.g., "she, her, hers" for an individual who self-identifies as a female; "he, him, his" for an individual who self-identifies as a male);

NOTE: If officers are uncertain by which gender the individual wishes to be addressed, they will respectfully ask the individual for clarification [e.g. "Do you prefer to be referred to as 'she' or 'he'?" Or simply ask, "What are your pronouns?"].

3. When requested, address the individual by the name based on their gender identity rather than that which is on their government issued identification.
4. Conduct ALL searches [custodial and strip] in accordance with Directive 7, "Search Warrants" and existing departmental procedures listed in Section VI of this directive.

B. Officers **WILL NOT**:

1. Stop, detain, frisk, or search any person for the purpose of determining that person's gender or in order to call attention to that person's gender identity/expression [PLEAC 1.8.3];

NOTE: The above limitation does not prevent an officer from following the established department procedures relative to ensuring the proper processing of arrestees.

2. Except when legally necessary [i.e. processing an arrest], either require proof of an individual's gender or challenge an individual's gender identity/expression.
3. Use language that a reasonable person would consider demeaning or derogatory; in particular, language aimed at a person's actual or perceived gender, gender identity/expression, or sexual orientation.
4. Disclose an individual's gender identity or sexual orientation to other arrestees, members of the public, or other governmental personnel, absent a proper law enforcement purpose.
5. Make assumptions about an individual's sexual orientation based upon an individual's gender or gender identity/expression.
6. Use a person's gender or gender identity/expression alone as reasonable suspicion that the individual is or has engaged in a crime, including prostitution. [PLEAC 1.8.3]

C. Officers will not unreasonably endanger themselves or another person to conform to this directive.

V. GENDER CLASSIFICATION GUIDELINES FOR TRANSGENDER INDIVIDUALS WHO HAVE BEEN ARRESTED

A. An arrestee's gender will be classified as it appears on the individual's government-issued identification card.

1. For the purposes of listing gender on citations, arrest reports, and other official documentation, members shall use the designation listed in the most recent records in official government databases, starting with the BMV records.
2. For purposes of listing the name, members shall always write an individual's name as it appears on the individual's government-issued identification card. If the arrestee identifies himself or herself using a different name, that name will be listed as the alias on the arrest paperwork.

B. The exceptions to the government-issued identification card policy are those arrestees who have had gender conforming/affirming surgery from:

1. male-to-female will be processed as a female;
2. female-to-male will be processed as a male.

C. In the event that a government-issued identification card is unavailable, the following criteria will be used in determining gender:

If the arrestee states they:

1. have male genitalia, the arrestee will be classified as a male;
2. do not have male genitalia, the arrestee will be classified as a female.

D. In the event that there is uncertainty regarding the appropriate classification of an arrestee's gender, a supervisor will be consulted for further guidance on the appropriate classification [e.g. In situations in which the arrestee does not have identification, and will not speak to police, supervisors can attempt to establish communication necessary to make a determination of the arrestee's gender].

VI. PROCEDURES

A. Searches

1. All searches will be conducted by officers of the same gender as the detainee, based on the gender guidelines in Section V of this directive and in accordance with established department procedures.

EXCEPTION: If an officer of the same gender is not immediately available, and it is imperative that an immediate search be conducted, officers will not endanger themselves or the public to comply with this requirement.

- a. Prior to search, officers are to first refer to the arrestees government-issued identification. In the event the identification card is unavailable, officers will refer to the identification information listed in the BMV database. If the subject does not have any government-issued identification, officers will be guided by the following information:
 - 1) Arrestees who state they do not have male genitalia, and do not have any government-issued identification in their possession will generally be searched by female officers.

- 2) Arrestees who state they do have male genitalia, and do not have any government-issued identification in their possession will generally be searched by male officers.
 2. Officers taking individuals into custody, accepting custody of detainees, or conducting searches (custodial and/or strip) will be responsible for conducting a thorough search in accordance with departmental procedures.
 - a. The gender of the department member(s) performing custodial searches of the individuals, including custodial searches incident to arrest, prior to transport, and within a designated holding facility, will be based on the gender guidelines as outlined in Section V of this directive.
 - b. When requested by a transgender individual, a Department member of the individual's gender identity or expression will be present, when practical, to observe the custodial search. When practical, this observing member will be a sworn supervisor.
 3. Officers will not conduct more invasive searches of transgender individuals than other individuals.
 4. Requests to remove identity- related items such as prosthetics, clothing, wigs, and cosmetics items will be consistent with the requirements for the removal of similar items for non-transgender arrestees, as outlined in Directive #91 "Property taken into Custody" and Directive #82 "Criminal Identification, Processing, Transportation and Detention of Adult Prisoners".
 5. The possession of a needle which is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, especially if the person being stopped or arrested has documentation from a physician confirming that it is being used for legitimate medical treatments.
 6. If a strip/body cavity search is to be conducted, the procedures outlined in Directive 7, Appendix B, "Strip and Body Cavity Searches" must be followed.
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VII. TRANSPORTATION, DETENTION, AND PROCESSING

- A. Whenever practical, transgender arrestees will be transported alone by prisoner transport van, EPW, or RPC.
 1. When requested by a transgender individual, an officer of the individual's gender identity or expression, when practical, will be present during the transport.

2. Upon request by a transgender arrestee being transported from a police facility to a prison, the arrestee will be transported separately from the male and female prisoners, when practical.
 3. In situations with multiple arrestees, mass arrests, or where individual transport is not practical, transgender arrestees will be transported by gender classification, as outlined in this directive.
- B. Whenever practical, transgender arrestees will be maintained in single cell occupancy.
- C. The designated holding facility of transgender arrestees will be the division of occurrence, unless the arrestee meets the prerequisite conditions for holding at the PDU [diabetic, wheelchair-bound, mass arrest, etc].
- D. Personnel will record a transgender individual's gender information on Department reports in accordance with Section V of this directive and all other demographic information as it appears on their government-issued identification. Any name used by the subject other than what is listed on their government-issued identification will be recorded as an alias.
- E. In the event a transgender individual requires immediate medical care or medication, including hormone therapy, the individual will be transported to the nearest medical facility to be treated by a physician, in accordance with Directive 82, Appendix C, "Prisoner Safety" and Directive 81, "Prisoners in Hospitals."
- F. If an individual explicitly informs personnel that he or she is a transgender individual, an officer finds a record for an individual (NCIC or any other law enforcement record) that lists a different gender from what the individual is currently presenting or an officer observes that a person is presenting a gender which is different than their gender classification, the officer shall notify the cell block assistant [CBA] or police correctional officer [PCO] before delivering the individual into their custody. The CBA/PCO will document the information in the "Notes" section on the Prisoner Flow Chart/Medical Checklist and in the "Prisoner Log" by entering:
1. "Transgender Arrestee, male presenting as a female," or
 2. "Transgender Arrestee, female presenting as a male."
- G. In situations involving the transfer of transgender prisoners to county prisons or other police agencies, the CBA/PCO will ensure that the paperwork accompanying the prisoner adequately describes gender identity related issues.

VIII. RELEASE OF INFORMATION TO THE MEDIA REGARDING INCIDENTS INVOLVING TRANSGENDER INDIVIDUALS

- A. In incidents involving transgender individuals [victim, witness, or arrestee], personnel will:
1. Refer to the individual using the name based on their gender identity rather than that which is on their government issued identification.
 2. Use pronouns as requested by the individual [e.g., “she, her, hers” for an individual who self-identifies as a female; “he, him, his” for an individual who self-identifies as a male] and as used on the appropriate department reports [incident or arrest report].
- B. Even in the case of a person’s death, members of the Philadelphia Police Department will use pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. In incidents where a transgender victim is deceased, personnel will refer to the decedent:
1. ***If government-issued identification exists***
using the name based on their government-issued identification. If the victim’s next-of-kin provides information which conflicts with the victim’s gender expression or identity, the victim will still be referred to using the appropriate pronouns and names, based on the victim’s government-issued identification.
 2. ***If no government-issued identification exists***
using the name based on that provided by next of kin and from friends or community members [e.g. “known to next-of-kin as John Doe, she was known to friends and community members as Jane Doe”].

IX. CONFLICT PROVISION

If this directive conflicts with any Department directive, this directive will take precedence.

BY COMMAND OF THE POLICE COMMISSIONER

PLEAC Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission

RELATED PROCEDURES:	Directive 7 –	“Search Warrants”
	Directive 81 -	“Prisoners in Hospitals”
	Directive 82 -	“Criminal Identification, Processing, Transportation and Temporary Detention of Adult Prisoners”
	Directive 91 -	“Property Taken into Custody”



APPENDIX "A"

SUBJECT: INFORMATIONAL DEFINITIONS

Other gender non-conforming individuals who identify as transgender:

There are many members of the transgender community whose gender identity or expression differs from their birth-assigned sex, but who do not specifically identify as transsexuals, cross-dressers, or some other specific subcategory. Some of these individuals may take hormones or take other steps to modify their appearance or physiology, but some of them do not. This may sometimes make it confusing for officers when speaking with members of the communities. The best and most respectful thing to do is to always ask for the individual's name and pronouns. In these circumstances, allow the individual to explain how they wish to be addressed [Phila. Commission on Human Relations Gender Identity Guide].

Trans:

Abbreviation for transgender.

Female-to-Male (FTM), or Transgender Man, or Transman:

A person born with female genitalia at birth who knows himself to be male, and who lives as male/a man. Some will just use the term male.

Male-to-Female (MTF), or Transgender Woman, or Transwoman:

A person born with male genitalia who knows herself to be female, and who lives as female/a woman. Some will just use the term female.

Gender non-conforming:

most often refers to individuals exhibiting gender characteristics and identities that are perceived by some to be inconsistent with their sex assigned at birth. They may identify their gender as combining aspects of women and men, or as being neither women nor men.

Sex:

the classification of people as male or female. Children are assigned a sex at birth based on a combination of characteristics including genitals, chromosomes, internal reproductive organs and hormones. (Phila. Commission on Human Relations Gender Identity Guide)

BY COMMAND OF THE POLICE COMMISSIONER
