**INTERACTIONS WITH TRANSGENDER INDIVIDUALS**

SAMPLE

**Sample Policy**

September 2016

**I. PURPOSE**

The purpose of this policy and procedure statement is to establish guidelines for the appropriate treatment of transgender individuals who come into contact with and/or require the services of, the **NAME OF AGENCY** Police Department. As police interactions with transgender individuals become more common, it is important that our personnel know, understand and utilize the appropriate nomenclature, preferable manners of address, and be aware of laws as to public accommodations and other poignant issues attendant to this population.

While the act of treating all our citizens with the respect and dignity continues to be fundamental tenets of this department and our officers, the following considerations are simply a codification of existing procedures and practices.

**II. POLICY**

It is the policy of the **NAME OF AGENCY** Police Department to treat all individuals with dignity, respect, and professionalism. Personnel of this department will not engage in activity that will serve to unduly embarrass, humiliate or otherwise shame transgender individuals whom we come into contact with.

**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.

**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.

**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.

**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.

*Female-to-Male (“FTM”) or Transgender Man, or Transman* – A person who transitions from “female-to-male,” meaning a person who was assigned female at birth, but identifies and lives as a male. A “female to-male” individual should be addressed using masculine pronouns (i.e. he, him, his), regardless of surgical status.

*Male-to-Female (“MTF”) or Transgender Woman, or Transwoman* - A person who transitions from “male-to-female,” meaning a person who was assigned male at birth, but identifies and lives as a female. A “male-to female” individual should be addressed using feminine pronouns (i.e. she, her, hers), regardless of surgical status.

**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.

**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.

**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.

**Adopted Name -** This is a non-birth name that a transgender individual uses in self-reference. This may or may not be the individual’s legal name, and may or may not be the same name that the transgender individual’s personal documents (i.e. driver’s license, passport, etc.) reflect. Be aware that the use of an adopted name does not automatically equate to an attempt to hide ones legal identify or that the individual is misrepresenting his or herself.

**IV. PROCEDURES**

**A. Forms of Address**

As always, during verbal discourse with citizens, Officers shall remain professional and speak with the level of decorum that is appropriate for the given situation. Officers shall address transgender individuals by the individual’s adopted name. This is true even if the individual has not received legal recognition of the adopted name.

In addressing or discussing a transgender person, officers will use pronouns appropriate for that person’s gender identity (e.g., she, her, her’s for a person who is male-to-female; he, him, his for a person who is female-to-male). If officers are uncertain about which pronouns are appropriate, then officers will respectfully ask the individual as to what is their preferred pronoun.

When an individual self-identifies as a transgender person, officers shall not question this identity or ask about the person’s surgical status except for compelling and professional reasons that can be clearly articulated.

**B. Calls for Service**

Calls for service or complaints generated by transgender individuals shall be addressed and investigated in a manner that is consistent with all department policies.

Officers responding to domestic-violence situations shall respond to transgender individuals in a manner that is appropriate to their gender identity. When responding to a domestic violence call, officers will not automatically determine the batterer and survivor based on actual or perceived gender identity and/or sexual orientation but rather on an assessment of the particular situation.

**C. Field Searches**

For the purposes of Stops and Frisks, Exigency Searches, Consent Searches, Personal Searches Pursuant to a Warrant and all other lawful searches of a person, officers shall continue to use standard practices and procedures when conducting these searches. In effecting the search of a transgender individual, the search ideally and where possible should be conducted by an officer of the sex who the transgender individual expresses; if the transgender individual presents feminine expression, the search shall be conducted by a female officer. If the individual presents masculine expression, the search shall be conducted by a male officer.

If searching officers are uncertain as to the subject’s gender expression, then officers will respectfully and in a professional manner ask the individual as to what is their preference is with respect to the sex of the searching officer. At least two officers should be present for these searches when possible. It is understood that the dynamic, fluid and emergent nature of some situations are such that immediate searches are necessary to preserve officer and public safety and to prevent the destruction of evidence. Accordingly, searches may be undertaken by any sex officer where made necessary by these emergent conditions.

A search or frisk shall not be performed for the sole purpose of determining an individual’s anatomical gender, and transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.

**D. Transgender Prisoners**

**1. Transportation**

Whenever practical, transgender detainees will be transported alone. When requested by a transgender individual, department personnel of the transgender individual’s gender identity or expression, if available, will be present during the transport. In situations with multiple transgender detainees, mass arrests, where a transgender individual’s gender identity or expression is unavailable, or where individual transport is not practical, transgender arrestees will be transported by gender classification.

**2. Booking**

The booking officer and associated staff will process transgender prisoners, including persons held in protective custody and juveniles held in custody, according to normal booking procedures as outlined in **STATE THE POLICY NAME AND NUMBER**. As always, booking personnel will conduct the booking proceeding in a manner that preserves the dignity of the detainee without undue embarrassment to him or her. The transgender detainee is to be booked with the appearance that is consistent with the manner in which that individual was arrested.

Removal of clothing, wigs, hair pieces, makeup and other appearance items are not to be conducted from the detainee prior to booking. Removal of appearance items that represent a danger to the detainee in-cell may be effected post-booking and prior to placement in that detainee’s cell.

When possible, transgender detainee held pending their booking, shall be temporarily held separate from other detainees in the same manner a juvenile would be separated from adult detainees and male and female detainees are held separately.

**3. Booking Searches**

All searches of the transgender detainee’s person will be conducted by two officers of the gender requested by the transgender prisoner, whenever possible. If two officers of the preferred gender are not available, the search shall nonetheless be conducted by two available officers. If the detainee does not specify a preference, then the search will be conducted by officers of the same gender as the transgender detainee’s gender expression (e.g., a female-to-male detainee’s expressing no preference should be searched by a male officer). The detainee will also be required to identify their search preference prior to any search which will be documented and witnessed when feasible.

Any detainee who refuses to identify their search preference at booking shall be searched by officers of the same gender as the transgender detainee’s gender expression. A booking search shall not be performed for the sole purpose of determining an individual’s anatomical gender, and transgender individuals shall not be subject to more invasive search procedure than non-transgender individuals.

**4. Gender Classification**

For purposes of departmental records and operations, a detainee’s gender will be classified as it appears on the individual’s government-issued identification card.

Arrestees who are post-operative gender re-assigned are the exception to the government-issued identification card.

a. Male-to-female will be processed as female.

b. Female-to-male will be processed as male.

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

a. An arrestee who has male genitalia will be classified as a male.

b. An arrestee who does not have male genitalia will be classified as a female.

In the event a transgender individual objects to any questioning regarding this sexual classification, the officer should explain the need for searching and the officer should attempt not to unduly embarrass the individual by using an inappropriate search method or jeopardize the individual’s safety by inappropriate placement in the holding facility.

In the event that there is uncertainty regarding the appropriate classification of a detainee’s gender, a supervisor will be consulted for further guidance on the appropriate classification.

**5. Conditions during Police Custody**

Post booking, transgender prisoners shall be placed into a cell corresponding with his or her gender expression; a transgender individual with feminine gender expression must be placed into the female cellblock area and a transgender individual with masculine gender expression shall be placed into the male cellblock area. Whenever possible, a transgender detainee shall be held in a cell without other prisoners. All officers and supervisors shall make every effort to ensure that the detainee’s held without other prisoners.

**6. Medical Attention**

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.

The possession of a needle that is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, specifically if the person or arrestee has documentation from a physician for being in the process of a sex modification.

**7. Transfer of Custody**

In all cases where a transgender detainee is turned over to any other authority for processing or holding it is the transferring officer’s responsibility to ensure the receiving officer is made aware of the arrestee’s status.

**8. Confidentiality**

All information relative to arrests and police investigations, to include photographs, is to be kept confidential and excluded from public record. The release of information will be conducted in accordance with state law and by the rules and regulations of this department. Improper disclosure of this sensitive information is prohibited and may be subject to disciplinary action.