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**"INTEGRITY...FAIRNESS...SERVICE"**

**SPECIAL ORDER # 2021-04**

**DATE: June 1, 2021**

**TO: All Police Department Personnel. To be Announced at Roll Call and a Copy Posted on the Department's Intranet Site.**

**RE:** Interactions with Transgender, Gender-Variant, and Nonbinary Individuals.

**EFFECTIVE:** Immediately.

**BACKGROUND:** The Department is committed to ensuring its members provide respectful and professional police services to all citizens. As part of this commitment, the Department must ensure its members are educated as to what behaviors may or may not be considered respectful and professional by some members or groups within the community. This document will ensure Department members are provided with guidance for interactions with transgender, gender-variant, and nonbinary individuals. This Order will also ensure that transgender, gender-variant, or nonbinary individuals know that they will be treated respectfully and professionally by members of the Department.

**PURPOSE:** This policy provides guidance for Department members for interactions with transgender, gender-variant, and nonbinary individuals who come into contact with the Baltimore County Police Department.

**RELATIONSHIP TO DEPARTMENTAL VALUES:** This policy demonstrates the Department's commitment to **FAIRNESS**. This policy ensures transgender, gender-variant, and nonbinary individuals are treated with **FAIRNESS** by the Department and its members.

**POLICY:** It is the policy of the Baltimore County Police Department to treat all persons, whether in custody or not, in a respectful, professional, and reasonable manner while maintaining safety and security. Discrimination or harassment of any kind based on actual or perceived gender, gender identity, and/or gender expression is strictly prohibited.

**PROCEDURES:**

**DEFINITIONS**

- **Anatomical Sex** - the sex classification of an individual as male or female based upon their current reproductive anatomy.
- **Birth Sex** - the sex classification of an individual as male or female that was assigned at birth based on their physical characteristics.
- **Gender Expression** - an individual's characteristics and behaviors that may express one's gender identity (e.g., one's name, pronoun, appearance, dress, mannerisms, speech patterns, body characteristics, etc.).
- **Gender Identity** - an individual's sense of being either male, female, both, or neither. This may be different from what is traditionally associated with the individual's birth sex.
- **Gender-Variant** - an individual whose gender identity or gender expression does not conform to socially defined male or female gender norms.
- **Nonbinary** - individuals with gender identities that fall somewhere outside of the traditional conceptions of strictly either female or male.

## **SPECIAL ORDER #2021-04 (Continuation)**

- Preferred Name - the name an individual prefers to use in daily life.  
**NOTE:** This may or may not be the individual's current legal name.
- Sexual Orientation - an individual's attraction to others. This attraction could be physical, romantic, or emotional. Common sexual orientation labels include heterosexual/straight, gay, lesbian, bisexual, etc.  
**NOTE:** Sexual orientation and gender identity are not the same.
- Transgender - an individual whose gender identity differs from their birth sex (e.g., if a person is born and then assigned female, but ultimately identifies as a male, that person would be described as a transgender male, etc.).

### **MEMBERS**

- Shall interact with all people in an unbiased, fair, and respectful manner.
- Shall recognize that gender identity and gender expression do not constitute reasonable suspicion, probable cause, or evidence that a person has engaged in any crime.
- Transferring custody of a transgender, gender-variant, or nonbinary individual to another law enforcement officer or agency, will notify the receiving person:
  1. That the arrestee is transgender, gender-variant, or nonbinary;
  2. How the individual would like to be addressed; and
  3. Any other relevant information.
- Will not compromise the quality of their police actions (e.g., fail to follow officer-safety protocols, fail to conduct thorough searches, etc.) when interacting with a transgender, gender-variant, or nonbinary individual.

### **ADDRESSING INDIVIDUALS**

- Members shall address individuals using the person's clearly stated gender identity, including their preferred name and preferred pronouns (i.e., "she, her, hers" for individuals who self-identify as female; "he, him, his" for individuals who self-identify as male; and "they, them, their," etc. for individuals who self-identify as nonbinary).
- Members who are unsure which pronouns are preferred, shall respectfully ask the person (i.e., "What pronouns do you use?").
- If a person has not stated their gender identity, but the person's intended gender presentation is reasonably clear based on attire and other cues, members shall treat the individual in accordance with their expressed gender.
- If a person's self-identified or expressed gender is unclear, members should make a determination based on any other available information.  
**NOTE:** Gender information on government-issued identification and other documents may be used as presumptive evidence of gender identity, but only in the absence of self-identification by the individual or some other obvious expression of gender identity.
- If an individual has a gender listed on their identification that is not consistent with their gender identity, the individual should be referred to by their self-identified name and gender at all times.
- Members shall avoid unnecessary personal questioning regarding an individual's anatomy or surgical status.

### **MEMBER PROHIBITIONS**

- Stopping, detaining, frisking, or searching any person for the purpose of determining the person's gender identity, birth sex, anatomical sex, or gender expression.
- Requiring proof of an individual's gender or debating an individual's gender identity.
- Use of demeaning or derogatory language, in particular, language aimed at a person's actual or perceived gender identity or gender expression.
- Disclosing an individual's birth sex, anatomical sex, or gender identity to other arrestees, members of the public, or other governmental personnel, absent a proper law enforcement purpose (i.e., transfer of custody to other personnel to ensure proper security of the prisoner).

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- Making assumptions about an individual's sexual orientation based upon their gender identity or gender expression.
- Subjecting an individual to a more invasive weapon frisk or search due to their gender identity or gender expression.
- Stopping or questioning an individual for the sole purpose of determining if they are using, or have used, the proper gender-segregated or single-sex restroom.

### **MEMBERS COMPLETING DEPARTMENTAL REPORTS AND FORMS**

- Complete all name fields (e.g., First name, Last name, etc.) using the individual's name as it appears on their most current driver's license, state identification card, passport, birth certificate, or other form of legal identification, when available.
- Enter any preferred name used by the individual into any alias fields, if available.
- Complete any narrative fields using the individual's preferred name and preferred pronouns.
- Complete any sex/gender fields as follows:
  1. If the reporting system or document contains separate fields for *Sex* and *Gender Identity*, complete the:
    - a. *Sex* field based upon the individual's anatomical sex.
    - b. *Gender Identity* field based upon the individual's gender identity.
  2. If the reporting system or document does not contain separate fields for *Sex* and *Gender Identity*:
    - a. Complete the single field based upon the individual's anatomical sex.
    - b. Report the individual's gender identity in the narrative field, if they:
      1. Express a gender identity other than male or female;
      2. Express a gender identity that does not match their anatomical sex; or
      3. Have an "X" designation on their identification.

**NOTE:** When determining anatomical sex, members will utilize:

1. Information contained on the subject's form of identification;
2. Information provided by the subject;
3. Other available information (e.g., historical records, physical appearance, etc.)

**NOTE:** The federal government's Uniform Crime Reporting (UCR) Program currently requires the reporting of victims' and suspects' sex as either male or female. Members shall avoid unnecessary personal questioning to make a determination, but will use all available information to make a selection.

### **WEAPON FRISKS (I.E., PAT DOWNS) OF TRANSGENDER, GENDER-VARIANT, AND NONBINARY INDIVIDUALS**

- Absent exigent circumstances (i.e., safety concerns), individuals will be frisked by a male or female member as directed in the *Searches of Transgender, Gender-Variant, and Nonbinary Individuals* section of this document.

**NOTE:** If exigent circumstances exist, the frisk will be done in the presence of another officer, when practicable.

### **SEARCHES OF TRANSGENDER, GENDER-VARIANT, AND NONBINARY INDIVIDUALS**

- Individuals will be searched based upon the gender with which they identify (i.e., Persons who identify as males will be searched by male officers. Persons who identify as females will be searched by female officers).

**EXCEPTION:** Nonbinary individuals will be asked if they would feel safer being searched by male or female officers. The individual's response will determine the gender of officers used to conduct the search.

- If an individual's anatomical sex is discovered during a search (e.g., strip search, etc.), this information will not affect the gender of the officer(s) assigned to complete the search.

## SPECIAL ORDER #2021-04 (Continuation)

- Individuals will be searched using male or female officers based upon available historical data (i.e., Arrestees whose prior arrest records, criminal history records, driver's license information, etc. indicate male will be searched using male officers. Arrestees whose prior arrest records, criminal history records, driver's license information, etc. indicate female will be searched using female officers) when a:
  1. Transgender or gender-variant individual refuses to advise if they identify as male or female; or
  2. Nonbinary individual refuses to advise if they would feel safer being searched by male or female officers.  
**NOTE:** The shift/unit commander will consult with the Legal Section for guidance if historical data cannot be located.
- Members will ask transgender, gender-variant, and nonbinary individuals to be searched how they identify.  
**NOTE:** The member's questioning and the individual's response will be recorded using a Department-issued body worn camera (BWC), when possible.
- When an individual refuses to advise their identification or raises concerns in reference to the officer(s) conducting their search, members will:
  1. Immediately pause any search being conducted, unless exigent circumstances (i.e., safety concerns) justifying completion of the search exist;
  2. Contact their supervisor for instruction on how they should proceed; and
  3. Follow the instructions provided by the supervisor.
- When a supervisor is advised that an individual has refused to advise their identification or raised concerns in reference to the officer(s) conducting their search, they will:
  1. Ensure any search being conducted is immediately paused, unless exigent circumstances (i.e., safety concerns) justifying completion of the search exist;
  2. Contact the shift/unit commander for instructions on how the situation will be addressed; and
  3. Provide the shift/unit commander's instructions to the members conducting the search.
- Shift /unit commanders will:
  1. Ensure available historical data is used to determine if male or female officer(s) will conduct a search when a:
    - a. Transgender or gender-variant individual refuses to advise his/her identification.
    - b. Nonbinary individual refuses to advise if they would feel safer being searched by a male or female officer(s).
  2. Evaluate any concerns raised by individuals in reference to the officer(s) conducting their searches.
  3. Provide instructions to supervisors stating how situations will be addressed when an individual raises concerns in reference to the officer(s) conducting their search.
  4. Document in a Form 12L, Intra-Department Correspondence, justification for any actions taken and/or instructions provided in reference to a search or concerns raised by an arrestee.
- Precinct/section commanders will forward Forms 12L completed by shift/unit commanders to the Information & Records Management Section for scanning into the Department's records management system (RMS).

### **TRANSPORTATION OF TRANSGENDER, GENDER-VARIANT, AND NONBINARY ARRESTEES**

- Individuals will be transported based upon the gender with which they identify (i.e., Persons who identify as males will be transported with male arrestees. Persons who identify as females will be transported with female arrestees).  
**EXCEPTION:** Nonbinary individuals will be asked if they would feel safer being transported with male or female arrestees. The individual's response will determine the gender of the arrestees with whom they are transported.

## **SPECIAL ORDER #2021-04 (Continuation)**

- Prior to transportation of an individual, members will determine on a case-by-case basis whether segregation is necessary to ensure the arrestee's well-being and safety. When making the decision to segregate an arrestee, serious consideration will be given to the arrestee's own views regarding their safety.  
**NOTE:** Members are reminded that an arrestee's identification and views regarding their safety may change over time. Members receiving additional information from an arrestee will determine whether action must be taken to ensure the arrestee's well-being and safety.
- Members transporting an individual who identifies as a gender different from their own, will notify dispatch of their:
  1. Starting location and vehicle's mileage.
  2. Ending location and vehicle's mileage.

### **DETENTION OF TRANSGENDER, GENDER-VARIANT, AND NONBINARY ARRESTEES**

- Individuals will be placed into precinct cellblocks and detained in single sex areas of the Department's facilities based upon the gender with which they identify (i.e., Persons who identify as males will be placed in the male cellblocks and areas. Persons who identify as females will be placed into the female cellblocks and areas).  
**EXCEPTION:** Nonbinary individuals will be asked if they would feel safer being placed into the male or female cellblock or area. The individual's response will determine the cellblock and/or area where they are placed.
- Prior to deciding where an individual will be detained, members will determine on a case-by-case basis whether segregation is necessary to ensure the arrestee's well-being and safety. When making the decision to segregate an arrestee, serious consideration will be given to the arrestee's own views regarding their safety.  
**NOTE:** Members are reminded that an arrestee's identification and views regarding their safety may change over time. Members receiving additional information from an arrestee will determine whether action must be taken to ensure the arrestee's well-being and safety.
- Members' requests for transgender, gender-variant, and nonbinary arrestees to remove identity-related items (e.g., prosthetics, clothing, wigs, etc.) shall be consistent with the requirements applied to other arrestees.  
**NOTE:** See Field Manual, Article 5, Section 4.2, Prisoner Property.
- If a transgender, gender-variant, or nonbinary arrestee requires hospitalization, they will be guarded using male or female officers based upon whether a male or female officer was used to conduct their search.

### **RELEASE OF INFORMATION TO THE MEDIA REGARDING INCIDENTS INVOLVING TRANSGENDER, GENDER-VARIANT, AND NONBINARY INDIVIDUALS**

- Members will refer to the individual using their preferred name and gender identity rather than that which is on their government-issued identification.
  - Members will use pronouns requested by the individual and as used in appropriate Department reports/forms.
  - In incidents where the victim is deceased, members will refer to the victim's statements while they were alive, as reported by their next-of-kin or friends and community members, to determine use of pronouns and titles of respect appropriate to the individual's gender identity.  
**NOTE:** If the individual's self-reports of their identity conflict with government-issued identification or information provided by their next-of-kin or friends and community members, the individual's self-reports should take precedence.
- NOTE:** These requirements apply to situations in which the transgender, gender-variant, or nonbinary individual is an arrestee, a victim, a witness, or a suspect.

**SPECIAL ORDER #2021-04 (Continuation)**

**IMPLEMENTATION:** This Special Order will be distributed electronically to all Department members. Shift/Unit supervisors will be responsible for the referencing of this Special Order.

By order of,

A handwritten signature in black ink, appearing to read 'Melissa R. Hyatt', written in a cursive style.

Melissa R. Hyatt  
*Chief of Police*