5-09/560.00 - Interactions with Transgender and Gender Non-Conforming Persons

PURPOSE

The Los Angeles County Sheriff's Department does not tolerate discrimination on the basis of sex, race, color, ancestry, religion, national origin, age (40 and over), disability, sexual orientation, gender identity, gender expression, marital status, medical condition, or any other characteristics protected by federal or state law.

The purpose of this policy is to answer questions and establish procedures for handling interactions with transgender and gender non-conforming members of the public. For questions regarding Department procedures which affect transgender employees, please refer to the LASD Guide to Transgender and Gender Non-Conforming Employees (available through the Bureau of Labor Relations and Compliance and on the BOLRAC intranet homepage).

DEFINITIONS

The definitions provided here are not intended to label individuals, but rather to assist in understanding this policy and LASD's legal obligations.

- **LGBT:** A common abbreviation that stands for Lesbian, Gay, Bisexual, and Transgender. It should be noted that lesbian, gay, and bisexual are all identifications defined by a person's sexual orientation, while transgender identification has to do with a person's gender identity. Sexual orientation and gender identity are two independent and separate characteristics.
- **Sexual Orientation:** A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, lesbian, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people may identify as straight, gay, lesbian, or bisexual, just like non-transgender people.
- **Gender Identity:** An internal sense of one's own gender, which may not necessarily match traditional definitions of male or female. One's gender identity is not outwardly visible to others. It is generally determined in the early years of an individual's life and, if different from the individual's physical gender, may result in increasing psychological and emotional discomfort and pain.
- **Gender Expression:** An individual's external social characteristics and behaviors related to gender (such as name, preferred pronouns, appearance, dress, mannerisms, speech, and social interactions), which may be perceived as masculine, feminine or androgynous.
- **Transgender:** Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth, but who identifies as female, is a transgender woman. Likewise, a person assigned the female sex at birth, but who identifies as male, is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this policy applies whether or not a particular individual self-identifies as transgender.
- **Gender Non-Conforming:** Individuals who display gender traits which are not generally associated with the sex assigned to them at birth. Gender non-conforming individuals may or may not identify as male, female, or transgender. Also known as gender-variant, gender fluid, or androgynous.

- **Transition:** The process of changing one's body from the sex that was assigned at birth to match one's gender identity. Individuals undergoing a transition often seek some form of medical treatment such as counseling, hormone therapy, electrolysis, cosmetic surgery, and/or sex reassignment surgery. Some individuals, however, will not pursue some (or any) forms of medical treatment. Transitioning may also include the emotional task of telling one's family, friends, and co-workers, and the process of changing one's name and gender on legal documents and identification. The exact steps involved in transitioning vary from person to person. Avoid the phrases "sex change," "pre-op," and "post-op" when referring to a transition.
- **Intersex:** The general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't seem to fit the typical definitions of female or male.

The terms homosexual, transsexual, transvestite, and sexual preference are outdated or defamatory terms which are seen as offensive by many people. These terms should not be used when speaking to or about the LGBT community.

NAME AND PRONOUN USAGE

Los Angeles County Sheriff's employees are to interact with transgender and gender non-conforming people in a manner that is professional, respectful, and courteous.

Employees shall follow these policies when either of these two conditions are met:

- A person informs a deputy or employee that he/she is transgender; and
- A deputy or employee has good reason to believe the individual is a transgender person. Good reason may be based on gender expression and presentation, reasonable observations, prior interactions, and/or background checks.

Every individual has the right, upon request, to be addressed by the name and pronoun that correspond to their gender identity. Proof of a court-ordered name or gender change is not required. If an individual's appearance and gender expression do not clearly indicate their gender identity, a deputy or employee shall politely and respectfully ask how the person wishes to be addressed, for instance, "What name and pronouns would you prefer I use when I address you?"

Whether or not the name on a person's driver license or identification card coincides with the person's gender identity, employees shall address and refer to the person by the name and gender that person has used to identify him or herself.

Additionally, if the name on a person's driver's license or identification card does not correspond with the individual's gender expression, the person shall be asked his or her legal name in a one-on-one situation, absent extenuating circumstances. If the contact is made in a group environment, the person shall be asked to step outside the group in order to obtain the legal name and avoid "outing" or embarrassing the individual. Deputies who need to obtain the legal name of a detained individual or suspect shall ask, "What is your legal name or birth name?" rather than asking, "What is your 'real' name?" as the latter question may be viewed as offensive.

The intentional or persistent refusal to respect an individual's gender identity (for example, intentionally referring to the person by a name or pronoun that does not correspond to their gender identity) constitutes

harassment and violates this policy as well as MPP section 3-01/030.15, Conduct Toward Others.

Deputies are cautioned not to treat a person's transgender status or appearance as a basis for suspicion or as evidence of prostitution or any other crime. Transgender individuals are not more likely to be involved in illegal activities than non-transgender individuals.

REPORT WRITING

When writing a report involving a transgender person whose legal name and/or gender do not correspond with the name and gender they identify with, use the person's legal name and gender on the face page of the complaint report. However, in the first paragraph of the narrative, include a statement such as: "Victim Terrance Smith is a transgender woman who identifies as 'Tamera Smith' and she will be referred to as such throughout the remainder of this report." Throughout the report, use the pronoun that matches the person's gender identity (i.e., "she" for Tamera Smith).

Note: The explanation of a person's transgender identity in the first paragraph of the narrative preserves respect for the individual. Maintaining their legal name on the face page of the incident report avoids confusion with service of subpoenas and court appearances.

When arresting a transgender suspect whose legal name does not match the name they are currently using, include the name they are using in the "AKA" box on the face page of the report (in addition to the narrative section as described above).

PRIVACY

Personnel shall not ask victims, witnesses, informants, community members, and fellow employees about the current medical status of their gender transition process. This is an extremely private issue and shall be respected as such. Also, under no circumstances shall an employee disclose that a person is transgender to non-law enforcement personnel, with the exception of medical personnel when appropriate, or to other non-relevant Department personnel.

Department personnel shall not ask questions or make statements about a transgender person's genitalia or surgical status. With suspects who have been arrested and are being booked, Department personnel shall refer to Custody Division Manual 5-02/050.00, Classification and Housing of Gay, Gender Non-Conforming, Intersex, and Transgender Inmates, for procedures about processing arrested transgender suspects.

When booking a transgender inmate, directions to remove appearance-related items, such as prosthetics and wigs, shall be consistent with requirements for the removal of similar items from non-transgender inmates. Articles of clothing, such as bras and undergarments that match the inmate's current gender identity, shall not be removed unless like articles are removed from all inmates of that gender.

SEARCHES

All searches of transgender persons shall be conducted in a manner that respects their identity and affords them their dignity. Searches shall not be conducted for the purpose of demeaning the individual who is being

searched.

- In all cases, a transgender or intersex person shall have their identity respected and be accorded their dignity. Under no circumstances shall deputies or officers search any person for the purpose of determining genital status or presence/absence of breasts or for the purpose of demeaning transgender or intersex individuals;
- Under no circumstances shall transgender or intersex individuals be subject to more invasive search procedures than non-transgender or intersex individuals;
- Immediate cursory searches of transgender or intersex individuals may be conducted by a deputy or officer of either gender; and
- More invasive searches, including strip searches, visual body cavity searches, and physical body searches shall be, in all circumstances, conducted by deputies or officers of the gender requested by the transgender or intersex person. No personnel may be present who are not directly relevant to the search, and the search shall be conducted in private. All strip, visual body cavity and physical body cavity searches shall have prior approval of the watch commander, who shall closely evaluate the need for the particular search.

If contraband is identified in a body cavity of an inmate during a strip search or visual body cavity search, personnel shall immediately notify a supervisor (sergeant or higher). Personnel shall verbally encourage the inmate to remove the secreted contraband, but shall not force the inmate to remove the secreted contraband. Sound officer safety tactics should always be employed due to the possibility of the secreted item being a weapon. If the inmate does not comply or agree to remove the contraband, then the watch commander must be notified to determine if Contraband Watch Procedures should be initiated. If any deviation from the procedures for transgender searches occurs, including during an emergency, a supervisor shall be notified of the deviation, and the reasons for the deviation shall be documented in the watch commander's log, or within a custody environment, in the Electronic Uniform Daily Activity Log (e-UDAL). (Custody Division Manual section 5-08/010.00, Searches, Station Jail Manual).

RESTROOM ACCESSIBILITY

Under California State law, transgender persons have the right to use restrooms corresponding to their gender identity. This applies to public restrooms, public schools, and places open to the public such as shopping malls, stores, and restaurants (California Civil Code 51(b) - Unruh Civil Rights Act).

Deputies responding to calls for service which involve a complaint about restroom accessibility shall sensitively explain the law to all the parties involved. Claims of lewd conduct and/or sexual activity or assaults shall be thoroughly investigated and enforced regardless of the gender identity of either party.

ADDITIONAL RESOURCES

- LASD Guide to Transgender and Gender Non-Conforming Employees - Available on Bureau of Labor Relations & Compliance Intranet page
- Policy of Equality Intake Specialist Unit (323) 890-5371 - For questions regarding discrimination or harassment
- Transgender Law Center http://transgenderlawcenter.org/