

EXECUTIVE ORDER



DISTRICT OF COLUMBIA

Subject: Gender Identity and Expression Anti-Discrimination Policy
Number EO-17-012
Effective Date April 28, 2017
Related To: GO-PER-110.11 (Uniforms and Equipment) GO-PER-201.09 (Equal Employment Opportunity) GO-OPS-304.15 (Unbiased Policing) GO-PCA-501.02 (Handling Interactions with Transgender Individuals) SO-91-5 (Request for Family and/or Medical Leave) SO-11-15 (Special Liaison Division) SO-11-18 (Religious Exemptions to Uniform and Appearance Requirements) SO-11-22 (Bias-related/Hate Crimes) EO-17-007 (Change to Facial Hair Grooming Process)

I. PURPOSE

The purpose of this executive order is to reaffirm the commitment of the Metropolitan Police Department (MPD) to prohibiting discrimination against individuals based on their gender identity or expression and to outline the MPD's policies and procedures supporting that commitment.

II. DEFINITIONS

1. Cisgender – an adjective that refers to individuals who express themselves as and identify with the gender they were assigned at birth.
2. Gender identity or expression – a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.
3. Non-Binary – an adjective that refers to individuals who identify as neither entirely male nor entirely female.
4. Transgender – an adjective that refers to any individual whose identity or behavior differs from stereotypical or traditional gender expectations to include individuals and others whose appearance or characteristics are perceived to be gender-atypical.

NOTE: The term transgender is correctly used as an adjective; hence the term “transgender people” would be appropriate, but referring to people as “transgenders” or “transgendered” is often viewed as disrespectful.

III. REGULATIONS

- A. This executive order supplements the Department's existing procedures related to the prohibition of discrimination against an individual's gender identity and expression. Unless explicitly stated in this directive, members are not relieved of their responsibilities otherwise established in GO-PER-110.11(Uniforms and Equipment), GO-PER-201.09 (Equal Employment Opportunity), GO-OPS-304.15 (Unbiased Policing), and GO-PCA-501.02 (Handling Interactions with Transgender Individuals).
- B. General Prohibitions
1. It is unlawful for any person or entity, including the MPD and its members, to discriminate against a person in employment, housing, public accommodations, or educational institutions on the basis of that person's actual or perceived gender identity or expression.
 2. Members shall not:
 - a. Refuse to provide any facility, service, program, or benefit of the District of Columbia government to any person based on their gender identity or expression.
 - b. Engage in verbal or physical harassment based on an individual's gender identity or expression.
 - c. Create a hostile environment based on an individual's gender identity or expression.
 - d. Deny access to restroom facilities and other gender specific facilities that are consistent with a person's gender identity or expression. Members are reminded that transgender arrestees shall be housed in accordance with GO-PCA-501.02 (Handling Interactions with Transgender Individuals).
- C. Access to Facilities Consistent with Gender Identity or Expression
1. The MPD shall:
 - a. Allow individuals to use gender-specific restrooms, locker rooms, and other gender-specific facilities that are consistent with a person's gender identity or expression.
 - b. Ensure all single occupancy restrooms are gender-neutral and use gender-neutral signage, such as "Restroom," Rather than "Men" or "Women."

NOTE: Even if a gender-neutral restroom is available, individuals must be able to use the restroom and other gender-segregated facilities (such as locker rooms) that they request to use at all times. Refusing to allow individuals to use the bathroom that is congruent with their gender identity or expression is a form of discrimination under the District of Columbia Human Rights Act.

- c. House transgender arrestees in accordance with GO-PCA-501.02 (Handling Interactions with Transgender Individuals).

D. Accommodations for Health Care Needs

1. When requested, MPD shall make reasonable accommodations for employees (including medical leave) for transgender-related health care needs. Such needs may include, but are not limited to:
 - a. Medical or counseling appointments;
 - b. Surgery;
 - c. Recovery from surgery; and
 - d. Any other related procedures.

E. Implementation of a Gender-Neutral Dress Code

1. Members may dress and groom themselves according to their gender identity or expression.
2. Until such time as GO-PER-110.11 (Uniforms and Equipment) is updated, gender-specific prohibitions regarding uniform and appearance shall no longer apply.

Example: The prohibition in GO-PER-110.11 against male police officers wearing earrings is rescinded. Any member who chooses to wear earrings must adhere to the appearance requirements currently outlined for female police officers who choose to wear earrings.

F. Gender-Specific Facilities where Nudity in the Presence of Others is Customary

1. In gender-specific facilities where nudity in the presence of others is customary (e.g., locker rooms), the MPD shall:
 - a. Provide individuals with access to, and the safe use of, facilities that are segregated by gender.
 - b. Make reasonable accommodations to allow an individual access to, and the use of, the facility that is consistent with that

individual's gender identity or expression, regardless of whether the individual has provided identification or other documentation of their gender identity or expression.

- c. When a request is made by an individual or member, make reasonable efforts to provide private spaces, through the use of curtains or partitions, to the individual that does not want to be fully nude in such open environments.
 - d. Not require documentation or other proof of an individual's gender, except in situations where all persons are asked to provide documentation, or other proof of their gender, for a reasonable business or medical purpose.
2. Members are reminded to adhere to the procedures outlined in GO-PCA-501.02 (Handling Interactions with Transgender Individuals) regarding the requirements for searching, transporting, and housing transgender arrestees.

G. Recording and Sharing of Gender and Name

1. Employment Applicants
 - a. MPD may require applicants for employment to disclose their legal name and any other names they have previously used for the purpose of conducting pre-employment background checks.
 - b. If MPD obtains information regarding an individual's gender identity or expression, or transition to a new gender, as part of the hiring process, the information shall be maintained as a confidential part of the employee file and shall only be disclosed for business or official law enforcement related purposes.
2. Applications and Requests for MPD Services
 - a. MPD may require individuals who request or apply for MPD services to disclose their legal name and any other names they have used when the information is necessary for business or official law enforcement purposes (e.g., conducting criminal background checks, gun registration, ride-alongs).
 - b. In all other cases, an applicant may choose to identify as neither male nor female.
 - (1) Such designations shall not be considered, without additional factors, to be fraudulent or to be a misrepresentation for the purpose of adverse action on an application or request for Department services.

- (2) An applicant's giving of a name publicly and consistently used by the applicant, even when the name given is not the applicant's legal name, shall not be grounds for adverse action, if the name given is consistent with the applicant's gender identity or expression.
 - c. Information regarding an individual's gender transition or modification is confidential. If the MPD learns through a background check or other means that a person is transgender, the MPD shall take reasonable measures to preserve the confidentiality of that information and shall not, without additional factors, take an adverse action against the individual on the basis of the learned information.
 - d. Regardless of how MPD learns of an individual's gender identity or expression, or transition to a new gender, MPD members shall preserve the confidentiality of this sensitive information. Disclosure, if it must occur, shall be limited and only if it is necessary for a legitimate business or law enforcement purpose, or if the individual has given permission.
 - e. Any information shared in a public setting (e.g., announcing the individual's name in a public setting, referring to an individual among other members) shall reflect the preferred name and pronouns of the individual unless the release or use of the individual's legal name is necessary for official law enforcement purposes.
 - f. No member shall "out" an individual against his or her will, or without obtaining the individual's consent, unless the release of information is necessary for official law enforcement purposes. In protecting an individual's confidentiality, MPD members shall avoid asking objectively irrelevant questions about the individual's gender identity or expression.
3. Arrest and Incident Reports
 - a. When completing Arrest Reports and Incident Reports, members shall use the names of persons as they are legally known (i.e., true name).
 - b. When members learn that a person is transgender or uses a preferred name, members shall note the information in the **internal** narrative of the report.

Example: "Subject 1's true name is Jon Doe, PDID DC999999. It should be noted that John Doe is a male to female transgender individual who prefers to be referred to as Jane Doe."

H. Use of Proper Names and Pronouns

1. Regardless of the legal name and gender of an individual, MPD shall use the individual's preferred name and pronouns when communicating with him or her, and when talking about him or her to third parties unless the disclosure of the information to third parties is necessary for official law enforcement purposes.

NOTE: Repeated failure to use an individual's preferred name and pronouns may be found to be a violation of Department policy and may be considered harassment under the District of Columbia Human Rights Act.

2. If a member is unclear about which pronoun to use, the member shall ask the individual what he or she prefers (e.g., him or her, she or he, they).

I. Prohibition on Harassment and Hostile Environment

1. All harassment, or actions that create a hostile environment based on gender identity or expression, are strictly prohibited. The following behaviors by supervisors or members may constitute unlawful harassment, or a hostile environment, based upon an individuals' gender identity or expression:
 - a. Deliberately misusing an individual's preferred name or gender-related pronoun.
 - b. Asking personal questions about an individual's body, gender identity or expression, or gender transition.
 - c. Causing distress to an individual by disclosing to others that the individual is, or is perceived to be a transgender individual.
 - d. Posting pictures, or sending electronic or other communications that may be considered offensive.
2. Members may consult GO-PER-201.09 (Equal Employment Opportunity) for MPD's policy regarding equal employment opportunity (EEO) and the EEO complaint process.

IV. CROSS REFERENCES

- A. D.C. Municipal Regulations, 4 DCMR § 801(e) - § 899.1 (Compliance Rules and Regulations Regarding Gender Identity or Expression)
- B. GO-PER-110.11 (Uniforms and Equipment)

- C. GO-PER-201.09 (Equal Employment Opportunity)
- D. GO-OPS-304.15 (Unbiased Policing)
- E. GO-PCA-501.02 (Handling Interactions with Transgender Individuals)

A handwritten signature in black ink, appearing to read "Peter Newsham", written in a cursive style.

Peter Newsham
Acting Chief of Police

PN:KDO:MOC:KDB