



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

117 – INTERACTIONS WITH TRANSGENDER INDIVIDUALS

GENERAL ORDER: 2016-56
ISSUED: October 10, 2016

EFFECTIVE: October 10, 2016

REVIEWED/APPROVED BY:
Captain Mark Stanmeyer
DATE: September 30, 2016

ACTION: Creates SOP

WILEAG STANDARD(S): NONE

117.00 PURPOSE

The purpose of this standard operating procedure is to establish the department's policy, procedures and responsibilities for interactions with the transgender population to include field contacts, identification, placement and monitoring of the transgender population.

117.05 POLICY

It is the policy of the Milwaukee Police Department to treat all persons with the courtesy and dignity that is inherently due to every person as a human being. Members shall not exhibit any bias, prejudice or discriminate against any individual or group based on their actual or perceived sexual orientation, gender, or gender identity/expression.

117.10 DEFINITIONS

A. CARRY LETTER

A document usually generated by a professional treating a person with gender dysphoria explaining why the gender identity/expression and the legal gender on identifying documents do not match. It is not mandatory for a transgender person to carry a carry letter and not all transgender persons will possess a carry letter.

B. 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.

C. GENDER IDENTITY and EXPRESSION

An individual's internal, personal sense of their own gender, which is communicated to others by their gender expression, appearance, identity or behavior, regardless of the individual's birth-assigned sex. This is often diagnosed as gender dysphoria.

D. 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.

E. SEXUAL ORIENTATION

An individuals enduring romantic emotional, and/or sexual attraction to individuals of a particular gender.

F. TRANSGENDER

A person whose gender identity and/or gender expression differs from their birth-assigned sex. Sexual orientation varies and is not dependent on gender identity.

G. 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. Many transgender people prefer “transgender” to “transsexual.” Some transgender people, however, still prefer to use the term transsexual to describe themselves.

117.15 PROCEDURE FOR TREATMENT OF TRANSGENDER POPULATION

- A. Members shall treat all members of the transgender population with fairness, dignity, respect, courtesy, and sensitivity regardless of the reason for the contact.
- B. If an individual self identifies as transgender, members shall respect the expressed gender and use pronouns that are appropriate for the individual’s gender presentation or the person’s pronoun of choice (e.g., “she, her, hers” for an individual who self-identifies as a female; “he, him, his” for an individual who self-identifies as male).

Note: Some individuals may communicate this by presenting a “carry letter.” This letter should be read, acknowledged, and returned to the carrier.

- C. When requested, members shall address the individual by the name based on their gender identity rather than the name that appears on their government issued identification.
- D. When a situation arises that involves the need to clarify gender identification, the member shall respectfully inquire as to 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 documented as an alias if it differs from the individual’s legal name. The member may also ask, “What are your pronouns?” to clarify the preference for use of she or he.
- E. Members shall not, unless legally necessary (e.g., processing an arrest), require proof of an individual’s gender or challenge an individual’s gender identity/expression.

- F. Members shall not request an individual during a field encounter to remove appearance related items such as wigs or clothing that conveys gender identity.
- G. Members shall not make assumptions regarding an individual's sexual orientation based on the individual's gender or gender identity/expression.
- H. Members shall not 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.
- I. Members shall not 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.
- J. A person's gender or gender identity/expression is not reasonable suspicion that the individual has engaged in a crime, including prostitution.
- K. Possession of condoms is not reasonable suspicion that the individual is engaging in or has engaged in prostitution.

Note: Members shall not confiscate condoms unless probable cause can be established the person was involved in prostitution or another crime.

- L. Members shall not unreasonably endanger themselves or another person to conform to this standard operating procedure.

117.20 GUIDELINES FOR SEARCHES OF TRANSGENDER ARRESTEES

- A. Members may not 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.

Note: The above limitation does not prevent a member from following established department procedures relative to ensuring the proper processing of arrestees.

- B. Transgender individuals shall not be subject to more invasive frisk or search procedures than non-transgender individuals.
- C. When a member has reason to believe that an individual is transgender and a frisk or search of that person is necessary, they shall ask the individual their search preference. The individual's search preference should be honored as long as no exigent circumstances exist that would require an immediate search.
- D. If an individual does not name a search preference, the individual's gender shall be classified as it appears on the individual's government-issued identification card and the search shall be conducted by a member of the same sex as the government-issued identification card designation.

- E. The exceptions to this standard operating procedure are those individuals who have had gender conforming/affirming surgery. If the arrestee states:
1. They have male genitalia, they shall be searched by a male;
 2. They have female genitalia, they shall be searched by a female.
 3. Unless specifically requested by the individual being searched, members shall not assign a same sex officer to search the genital area and the opposite sex officer to search from the waist up.
- F. In the event that an arrestee objects to any element of this standard operating procedure or if they make claims regarding their gender that are not credible, the member shall notify a supervisor prior to searching the arrestee. A supervisor shall make a determination based on the information available to them at the time.
- G. The possession of a needle which is purported to be for hormonal use shall not presumed to be evidence of a criminal or municipal violation, especially if the individual being stopped or arrested has documentation from a physician confirming that it is being used for legitimate medical treatments.
- H. Requests to remove appearance related items such as prosthetics, clothes, wigs, and cosmetic items, shall be consistent with requirements for the removal of similar items for non-transgender individuals.
- I. No member shall refuse to search a transgender arrestee.
- J. If a strip search or body cavity search is to be conducted, members shall follow the procedures in SOP 085 Citizen Contacts, Field Interviews, Search and Seizure.
- K. If it is imperative that an immediate search be conducted, members shall not endanger themselves or the public to comply with this section.

117.25 GENDER CLASSIFICATION GUIDELINES FOR TRANSGENDER INDIVIDUALS WHO HAVE BEEN ARRESTED

- A. An arrestee's gender shall be classified as it appears on the individual's government-issued identification card.
1. For the purpose of listing gender on citations, arrest reports, and other official documentation, members shall use the designation listed on the individual's government-issued identification card.
 2. For the purpose of listing the name, members shall always enter the individual's name as it appears on their government-issued identification card. If the arrestee identifies himself or herself using a different name, that name shall be listed as an alias on the arrest reports.
- B. The exceptions to the government-issued identification card policy are those arrestees

who have had gender conforming/affirming surgery.

1. Male-to-female shall be processed as a female;
 2. Female-to-male shall be processed as male.
- C. In the event that a government-issued identification card is unavailable, the following criteria shall be used to determine gender. If the arrestee states they:
1. Have male genitalia, the arrestee shall be classified as a male;
 2. Do not have male genitalia, the arrestee shall be classified as a female.
- D. When there is uncertainty regarding the appropriate classifications of an arrestee's gender, a supervisor shall be consulted for further guidance on the appropriate classification.

117.30 TRANSPORTATION OF TRANSGENDER ARRESTEES

- A. Whenever possible, transgender arrestees shall be transported alone.
- B. When requested by a transgender individual, a member of the individual's gender identity or expression, when practical, shall be present during the transport.
- C. In situations with multiple arrestees, mass arrests, or where individual transport is not practical, transgender arrestees shall be transported by gender classification as outlined in 117.25.
- D. All information that the arresting officer obtains concerning the arrestee shall be passed on to the transporting officers, including gender identity and preferences.
- E. Members transporting an individual who self identifies as a transgender person shall transport the individual after notifying the dispatcher of the location of departure, odometer reading, and arrival at the destination including the destination location, odometer reading, and whether a delay or detour occurred. Members shall note in their official memorandum books the aforementioned transport.

117.35 DETENTION OF TRANSGENDER ARRESTEES

- A. Whenever practical, transgender arrestees shall be housed in a private cell. If space is unavailable to provide a transgender arrestee a private cell, arrestees shall be housed based on the following priorities:
 1. With other transgender arrestees who have the same gender classification as outlined in 117.25.
 2. With other prisoners who have the same gender identity (e.g., a transgender woman would be housed with other women).

- B. Transporting members shall report the arrestee's gender identity and preferences to the temporary holding facility or detention facility.
- C. All information concerning the arrestee's gender identity and preferences shall be passed on to subsequent shifts and, if applicable, to the temporary holding facility or detention facility the arrestee is transferred to, if applicable.
- D. Transgender individuals shall receive the same standards of care as other individuals based on medical need, including needs related to hormone medications or therapy. 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 SOP 090 Prisoners and Booking.



EDWARD A. FLYNN
CHIEF OF POLICE

EAF:mfk

Krowski Jr., Mark

From: Debra Trakel <DTrakel@mkelgbt.org>
Sent: Wednesday, September 21, 2016 9:01 PM
To: Krowski Jr., Mark
Subject: RE: Transgender Policy

Good evening Sergeant Krowski:

Thank you for your patience in allowing us the time to carefully review this important policy. I have reviewed the document at length and believe that it does well what it seeks to do: Allow arresting officers to do their job in handling arrests alongside attending to the dignity and equal treatment of those who identify as transgender.

I was particularly Impressed with the acknowledgement in the policy that individual arresting officers may find the application of the policy occasionally complex and should seek the advice of a superior officer when that happens. Although the policy seeks to address the most common kinds of situations that an officer arresting someone who is transgender might find themselves in, gender identity is more fluid than simply “transgender” or “non-transgender;” as it is more complex than simply “male” or “female.” Therefore, an officer may very well need some additional direction or guidance from a supervisor in order to make a good decision around how to handle an arrest with a transgender individual.

I do understand that officers in the field have to make split second decisions for their own safety and the safety of the public. I think the policy makes it clear that officers should err on the side of respect and deference to the expressed gender identity of the individual with whom they are interacting. I believe that simple policy direction will shape the behavior of officers who might otherwise be inclined to treat a transgender individual with disrespect.

I was appreciative of the language in the policy that referred to the birth that “one is assigned.” That signifies to me that some individuals who really understand well some of the issues and challenges of the transgender community participated in the creation of the policy.

The issues related to how the criminal justice system handles the arrest and detention of transgender individuals are complex and evolving as our community evolves and our knowledge increases regarding the lives of those who are transgender. I applaud this solid work on the part of the Milwaukee Police Department to provide good, clear guidance to your staff.

Because your supervisory staff will be the ones line officers will be reporting to and soliciting direction from, if we can assist in providing any training for these supervising officers, we would be glad to talk with you about how to make that happen.

Thank you for the opportunity to participate in the review of this policy. Debra Trakel

(The Rev.) Debra Trakel, LCSW, M. Div.
Director of Client Services
Phone: 414-292-3061



From: Krowski Jr., Mark [mailto:mfkrow@milwaukee.gov]
Sent: Wednesday, September 21, 2016 10:35 AM
To: Debra Trakel
Cc: Karen Gotzler
Subject: RE: Transgender Policy

Good Morning Ms. Trakel,

I am just respectfully requesting if you have had a chance to review our draft Transgender policy and if you had any comments or suggestions to improve it as we would ideally like to present this to the Fire and Police Commission in time for their October meetings so the policy can become official and in place. Please just let us know if you need additional time to review the draft policy as we completely understand and sincerely appreciate your assistance with this request.

Thank you,

Sgt. Mark KROWSKI
Milwaukee Police Department
Office of Management, Analysis, and Planning (OMAP)
Office phone: 414-935-7002
Email: mfkrow@milwaukee.gov

From: Krowski Jr., Mark
Sent: Monday, August 29, 2016 5:56 PM
To: 'Debra Trakel'
Cc: Karen Gotzler
Subject: RE: Transgender Policy

Good Evening Ms. Trakel,

Sounds great and thank you again in advance for the assistance!

Sgt. Mark KROWSKI
Milwaukee Police Department
Office of Management, Analysis, and Planning (OMAP)
Office phone: 414-935-7002
Email: mfkrow@milwaukee.gov

From: Debra Trakel [mailto:DTrakel@mkelgbt.org]
Sent: Monday, August 29, 2016 5:42 PM
To: Krowski Jr., Mark
Cc: Karen Gotzler
Subject: RE: Transgender Policy

Hey Sergeant, and a good evening to you, too. I will look at the policy tomorrow and also run it past our Executive Director, Karen Gotzler. Thank you, again, for the opportunity to review and provide feedback on this policy before you formally present it to the Fire and Police Commission for adoption. Debra

(The Rev.) Debra Trakel, LCSW, M. Div.
Director of Client Services
Phone: 414-292-3061



From: Krowski Jr., Mark [<mailto:mfkrow@milwaukee.gov>]
Sent: Monday, August 29, 2016 5:31 PM
To: Debra Trakel
Subject: RE: Transgender Policy

Good Evening Ms. Trakel,

Thank you for the quick response as I sincerely appreciate it. I have attached our draft version that was completed using resources from the Police Executive Research Forum (PERF), the International Association of Chiefs of Police (IACP), and after reviewing similar policies from several other major cities (including Atlanta PD, Chicago PD, Washington DC Metro PD, and Orlando PD). This policy will remain in draft form until is formally presented to the Fire and Police Commission for their approval before it becomes the official department policy.

However, we definitely would sincerely appreciate it you could review this policy as we definitely wanted to have the opinion of the LGBT community to see if there is anything you feel should be amended or added before it is formally presented to the Fire and Police Commission (there is no current date for this presentation). If you have any thoughts, questions, or concerns about the draft policy please feel free to give me a call or send me an email as I would be more than happy to answer any questions you may have as we would definitely value your opinion on this policy.

Thank you,

Sgt. Mark KROWSKI
Milwaukee Police Department
Office of Management, Analysis, and Planning (OMAP)
Office phone: 414-935-7002
Email: mfkrow@milwaukee.gov

From: Debra Trakel [<mailto:DTrakel@mkelgbt.org>]
Sent: Monday, August 29, 2016 5:13 PM
To: Krowski Jr., Mark
Subject: Transgender Policy

Hi Sergeant Krowski!

Thank you for our ability to give some input into your policy regarding Transgender individuals. We are in the process of hiring a full time Transgender Resource Specialist. I will supervise that individual once they are hired. In the meantime, if you need some policy review I would be your contact person. Please let me know if there is some way that I can assist you. Debra

(The Rev.) Debra Trakel, LCSW, M. Div.
Director of Client Services
Phone: 414-292-3061



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