

# GENERAL ORDER



DISTRICT OF COLUMBIA

<b>Subject</b> <b>Handling Interactions with Transgender Individuals</b>		
<b>Topic</b>	<b>Series</b>	<b>Number</b>
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## I. BACKGROUND

Interactions between police officers and transgender individuals present a unique set of issues. The term "transgender" is used to describe persons with transgender identities, and includes a wide variety of groups that differ from traditional gender norms. Some issues encountered by police include: difficulties in determining gender for identification purposes, transportation, processing, housing, and medical treatment. Although "sexual orientation" is not the same as "gender identity or expression," many individuals incorrectly perceive transgender persons as gay men or lesbians and, as a result, treat them as such, rather than as a transgender individual.

## II. POLICY

It is the policy of the District of Columbia (D.C.) government, as expressed in the D.C. Human Rights Act, that agencies shall not limit services to any individual on the basis of that individual's actual or perceived gender identity or expression. (D.C. Official Code § 2-1402.73)

The policy of the Metropolitan Police Department (MPD) is to interact with members of transgender communities in a manner that is professional, respectful, and courteous.

Additionally, it is MPD policy to handle transgender arrestees in a manner that ensures they are processed and housed safely and efficiently to the greatest extent possible.

### III. DEFINITIONS

When used in this directive, the following terms are defined as follows:

1. Cell – Any area, space, or enclosure, wherein a prisoner is locked or placed, which prohibits the prisoner’s freedom of movement.
2. Field Search – The removal and search of coats, jackets, shoes, and all extraneous layers of clothing down to a single layer of outer clothing (e.g., jeans, pants, shirt, dress) and the manipulation of clothing (e.g., running fingers under waistbands, including underwear, pulling them away from the body, pulling bra elastic away from the body) to facilitate the search of the suspect and the garments the suspect is wearing, in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).
3. Frisk – A limited protective search for concealed weapon(s) and/or dangerous instrument(s). Usually it occurs during a “stop” and consists of a pat down of the individual’s clothing to determine the presence of weapons or other dangerous objects. An officer may frisk a person on the basis of “reasonable suspicion” that the person is carrying a concealed weapon or dangerous instrument. A frisk is done for one purpose only: officer safety. [See GO-OPS-304.10.]
4. Gender Identity or Expression – A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's gender at birth. (D.C. Official Code § 2-1401.02 and 4 DCMR § 899)
5. Holding Facility – A temporary confinement facility in which a prisoner is usually held for less than 48 hours, pending the prisoner’s release, arraignment, adjudication, or transfer to another facility. For the purpose of this directive, each cellblock in each Police District, and the Juvenile Processing Center are the Department’s ordinary holding facilities. In certain circumstances, the Department may use other approved facilities.
6. Intersex – A set of medical conditions that features a congenital anomaly of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, or an internal reproductive system that is not considered “standard” for either male or female.” (Intersex Society of North America)

7. Member– Any MPD employee, either sworn or civilian or MPD Reserve Corps member.
8. Prisoner – A person who has been arrested and is being held, transported, treated, booked, or otherwise detained pending arraignment, release, adjudication, transfer to another facility, or otherwise being processed or handled.
9. Processing Area – A room or space used for processing, questioning or examining prisoners. While in these areas, the prisoner shall be under continuous control or supervision of agency personnel and may be restrained to a fixed object that is designed and intended only for this use.
10. Sexual Orientation – Includes male or female homosexuality, heterosexuality, and bisexuality, by preference or practice. (D.C. Official Code § 2-1401.02)
11. Squat Search – The search of a prisoner conducted in a private and secure area where the prisoner crouches or squats with undergarments and other clothing removed, exposing the genital and anal area performed in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners). This type of search permits contraband or other material concealed in the genital area to become visible or dislodged.
12. Strip Search – The search of a prisoner conducted in a private and secure area where the prisoner removes or arranges the prisoner's clothing to allow a visual inspection of the genitals, buttocks, anus, breasts and undergarments performed in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).
13. Transgender – Refers to any person whose identity or behavior differs from traditional gender expectations. This term includes transsexual individuals, cross-dressers, androgynous individuals, and others whose appearance or characteristics are perceived to be gender-atypical. (4 DCMR § 899)
14. Transsexual – A person whose personal sense of his or her gender conflicts with their anatomical sex. Some, but not all, transsexuals undergo medical treatments (such as hormone therapy or surgery), to change their physical sex so that it is in harmony with their gender identity.
15. Transvestite – An outdated term that refers to people who sometimes cross-dress, or whose dress is typically associated with the opposite

sex. Many cross-dressers are heterosexual and typically present themselves in a manner consistent with their birth sex.

#### IV. REGULATIONS

- A. **Under no circumstances** shall members search any person solely for the purpose of determining that person's gender.
- B. Members shall not use language that a reasonable person would consider demeaning to another person, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation.
- C. Members shall treat transgender persons in a manner appropriate to the individual's gender presentation, which includes addressing them by their preferred name if different from their legal name and shall use personal pronouns appropriate to the person's gender identity.
- D. Members shall not solely construe gender expression or presentation as reasonable suspicion or *prima facie* evidence that an individual is or has engaged in prostitution or any other crime.
- E. When an individual self-identifies as being a transgender person, members shall not question this gender.

#### V. PROCEDURES

- A. Handling Calls for Service and Citizen Complaints Involving Transgender Individuals
  - 1. Requests for service or complaints generated by transgender individuals shall be addressed or investigated in a manner that is consistent with Department policy.
  - 2. Members in receipt of citizen complaints against members (sworn or civilian) or those concerning the quality of police services shall:
    - a. Handle the complaints in accordance with GO-PER.120.25 (Processing Citizen Complaints); and
    - b. Email a copy of the complaint to the Gay and Lesbian Liaison Unit (GLLU) administrative email box, [PSSB.GLLU@dc.gov](mailto:PSSB.GLLU@dc.gov), by 0900 hours the next business day.
  - 3. A member shall not fail to respond to a call for service or complaint on the basis of the gender identity or expression and/or sexual orientation of the caller or complainant.

## B. Stop and Frisk Situations Involving Transgender Individuals

1. During a stop pursuant to GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisks), members shall respect the gender identification expressed or presented by the individual.
2. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender.
3. Transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
4. The gender identity expressed or presented by the individual shall be accepted and honored.
5. Identification issued by the D.C. Department of Motor Vehicles (DMV), the Department of Motor Vehicles of any of the fifty (50) states, or any other government-issued form of identification (e.g., passport, birth certificate) shall be acceptable as initial proof of gender identity in the absence of self-identification by the subject individual.
6. When a situation arises that involves questionable gender identification, the member shall inquire how the individual wishes to be addressed (e.g., Sir, Miss, Ms.) 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.
7. Members shall not require proof of an individual's gender or inquire about intimate details of an individual's anatomy to determine an individual's gender.

## C. Handling Arrest Situations Involving Transgender Individuals

### 1. Searching of Transgender Arrestees

Generally speaking, all arrestees, including transgender arrestees, will be searched on several different occasions by MPD personnel from the time of their arrest to the time they are released or transferred to the custody of the D.C. Department of Corrections or the U.S. Marshal's Service for presentment in court. The first search of a transgender arrestee will take place at the scene of the arrest before the person is transported to a MPD facility to be processed. MPD personnel who are involved with searching a transgender arrestee shall adhere to the following procedures:

- a. When an arresting officer has reason to believe that the arrestee is a transgender individual, before searching that individual prior to transport to the station, the officer shall:
  - (1) Specifically inform the arrestee that the arrestee must, and will be, searched before being placed in a transport vehicle.
  - (2) Ask if the arrestee has any objections to being searched by a male or female officer.
    - (a) If the arrestee objects, inquire as to the nature of the objection.
    - (b) Absent exigent circumstances, ask an officer who is of the gender requested by the arrestee to conduct the search.
    - (c) Document the arrestee's responses (either by writing it in his or her notebook or by advising the dispatcher over the radio), indicating that the arrestee requested to be searched by a male/female officer (specifically indicating the stated preference).
- b. No MPD member shall refuse to search a transgender arrestee.
- c. In instances where the arrestee is uncooperative:
  - (1) The arresting officer shall notify an official prior to searching the arrestee; and
  - (2) The official shall assess the situation and decide whether it shall be a sworn male or female MPD officer who conducts the search to facilitate the transportation of the arrestee.
- d. All information that the arresting officer obtains concerning the arrestee shall be passed on to the transporting officers, including gender identity.
- e. Transporting officers are required to again search all prisoners prior to transporting, even if the prisoner has just been searched by the arresting officer.
- f. The arresting officer shall, at the top of the PD Form 163

(Arrest/Prosecution Report), write “**AT RISK**”, to indicate that the transgender arrestee may experience hostility or other negative behaviors from other arrestees, and, therefore, shall be housed in accordance with Part V.C.3.b and Part V.C.3.c of this order to ensure the arrestee’s safety and security.

- g. Requests to remove appearance-related items due to safety and security concerns such as the removal of prosthetics, clothes of the presenting gender, wigs, and cosmetic items shall be consistent with requirements for the removal of similar items for non-transgender individuals and shall be handled in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).

## 2. Transporting of Transgender Arrestees

The general rule for transporting transgender arrestees is that, whenever practical, they shall be transported separately.

- a. When the transporting vehicle is a patrol car, the arrestee shall be the only prisoner in the back seat.
- b. In a transport wagon, the arrestee shall be either the only prisoner or the only prisoner on one side of a split wagon.
- c. Transporting officers shall adhere to the same guidelines as arresting officers with regard to searching transgender arrestees.
- d. The transporting officers shall provide to officers who will be processing and housing the arrestee all information obtained from the arresting officer.
- e. Transporting officers shall also record the beginning and ending mileage for all transports involving transgender arrestees.

## 3. Processing and Housing of Transgender Arrestees

The general rules for processing and housing transgender arrestees are:

- a. Processing officers are required to search all prisoners they process, even if the prisoner has just been searched by the arresting and/or the transporting officer.

- b. Unless space is unavailable (i.e., occupied or contaminated), transgender arrestees shall be housed in a cell by themselves, even when more than one transgender person is in custody at the same MPD facility at the same time. The cell shall be located in the cellblock area designated for prisoners with the same gender identity as the transgender prisoner.
- c. If space is unavailable to provide housing in accordance with Part V.C.3.b of this order, transgender arrestees shall be housed based on the following priorities:
  - (1) With other transgender arrestees who have the same gender identity. However, members shall be mindful that prisoners who know each other shall be housed separately whenever possible.
  - (2) With other prisoners who have the same gender identity, (e.g. a transgender woman would be housed with other women).
- d. MPD personnel assigned to any holding facility must be cognizant of the gender identity or expression of all arrestees being processed so that accurate gender information can be recorded and inconsistencies properly noted and documented as follows:
  - (1) When a member finds a record for an arrestee (e.g., LiveScan, RMS, WALES, NCIC, or any other law enforcement database) that lists a different gender from what the arrestee is currently presenting, the member shall immediately notify the Watch Commander and apprise him or her of the situation.
  - (2) The Watch Commander shall evaluate the documentary evidence available and, if practical, speak with the arrestee and determine the course of action to take with regard to housing the arrestee pursuant to Part V.C.3.b and Part V.C.3.c of this order.
  - (3) Information concerning conflicting gender information on the arrestee's computer records shall be clearly noted on the PD Form 163 and other arrest paperwork such as the PD Form 252 (Supplemental Report).
  - (4) In addition to conflicting gender information being noted on the paperwork, members shall **verbally** bring this



information to the attention of all personnel that they transfer custody of the arrestee to. Members transporting such an arrestee to another MPD facility shall advise the personnel at the receiving facility of the housing requirements and “**AT-RISK**” status of the arrestee.

- (5) Members shall bring conflicting gender information to the attention of the D.C. Department of Corrections or the U.S. Marshal’s Service when the arrestee is remanded to their custody.
- (6) In other situations involving the transfer of transgender or ambiguously gendered prisoners (e.g., processing by federal authorities or other police agencies), members shall ensure that all paperwork accompanying the prisoner adequately describes the gender-related identity issues that are presented.
- (7) Requests to remove appearance-related items due to safety and security concerns such as the removal of prosthetics, clothes of the presenting gender, wigs, and cosmetic items shall be consistent with requirements for the removal of similar items for non-transgender individuals and shall be handled in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).

#### D. Handling Juvenile Transgender Arrestees

Juveniles handled under any circumstances addressed in this directive shall be accorded all relevant considerations contained herein that relate to their gender identity or expression, in addition to all safeguards provided in applicable directives covering the processing and handling of juveniles.

1. At no time shall any juvenile arrestee be taken to any police district or any other unit. All transgender juveniles placed under arrest or taken into custody for questioning shall be taken directly to the Juvenile Processing Center located at 1000 Mount Olivet Road, N.E., and shall be processed in accordance with General Order 305.1 (Handling Juveniles), Part I.K.(e).6 and considered “**AT RISK**”.
2. All relevant procedures in General Order 305.1 (Handling Juveniles) shall comply with the corresponding handling provisions delineated in this order.

E. Medical Treatment of Transgender Arrestees

Transgender individuals shall receive the same standards of care as other individuals based on medical need, including needs related to hormone medications. Although adverse reactions to hormone medications or complications from surgery are rare, they may require medical attention.

1. Whenever a transgender individual expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any other illness or injury pursuant to GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).
2. The circumstances of the medical treatment shall be fully documented on the PD Form 313 (Arrestee's Injury/Illness Report).

F. PD Form 61-D (Violation Notice) or Notice of Infraction (NOI) Stops

1. Members shall respect the gender identification or expression provided by any individual cited for a violation that is appropriate for the issuance of a PD Form 61-D or an NOI.
2. Where gender may be questionable or a hindrance to correct identification, members shall make an appropriate notation on the PD Form 61-D or NOI and in their notebook.

G. Requests to Update Name or Sex Associated with Person Identification (PDID) Number

1. Transgender individuals may request that the name or sex that is associated with their PDID number be updated if they can provide legal documentation (e.g., birth certificate, driver's license, passport, court order, or government-issued non-driver's identification card) of the updated gender identity.
2. Members shall refer transgender individuals who request an update to their PDID information to the Public Documents Section, MPD Headquarters, 300 Indiana Avenue, NW, Room 3075. Requestors shall also be advised that instructions regarding the process are available on the MPD website.
  - a. Requestors must respond to the Public Documents Section in person and provide legal documentation of their name or sex change. If requestors want confirmation of the update, or information regarding a denial, the requestor should provide the Public Documents Section with their email or mailing address for communication purposes. If the requestor declines to

provide email or mailing address information, MPD will still process the requested change.

- b. The Director of the Police Business Services Division shall ensure that all requested changes are processed within 30 calendar days and the requestor is notified of the outcome in writing. The notification will either confirm that the requested change has been made or will provide the reason the change cannot occur.
3. The Director of the Police Business Services Division shall ensure that for all approved change requests:
  - a. The requestor's "person record" in the Automated Fingerprint Information System (AFIS) is updated appropriately and that the requestor's former name is maintained as an alias.
  - b. The requestor's "true name" is updated in RMS.
  - c. All corresponding paper arrest records (e.g., PD Forms 163 (Arrest/Prosecution Reports) are amended to reflect the requestor's current name.
  - d. Documentation concerning the records change is maintained in accordance with the Department's records retention schedule for arrest records.
4. Members are reminded that regardless of legal documentation provided, members shall address transgender individuals by their preferred name and by the pronouns associated with their gender identify.

## **VI. CROSS REFERENCES**

- A. General Orders
  1. GO-PER.120.25 (Processing Citizen Complaints)
  2. GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisks)
  3. GO-OPS-305.01 (Handling of Juveniles)
  4. GO-PCA-501.02 (Transportation and Searches of Prisoners)
  5. GO-PCA-502.06 (Citation Release Program)

6. GO-PCA-502.07 (Medical Treatment and Hospitalization for Prisoners)
- B. Standard Operation Procedures (SOP)
1. SOP (Booking Team Procedures)
  2. SOP (Holding Facilities)
  3. SOP (PD Form 61D)
- C. Human Rights Act of 1977 (D.C. Official Code § 2-1401.01 et seq., as amended March 14, 2007)
- D. Compliance Rules and Regulations Regarding Gender Identity or Expression (4 DCMR, Chapter 8, § 899)

## VII. PROVISION

The procedures and policy considerations expressed in this directive shall supplement existing teletypes, General Orders, Special Orders, Standard Operating Procedures, including, but not limited to, those listed in Part VI.A-B above and other directives covering the operations described herein. Where a directive involving the same operation is clearly contradictory, this General Order shall supersede and amend the contradictory language.



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Chief of Police

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