

Law Enforcement Advisory Board Meeting  
DPS Headquarters, 3<sup>rd</sup> Floor Conference Room, Waterbury VT  
Minutes of Meeting  
June 18, 2015

- Chairman Rick Gauthier called the meeting to order at 1:00 pm with Nelson Tift, Vermont Constable Association; Glen Button, DMV; Jennifer Morrison, VT Chiefs/Colchester PD; James Leene, U. S. Attorney's Office; Evan Meenan, Attorney General's Office for John Treadwell; and guests TJ Anderson, Louis Porter, and Suellen Royea present. It was noted that a quorum was not present.
- **Review of Minutes from February 19, 2015 and April 16, 2015 Meeting:** This topic was tabled until the quorum requirement is met. It was noted that the April meeting minutes suggested creating some subcommittees, which are on hold at this time. In addition, Rick Gauthier reviewed that a law expired regarding mandatory LPR training/storage and wondered if the LEAB should create a model policy. Jennifer Morrison suggested waiting until more direction is received. Glen Button added that he thought another group may be studying this issue and developing a model policy.
- **Old Business:**
  - **CEW Model Policy Review:** Rick Gauthier noted that when the model policy was rolled out to the community, there was some feedback from the community about the language, which was primarily taken from the legislation. He offered to review the policy drafted by the subcommittee, tweak it and bring it back for review at the next meeting.
  - **Update on Human Trafficking:** Rick Gauthier introduced TJ Anderson, who gave an update/review on Human Trafficking (a handout was distributed). She highlighted that a Human Trafficking Task Force was created in 2010 and Vermont's statute, which is one of the best in the country, became effective on July 1, 2011. The Task Force released a report and was included in the LEAB's 2012 Annual report that included forms, policies and guidelines for officers on how to respond/recognize human trafficking situations. One suggestion made in the report was for specially trained officers to investigate these cases; state police trained some officers, but municipal and sheriff's departments did not. The Task Force continued to meet regularly until 2013, but the law enforcement, training and victim resource subcommittees continue to be very active. A handout, which included: an article from NHTRC, Vermont Department of Labor's poster, Vermont's current statute, and an excerpt of S.9 was distributed and reviewed. (Paco Aumand arrived at 1:17 pm). She reported that in talking with Matt Hill from the Vermont State Police, S.9 indicates that SIUs "shall" investigate human trafficking cases. Some upcoming training opportunities sponsored by CUSI include a one-day investigator course on September 1, 2015 and hopefully an advanced, 3-day course in the spring of

2016. Jennifer Morrison suggested contacting Roger Williams. James Leene added they brought in some folks from Dallas for training specific to children and young women. His office has not heard about a human trafficking case from labor, but is aware of ongoing cases in Vermont primarily in conjunction with drug cases, which is a bigger problem than what might have been thought. His office has divided Vermont into 4 sections and assigned attorneys to each section that prosecutes heroin cases only, where they are running into human trafficking situations. TJ noted that about three (3) years ago, a Tri-state training was held that included a piece on human trafficking, and the State's Attorneys recently received training, as well. In addition, a non-profit in Vermont has created a rapid response team for gaps in services. They are trained, are located throughout Vermont, and respond after normal business hours. James Leene added that his office has emphasized with the non-profit group that their position was to make the person safe and let law enforcement do their part. It was thought that this is moving along and was included in the LEAB's business plan due to a lack in investigative resources, but S.9 seems to provide those resources. It was determined that no additional work is needed at this time.

- **New Business:**

- **Model Policy Regarding Dealing with Transgender Individuals:** TJ Anderson introduced the topic and noted one component of the Domestic Violence mandatory training includes training about marginal communities. Transgender has stimulated a lot of discussion. She reviewed a situation that came up in a recent training and was asking the LEAB to create a model policy. A handout was distributed which included a recent FBI article, an informational sheet, and a copy of Philadelphia Police Department's policy. Jennifer Morrison suggested creating a training bulletin instead and shared her concern with having policies that identify unique groups of people. TJ added that some large agencies are creating policies due to law suits they have received. Rick Gauthier inquired if anyone would like to work with TJ on this topic. Jennifer Morrison was willing to proofread any drafts and Rick Gauthier offered to work with TJ on a training bulletin.
- In summary, Rick Gauthier will work on the tweaks to the CEW policy and the training bulletin.
- Jennifer Morrison inquired about having a special phone call for passing the minutes. It was noted that the phone call would have to be warned, but Rick Gauthier offered to check to see if they can be done through email.
- Jennifer Morrison made a motion to adjourn. Nelson Tift seconded the motion. Meeting adjourned at 1:56 pm.

Received: Wed 6/17/2015 10:02 AM

Human trafficking occurs across the United States: in cities, suburbs and rural locations. However, rural communities face unique challenges that may increase their risk for human trafficking, such as higher rates of persistent poverty, a decreasing workforce participation rate, and effects of economic recession and industry change. These factors can create a vulnerable environment in which workers are pushed to seek new opportunities and employers look for new laborers while maintaining low costs of operation.

Rural communities also face additional challenges in identifying and responding to cases of human trafficking. Victims of trafficking who are newcomers to rural communities may be hesitant to reach out and are likely unaware of where to get help. Social services and other critical resources may also be more difficult to access, especially when transportation options are limited.

In 2014, the NHTRC responded to more than 250 cases of potential trafficking in states with predominantly rural communities.\* One case involved a young woman named Allison.\*\*

The NHTRC received a call from Allison, a young woman in her 20s who had just left a traveling sales crew situation. Allison reported that she had learned of the sales crew job from a job placement center in her small hometown and it seemed like a good opportunity to travel and earn some money. After Allison joined the sales crew, she learned that there were daily sales quotas and if the crew members did not meet their quota they would be forced to work longer hours and would not be allowed to eat. [Read More](#)

Despite the challenges, rural communities have many unique strengths to support potential trafficking victims and at-risk populations. The NHTRC has designed a new tool to address the need for continued education on how to identify human trafficking in rural or isolated areas. The [Human Trafficking in Rural Communities](#) webinar provides information and recommendations for strong, protective responses to human trafficking in rural communities. Through increased awareness of how trafficking manifests in rural communities, law enforcement, service providers, and community members will be better equipped to recognize the risk factors and signs of human trafficking in their communities.

\* According to the 2010 U.S. Census, the fifteen states with more than 50% of residents living in designated rural areas were Alabama, Alaska, Arkansas, Iowa, Kentucky, Maine, Mississippi, Montana, New Hampshire, North Dakota, Oklahoma, South Dakota, Vermont, West Virginia, and Wyoming.

\*\*Names, locations, and other identifying information have been changed and/or omitted to preserve the confidentiality of the people we serve.

Signals Received 1/2015 - 4/2015: 8,295  
Signals since 12/2007: 98,823  
Potential Human Trafficking Cases Reported to the NHTRC Since 12/2007: 20,532

### Trafficking in Rural Communities\*

#### Types of Trafficking:



#### Top Venues Reported:

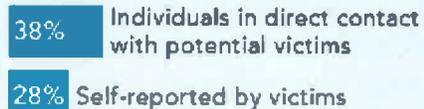
##### SEX TRAFFICKING

1. Hotel/Motel-Based Commercial Sex
2. Commercial Front Brothel
3. Truck Stop

##### LABOR TRAFFICKING

1. Agriculture and Farms
2. Traveling Sales Crews
3. Restaurant/Food Service

#### Methods of Reporting:



\* The statistics above are from 2014 and are based on cases referencing trafficking in the fifteen most rural states in the United States (According to the 2010 U.S. Census - Alabama, Alaska, Arkansas, Iowa, Kentucky, Maine, Mississippi, Montana, New Hampshire, North Dakota, Oklahoma, South Dakota, Vermont, West Virginia, and Wyoming).

## Vermont Human Trafficking Task Force

In 2010, Vermont established a Human Trafficking Task Force. With the help of national organizations dedicated to combating human trafficking, Vermont is striving to protect its citizens and persons everywhere from the dangers and tragic consequences of this crime.

On July 1, 2011, Vermont passed its first anti-trafficking legislation, Act 55: An Act Relating to Human Trafficking (H. 153).

For more information about this initiative in Vermont, contact one of the following with the state of Vermont:

**Cindy Maguire**

[cmaguire@state.vt.us](mailto:cmaguire@state.vt.us)

802-828-5512

or

**Heather Ross**

[heather.ross@usdoj.gov](mailto:heather.ross@usdoj.gov)

(802) 951-6725

## Vermont Reporting Guidelines

If you become aware of an instance of human trafficking, either labor trafficking or sex trafficking, and you want to report this to law enforcement, OR if you want to report suspicious behavior that you believe *might* involve human trafficking, OR if you want information about human trafficking, please call one of the phone numbers listed below:

- **1<sup>st</sup> Point of Contact – Vermont 2-1-1 (United Way of Vermont): Dial 211**
  
- **2<sup>nd</sup> Point of Contact – National Human Trafficking Hotline (Polaris Project): Dial 1-888-373-7888 or text BeFree**
  
- **3<sup>rd</sup> Point of Contact – Vermont Human Trafficking Hotline (Law Enforcement): Dial 1-888-98HUMAN (1-888-984-8626)**

# REPORT HUMAN TRAFFICKING

If you or someone  
you know is being forced  
to engage in commercial sex,  
housework, farm work,  
or any other kind of  
forced labor, please call the

**Vermont Human  
Trafficking Hotline**

# 1-888-984-8626

**(1-888-98HUMAN)** toll-free access to help and services

For more information about  
human trafficking, contact the  
**National Human Trafficking  
Resource Center Hotline at  
1-888-373-7888**

*The national toll-free hotline is available 24 hours a day, seven days a week. It is anonymous, confidential and operated by a non-profit, non-governmental organization. Information is available in 170 languages for referral services, training, and general information.*

 **VERMONT**  
VERMONT DEPARTMENT OF LABOR



**We're here  
to help.**

For local information, please contact:

Title 13 VSA 2651 - 2663

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 13: Crimes And Criminal Procedure****Chapter 60: Human Trafficking*****Subchapter 1: Criminal Acts*****§ 2651. Definitions**

As used in this subchapter:

(1) "Blackmail" means the extortion of money, labor, commercial sexual activity, or anything of value from a person through use of a threat to expose a secret or publicize an asserted fact, whether true or false, that would tend to subject the person to hatred, contempt, ridicule, or prosecution.

(2) "Coercion" means:

(A) threat of serious harm, including physical or financial harm, to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious bodily or financial harm to or physical restraint of any person;

(C) the abuse or threatened abuse of law or the legal process;

(D) withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other government identification document of another person;

(E) providing a drug, including alcohol, to another person with the intent to impair the person's judgment or maintain a state of chemical dependence;

(F) wrongfully taking, obtaining, or withholding any property of another person;

(G) blackmail;

(H) asserting control over the finances of another person;

(I) debt bondage; or

(J) withholding or threatening to withhold food or medication.

of this title. (Added 2011, No. 55, § 2; amended 2013, No. 197 (Adj. Sess.), § 3.)

**§ 2652. Human trafficking**

(a) No person shall knowingly:

(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;

(2) recruit, entice, harbor, transport, provide, or obtain a person through force, fraud, or coercion for the purpose of having the person engage in a commercial sex act;

(3) compel a person through force, fraud, or coercion to engage in a commercial sex act;

(4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;

(5) subject a person to labor servitude;

(6) recruit, entice, harbor, transport, provide, or obtain a person for the purpose of subjecting the person to labor servitude; or

(7) benefit financially or by receiving anything of value from participation in a venture, knowing that a person will be subject to labor servitude as part of the venture.

(b) A person who violates subsection (a) of this section shall be imprisoned for a term up to and including life or fined not more than \$500,000.00, or both.

(c)(1)(A) A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

(B) Notwithstanding any other provision of law, a person under the age of 18 shall be immune from prosecution in the Criminal Division of the Superior Court for a violation of section 2632 of this title (prohibited acts; prostitution), but may be treated as a juvenile under 33 V.S.A. chapter 52 or referred to the department for children and families for treatment under 33 V.S.A. chapter 53.

(2) If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59 (lewdness and

for the purpose of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both. (Added 2011, No. 55, § 2.)

#### **§ 2655. Solicitation**

(a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both. (Added 2011, No. 55, § 2.)

#### **§ 2656. Human trafficking by a business entity; dissolution**

If a business entity, including a corporation, partnership, association, or any other legal entity, is convicted of violating this chapter, the Attorney General may commence a proceeding in the Civil Division of the Superior Court to dissolve the entity pursuant to 11A V.S.A. § 14.30-14.33. (Added 2011, No. 55, § 2.)

#### **§ 2657. Restitution**

(a) A person convicted of a violation of this subchapter shall be ordered to pay restitution to the victim pursuant to section 7043 of this title.

(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim's heir or legal representative, provided that the heir or legal representative has not benefited in any way from the trafficking.

(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim's right to receive restitution pursuant to this section. (Added 2011, No. 55, § 2.)

#### **§ 2658. Prostitution conviction; motion to vacate by victim of human trafficking**

(a) As used in this section, "victim of human trafficking" means:

(1) a victim of a violation of section 2652 of this title; or

(2) "a victim of a severe form of trafficking" as defined by 22 U.S.C. § 7102(13) (federal Trafficking Victims Protection Act).

(b) A person convicted of prostitution in violation of section 2632 of this title may file a motion to vacate the conviction if it was obtained as a result of the person having been a victim of human trafficking. The motion shall be in writing, describe the supporting evidence with particularity, and include copies of any documents showing that the moving party is entitled to relief under this section.

an employer, another language.

(d) The Vermont Department of Labor shall develop and implement an education plan to raise awareness among Vermont employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before January 15, 2013, the Department shall report to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare on the progress achieved in developing and implementing the notice requirement and education plan required by this section. (Added 2011, No. 55, § 2.)

#### **§ 2662. Private cause of action**

(a) A victim of human trafficking may bring an action against the offender in the Civil Division of the Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may include any loss for which restitution is available under section 2657 of this chapter.

(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the Court, provided that the legal guardian, family member, or other representative appointed by the Court has not benefited in any way from the trafficking.

(c) In a civil action brought under this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted. (Added 2011, No. 55, § 2.)

#### **§ 2663. Classification of victims; immigration assistance**

(a) Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a State's Attorneys' office, or the Office of the Attorney General to be a victim of human trafficking, such agency or office shall:

(1) Notify the Victim's Compensation Program at the Center for Crime Victim Services that such person may be eligible for services under this chapter.

(2) Make a preliminary assessment of whether such victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code (Trafficking Victims Protection Act) or appears to be otherwise eligible for any federal, state, or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim to services available, including legal service providers. If the possible victim is under the age of 18 or is a vulnerable adult, the agency or office shall also notify the Family Services Division of the Department for Children and Families or the Office of Adult Protective Services in the Department of Disabilities, Aging, and Independent Living.

(b) Law enforcement assistance with respect to immigration. After the agency or office makes a preliminary assessment pursuant to subdivision (a)(2) of this section that a victim of human trafficking or a possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons, as defined in section 7105 of Title 22 of the United States Code and upon the request of such victim, the agency or office shall provide the victim of human trafficking with a completed and executed United States citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons or a USCIS form I-918, supplement B, U nonimmigrant status

information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

\* \* \*

(c) The Commissioner or ~~the Commissioner's~~ designee may disclose Registry information only to:

\* \* \*

(5) the Commissioner for Children and Families; or ~~the Commissioner's~~ designee; for purposes related to:

(A) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

(B) the Department's child protection obligations under chapters 49-59 of this title.

\* \* \*

Sec. 14. [Deleted.]

\* \* \* Municipal and County Government; Special Investigative

Units; Mission and Jurisdiction \* \* \*

Sec. 15. 24 V.S.A. § 1940 is amended to read:

§ 1940. TASK FORCES; SPECIALIZED SPECIAL INVESTIGATIVE

UNITS; BOARDS; GRANTS

(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or

(ii) death;

(B) potential violations of:

(i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

(ii) 13 V.S.A. § 2605 (voyeurism); and

(iii) 13 V.S.A. § 1304 (cruelty to a child); and

(3) may assist with the investigation of other incidents, including incidents involving domestic violence and crimes against vulnerable adults.

(b) A ~~task force or specialized~~ special investigative unit organized and operating under this section may accept, receive, and disburse in furtherance of its duties and functions any funds, grants, and services made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civic sources. Any employee covered by an agreement establishing a special investigative unit shall remain an employee of the donor agency.

(c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which shall ~~be comprised of~~ comprise the Attorney General, the Secretary of Administration, the Executive Director ~~of the Department~~ of State's Attorneys and Sheriffs, the Commissioner of Public Safety, the Commissioner for Children and Families, a representative of the Vermont Sheriffs' Association, a

benefits costs of a part-time ~~specialized~~ special investigative unit investigator which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

(d) The Board may adopt rules relating to grant eligibility criteria, processes for applications, awards, and reports related to grants authorized pursuant to this section. The Attorney General shall be the adopting authority.

Sec. 16. 33 V.S.A. § 4915b(e) is amended to read:

~~(e) The Department shall report to and request assistance from law enforcement in the following circumstances:~~

~~(1) investigations of child sexual abuse by an alleged perpetrator age 10 or older;~~

~~(2) investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care;~~

~~(3) situations potentially dangerous to the child or Department worker.~~

[Repealed.]

Sec. 17. 33 V.S.A. § 4915 is amended to read:

§ 4915. ASSESSMENT AND INVESTIGATION

\* \* \*

(g) The Department shall report to and receive assistance from appropriate law enforcement in the following circumstances:

## FBI Law Enforcement Bulletin

Home • 2015 • June • Law Enforcement and Transgender Communities

# Law Enforcement and Transgender Communities

By Tod W. Burke, Ph.D., Stephen S. Owen, Ph.D., and April Few-Demo, Ph.D.

6/11/2015

In 1993 Brandon Teena was murdered. Born Teena Brandon he was biologically female, but identified with the male gender, dressing as a man and dating women.[1] After being assaulted and raped by two acquaintances, Brandon reported the crimes to local law enforcement, with the sheriff's office assuming the investigation. The Supreme Court of Nebraska later characterized language used in the investigative interview of Brandon as "crude and dehumanizing" and found that the "tone used throughout the interview was demeaning, accusatory, and intimidating." [2] At one point Brandon was asked, "Why do you run around with girls instead of guys being you're a girl yourself? Why do you make girls think you're a guy?" [3]



Brandon expressed fear that the perpetrators of the attack would retaliate, which they had threatened to do after learning that he reported the crimes, but the sheriff's office did not provide protection to him while the alleged offenders remained at large in the community. The assailants subsequently killed Brandon and two other persons at the home where he stayed. The court issued a strong ruling in a lawsuit that followed the case, holding that in this instance the sheriff's "conduct was extreme and outrageous, beyond all possible bounds of decency, and is to be regarded as atrocious and utterly intolerable in a civilized community." [4] Also, the court held "that the county's negligence was a proximate cause of Brandon's death." [5]

Through research, improved training, and community advocacy, law enforcement's response to victims of sexual assault has improved over time. Also, an awareness of and respect for transgender communities have increased within police agencies; for instance, the Nebraska Law Enforcement Training Center has used in its curriculum "a viewing and discussion of 'The Brandon Teena Story,'" a documentary about Brandon's case. [6] In addition, the U.S. courts of appeals have found transgender discrimination a form of "sex discrimination," including a case in which a transgender police officer successfully challenged the denial of a promotion. [7] Further, in a December 2013 poll, approximately 55 percent of the public believed that transgender persons should receive protection under the law from employment discrimination. [8]

At the same time concerns remain. A report from the National Coalition of Anti-Violence Programs (NCAVP) suggested that transgender communities are at heightened risk for sexual violence; hate-motivated violence, both in public and at shelters; discrimination or harassment from officers; and violence from the police. [9] Other sources, while not exhaustive because they

focus primarily on data from mainly urban support organizations to which victims may report incidents, also give cause for concern.

For instance, the National Transgender Discrimination Survey (NTDS), administered to a national sample of “6,450 transgender and gender nonconforming study participants,” found that more than three-quarters of those surveyed faced harassment in school, and over half “reported being verbally harassed or disrespected in a place of public accommodation.”[10] Specific to policing the same report found that over one-fifth experienced harassment while interacting with police, with much higher rates reported by people of color, and almost half of the respondents described feeling uncomfortable seeking police help.[11]

Training resources exist pertaining to police interactions with transgender communities, consistent with recent efforts by the U.S. Department of Justice’s Community Relations Service (CRS). Citing statistics from the NTDS, then Deputy Attorney General James M. Cole noted the importance of training “to educate law enforcement about the transgender communities they serve... [and to] enhance law enforcement outreach capabilities to the transgender communities by addressing sensitivities, stereotypes, and expectations.”[12] This also is consistent with the NCAVP’s recommendation for the importance of training, in which it notes that a lack of knowledge or awareness may result in negative interactions between officers and transgender communities.[13]

The authors provide an overview of the relationship between law enforcement and transgender communities. Areas covered include key terms and concepts, the role of law enforcement policy and training, and recommendations for police personnel.

## Overview and Terminology

Conflict and misunderstanding between law enforcement and the transgender community is not new. A number of studies have found that transgender individuals often experience negative interactions with officers. For instance, one study found that some transgender persons generally distrust police, often because of incidents of personal harassment and abuse that they experienced directly or heard about indirectly.[14] Another study noted a lack of recognition, respect, and trust from some law enforcement personnel toward transgender individuals.[15] Of course, perceptions of the police may be shaped by media accounts, as well as the experiences of family members, friends, and acquaintances. As a result the relationship between transgender communities and law enforcement may be strained, even for agencies that do not perceive issues or concerns.

“  
Conflict and  
misunderstanding between  
law enforcement and the  
transgender community is not  
new.  
”

Sometimes, misunderstandings and feelings of mistrust or discrimination can occur solely based on language used. This may originate from a lack of knowledge and appreciation of terminology related to transgender communities. Law enforcement officers should understand some key gender-specific terms specific to transgender communities to minimize miscommunications.

An individual’s sex is biologically determined by sex chromosomes—XY for male and XX for female—and is assessed at birth by the appearance of external genitalia.[16] *Gender* “refers to the socially constructed roles, behaviors, activities, [traits], and attributes that a given society considers appropriate for men and women.”[17] *Gender identity* relates to persons’ sense as to whether they identify as male, female, both male and female, neither male nor female, or as

intersexed; this is separate from sexual orientation or attraction.[18] *Gender expression* pertains to the way an individual communicates gender identity to others through behavior, clothing, hairstyles, voice, or body characteristics.[19] As such, sex is biological, gender identity involves persons' internal feeling as to their gender, and gender expression is how someone communicates gender externally.

Much confusion often exists as to what *transgender*, *transsexual*, and *intersex* mean. These terms are neither interchangeable, nor mutually exclusive.

People who identify as transgender or transsexual usually are born with typical male or female anatomies, but feel as though they have been born into the wrong body. For example a genetic woman who identifies as transgender or transsexual may have typical female anatomy, although she feels male and may prefer a masculine or alternative pronoun.

Transgendered individuals may seek to alter their bodies through hormones, surgery, and other means to make them as congruent as possible with their gender identity. Transsexual individuals all undergo some type of surgical or hormonal intervention or alteration to align the physical body's appearance with their gender identity. Surgical alteration of genitalia is referred to as sex-reassignment surgery or, in the vernacular, a sex-change operation.

Intersex persons have either ambiguous anatomy not considered by doctors to be typically male or female or have a mix of both female and male anatomies at birth. Individuals who are intersexed typically are assigned a sex by doctors and parents. The majority of such individuals identify as male or female, rather than as transgender or transsexual.[20]

For those persons transitioning to another sex and living as a different gender, the process occurs over several years. It is not merely a singular event, such as physical alteration by hormonal and surgical interventions (e.g., mastectomy or sex-reassignment surgery). Transitioning also involves negotiation, conflict, and changes in relationships with intimate partners, family members, and other sources of informal social support (e.g., friends, fellow employees, and colleagues) and occurs in diverse environmental settings (e.g., home, school, work, and community).[21]

*Transmen* (female to male, or FTM) and *transwomen* (male to female, or MTF) are common labels for those in the process of making the transition from one sex to the other.[22] Use of the words *post-op*, *pre-op*, and *non-op* to identify a transgender person's surgical status now is considered offensive by many in transgender and LGB (lesbian, gay, and bisexual) communities. Transgender persons' surgical status is private information generally needed only by their medical providers or others entrusted with their care and safety.[23]

Transgender, an umbrella category, identifies persons whose gender identity, gender expression, or behavior does not conform to that typically associated with traditional notions of male and female or which mixes different aspects of traditional female and male gender roles.[24] It is erroneous to assume that all transgender persons have the same backgrounds, identities, and experiences; logically, not all law enforcement interactions with transgender persons will manifest the same concerns or even use the same language.

*Trans* or *trans\** are terms sometimes used within transgender communities, LGB communities, and academic and activist publications.[25] The asterisk denotes an inclusivity of people who as transgender individuals may identify in a variety of ways. Transgender persons sometimes may prefer to be referred to by gender-neutral pronouns, such as *queer*, *genderqueer*, *one*, *ze*, *sie*, *zie*, *ziers*, *hir*, *zim*, *ey*, or singular *they*, *their*, and *them*. [26]

As the variety of terms illustrates, preferences vary, and the language surrounding transgender communities constantly evolves. Potential generational differences exist, as well, because older adults may be more uncomfortable with some of the terms. One example is the word *queer*, which has been “taken back” by the LGB and transgender communities in an effort to defuse the strong negative connotations typically associated with it. More than any of the labels, “queer” is more popularly used by youth and young adults, specifically those who do not want to be locked into a more exclusive label.[27]

“ Sometimes, misunderstandings and feelings of mistrust or discrimination can occur solely based on language used. ”

Being transgender concerns gender, but not *sexual identity* or *sexual orientation*. Sexual identity refers to how persons perceive their own sexual desires and sexual expressions, while sexual orientation denotes an individual’s physical, romantic, and emotional attraction to another person.[28] In other words, transgender individuals may be attracted to members of the same or different gender. As persons begin to embrace multiple ways of expressing gendered or gender-neutral lives, a plethora of different groups who welcome or reject a variety of labels has grown over the years. *Genderqueer*, a relatively new term, is used by some people who may or may not identify as transgender, but who describe their gender as somewhere on the continuum beyond the binary masculine/feminine gender system.[29]

Cross-dressers (formerly referred to as transvestites), drag kings (biological women who dress in men’s clothing), and drag queens (biological men who dress in women’s clothing) are not typically transgender persons; the majority of these individuals do not have a gender identity different from their biological sex.[30] In fact, most cross-dressers identify as heterosexuals, but can be of any sexual orientation, may or may not dress as a different gender for erotic reasons, and most often do not desire to alter their biological sex. Drag kings and drag queens are performers who dress in clothing associated with a biological sex different from themselves. The clothing, accessories, gestures, mannerisms, voice, and body movements of the performer often highlight exaggerated stereotypical gender characteristics.[31]

### Policy and Training

Many police agencies have implemented specific policies to reduce tension with and to better serve transgender persons. For instance, the Philadelphia, Pennsylvania, Police Department implemented Directive 152 to guide their interactions with transgender communities. One of the orders within the directive instructs officers to remain cognizant of the use of proper terminology when addressing transgender individuals, such as asking a person being questioned which gender pronoun is preferred.[32]

Not isolated to law enforcement, the use of improper terminology can cause strain between transgender communities and the community at large. On July 14, 2013, Diamond Williams was brutally murdered and dismembered after the suspect discovered that Diamond was a transgender woman. Her body was located in an isolated field. “Initial news articles about Williams’ death described her as a ‘male prostitute dressed as a woman,’” language offensive to many transgender persons and allies.[33] Some of the other orders within Directive 152 include keeping transgender arrestees isolated from the general inmate population and referring to transgender victims, witnesses, or arrestees by their preferred names, particularly when addressing the media.[34]

In October 2007 the Washington, D.C., Metropolitan Police Department implemented General Order PCA 501-02, Handling Interactions with Transgender Individuals.[35] This extensive policy includes many features.

- Definitions of key terms (e.g., gender identity, intersex, transgender, and transsexual)
- Regulations (e.g., use of appropriate/nondemeaning language and proper pronouns)
- Procedural guidelines (e.g., methods for handling calls for service and citizen complaints involving transgender individuals; proper techniques for stop-and-frisk situations with transgender persons; procedures for conducting arrest situations involving transgender individuals, including appropriate searching; ways to communicate with fellow officers; and procedures for documenting potential risk factors associated with an arrest, such as hostility from other arrestees)
- Procedures for transporting transgender arrestees (e.g., separate transportation for transgender individuals due to safety concerns)
- Ways to process and house transgender persons in custody (e.g., segregated cells and restrictions regarding appearance-related items, such as wigs and makeup)

The policy also includes sections on handling juvenile transgender arrestees and providing medical treatment to transgender persons in custody (e.g., special medical needs for hormone treatments).[36]

“

...the language surrounding transgender communities constantly evolves.

”

However, policy implementation does little without proper training. CRS provides resources and exercises for law enforcement agencies interested in training officers about issues in transgender communities.[37] In its presentation CRS notes the importance of terminology, including that which may be deemed offensive by transgender individuals, such as any nonpreferred pronoun, “it,” “shim,” “tranny,” “transvestite,” “hermaphrodite,” “he-she,” and “shemale.”[38] Additionally, CRS offers tips for interviewing transgender individuals, including having respect for the person’s self-identification, using appropriate pronouns, and, if a search is required—keeping officer safety in mind—asking persons if they prefer a male or female officer to conduct the search.[39]

Some police agencies include training for officers in their attempt to better serve transgender communities. For instance, the Chicago, Illinois, Police Department produced a video that focuses on police-transgender interactions, including interviews by transgender and LGB community members.[40] Law enforcement personnel also have access to free online training programs.[41] One such presentation stresses the need for greater awareness of transgender concerns, including specific types of calls for service (e.g., bullying, discrimination, domestic violence, and suicide); incarceration issues (e.g., searches, medical needs, and risk management); and officer sensitivity training, protection, and community referrals.[42]

## Recommendations

The aforementioned research provides much to consider. To this end, the authors offer several recommendations.

- To develop a stronger professional relationship with transgender communities, law enforcement agencies should integrate training on transgender issues into academy and

in-service programs. During planning stages and the training process, the sessions should include members of transgender communities. For example, transgender community members may serve in role-playing exercises to provide officers a better understanding of relevant issues.

- Police agencies should develop specific policies and directives focusing on transgender issues. Any training, policy, or directive should have input and buy in from line officers, as well as their immediate supervisors. Law enforcement agencies should review their policies regarding transgender persons to assure conformity with general orders and transgender communities' concerns. All implemented policies should, first and foremost, focus on officer and community safety issues (e.g., during searches).
- Officers must have a thorough understanding of proper terminology when addressing or referring to transgender individuals. Law enforcement personnel should not ask if a person is transgender; rather, the Transgender Community of Police and Sheriffs recommends that transgender persons "be honest and forthright about your identity and gender with the officer."<sup>[43]</sup> Once a person identifies to a police officer as transgender, the officer can ask the individual how he, she, or zie prefers to be addressed. "A few antagonistic words can go a long way toward deepening the divide between transgender [individuals] and the people sworn to protect them."<sup>[44]</sup>
- As part of community policing efforts, some agencies might find it beneficial to establish a police-community liaison officer to interact with transgender communities. While similar to police liaisons with the gay and lesbian community, many of the issues needing to be addressed are unique to transgender communities. It also is essential that members of transgender communities understand the role of law enforcement officers to better assist in communication efforts.
- Police agencies must pay particular attention to racial profiling issues that target transgender individuals. Transgender youth and adults, including homeless individuals and, particularly, transgender people of color, can experience profiling and discriminatory treatment by law enforcement officers.<sup>[45]</sup>
- When employing a transgender officer, law enforcement agencies should remain diligent in creating an inclusive environment, recognizing and proactively seeking to prevent discriminatory behaviors and policies.

## Conclusion

Police agencies can benefit by proactively engaging transgender communities through the creation of liaison positions and support networks. Understanding and addressing misconceptions regarding transgender communities may prove valuable in police-community relations and the overall mission of law enforcement. While training and policy implementation are critical for law enforcement in building a trusting relationship with transgender communities, it will take more than a training session, workshop, or video to make a difference; it will require a change in police culture. In discussing the Philadelphia Police Department's new policy, its commissioner said, "We're not here to judge folks—we're here to serve folks."<sup>[46]</sup> Giving consideration to interactions with diverse communities is an important step toward doing so.

*For additional information contact Dr. Burke at [tburke@radford.edu](mailto:tburke@radford.edu), Dr. Owen at [ssowen@radford.edu](mailto:ssowen@radford.edu), or Dr. Few-Demo at [alfew@vt.edu](mailto:alfew@vt.edu).*

---

## Endnotes

- [1] "Downtown: Brandon Teena's Tragic Story," ABC News, <http://abcnews.go.com/2020/story?id=132702> (accessed March 9, 2015).
- [2] *Brandon v. County of Richardson*, 624 N.W.2d 604, at 622 (Neb. 2001).
- [3] *Ibid.*, at 613.
- [4] *Ibid.*, at 621.
- [5] *Ibid.*, at 628.
- [6] Stephanie Fairington, "Two Decades After Brandon Teena's Murder, a Look Back at Falls City," *The Atlantic*, December 31, 2013, under "National," <http://www.theatlantic.com/national/archive/2013/12/two-decades-after-brandon-teenas-murder-a-look-back-at-falls-city/282738/> (accessed March 9, 2015).
- [7] *Glenn v. Brumby*, 663 F.3d 1312, at 1317 (11th Cir. 2011); and *Barnes v. City of Cincinnati*, 401 F.3d 729 (6th Cir. 2005).
- [8] Alex Roarty, "Poll: End Workplace Discrimination Against Gays," *National Journal*, December 11, 2013, <http://www.nationaljournal.com/congressional-connection/coverage/poll-end-workplace-discrimination-against-gays-20131210> (accessed March 9, 2015).
- [9] National Coalition of Anti-Violence Programs, *Hate Violence in 2013* (New York, NY: New York City Gay and Lesbian Anti-Violence Project, New York, NY, 2014), [http://www.avp.org/storage/documents/2013\\_ncavp\\_hvreport\\_final.pdf](http://www.avp.org/storage/documents/2013_ncavp_hvreport_final.pdf) (accessed March 11, 2015).
- [10] Jaime Grant, Lisa Mottet, Justin Tanis, Jack Harrison, Jody Herman, and Mara Keisling, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011), 2-5, [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf) (accessed March 9, 2015).
- [11] *Ibid.*, 6.
- [12] U.S. Department of Justice, Deputy Attorney General James M. Cole Delivers *Remarks at the Community Relations Service Transgender Law Enforcement Training Launch*, (Washington, DC, March 27, 2014), <http://www.justice.gov/iso/opa/dag/speeches/2014/dag-speech-140327.html> (accessed March 9, 2015).
- [13] National Coalition of Anti-Violence Programs, *Hate Violence in 2013*, 65.
- [14] Jan Redfern, "Best Practices to Improve Police Relations with Transgender Individuals," *Journal of Law Enforcement* 3, no. 4 (2014): 1-17.
- [15] Leslie Moran and Andrew Sharpe, "Violence, Identity, and Policing: The Case of Violence Against Transgender People," *Criminology and Criminal Justice* 4, no. 4 (November 2004): 395-417.
- [16] Anne Fausto-Sterling, "The Five Sexes: Why Male and Female Are Not Enough," in *The Gender and Psychology Reader*, ed. Blythe McVicker Clinchy and Julie K. Norem (New York, NY: New York University Press, 1998), 221-227; and Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (New York, NY: Basic Books, 2000).
- [17] World Health Organization, "What Do We Mean By 'Sex' and 'Gender'?" <http://www.who.int/gender/whatisgender/en/> (accessed March 9, 2015).
- [18] Lisa Diamond, Seth Pardo, and Molly Butterworth, "Transgender Experience and Identity," in *Handbook of Identity Theory and Research*, ed. Seth J. Schwartz, Koen Luyckx, and Vivian L. Vignoles (New York, NY: Springer, 2011), 629-647.
- [19] American Psychological Association, "Practice Guidelines for LGB Clients: Guidelines for Psychological Practice with Lesbian, Gay, and Bisexual Clients," <http://www.apa.org/pi/lgbt/resources/guidelines.aspx?item=2> (accessed March 9, 2015).
- [20] Brandy Smith and Heidi Levitt, "Transgender," in *International Encyclopedia of the Social Sciences*, ed. William Darity, Jr., 2nd ed., vol. 8 (Detroit, MI: Macmillan, 2008), 431-432; and Diamond, Pardo, and Butterworth, "Transgender Experience and Identity."
- [21] Mildred Brown and Chloe Rounsley, *True Selves: Understanding Transsexualism—For Families, Friends, Coworkers, and Helping Professionals*, 1st ed. (San Francisco, CA: Jossey-Bass, 2003); Diamond, Pardo, and Butterworth, "Transgender Experience and Identity"; Sally Hines, "What's the Difference? Bringing Particularity to Queer Studies of Transgender," *Journal of Gender Studies* 15, no. 1 (March 2006): 49-66; and Sally Hines, *Transforming Gender: Transgender Practices of Identity, Intimacy, and Care* (Bristol, UK: The Policy Press, 2007).
- [22] Smith and Levitt, "Transgender."
- [23] Lambda Legal and the National Youth Advocacy Coalition, *Bending the Mold: An Action Kit for Transgender Students* (New York, NY: Lambda Legal and the National Youth Advocacy Coalition, 2008), 1-36, [http://www.lambdalegal.org/sites/default/files/publications/downloads/btm\\_bending-the-mold\\_0.pdf](http://www.lambdalegal.org/sites/default/files/publications/downloads/btm_bending-the-mold_0.pdf) (accessed March 9, 2015).

- [24] Diamond, Pardo, and Butterworth, "Transgender Experience and Identity."
- [25] National Center for Transgender Equality, "Transgender Terminology," [http://transequality.org/sites/default/files/docs/resources/TransTerminology\\_2014.pdf](http://transequality.org/sites/default/files/docs/resources/TransTerminology_2014.pdf) (accessed March 9, 2015).
- [26] Becca Chase and Paula Ressler, "An LGBT/Queer Glossary," *English Journal* 98, no. 4 (March 2009): 23-24; and Claire Winter, *Understanding Transgender Diversity: A Sensible Explanation of Sexual and Gender Identities* (CreateSpace, 2010).
- [27] Robin Brontsema, "A Queer Revolution: Reconceptualizing the Debate over Linguistic Reclamation," *Colorado Research in Linguistics* 17, no. 1 (June 2004).
- [28] American Psychological Association, "Practice Guidelines for LGB Clients."
- [29] Lambda Legal and the National Youth Advocacy Coalition, *Bending the Mold*.
- [30] *Ibid.*, 24.
- [31] Smith and Levitt, "Transgender."
- [32] Aubrey Whelan, "New Phila. Police Policy Reaches Out to Transgender People," *The Philadelphia Inquirer*, February 11, 2014, [http://articles.philly.com/2014-02-11/news/47204235\\_1\\_transgender-residents-police-policy-deputy-commissioner-kevin-bethel](http://articles.philly.com/2014-02-11/news/47204235_1_transgender-residents-police-policy-deputy-commissioner-kevin-bethel) (accessed March 9, 2015).
- [33] *Ibid.*
- [34] *Ibid.*
- [35] Washington, DC, Metropolitan Police Department, "Handling Interactions with Transgender Individuals," [https://go.mpdconline.com/GO/GO\\_501\\_02.pdf](https://go.mpdconline.com/GO/GO_501_02.pdf) (accessed March 11, 2015).
- [36] *Ibid.*
- [37] U.S. Department of Justice, Community Relations Service, "Transgender Law Enforcement Training Preview" (presentation, 2014).
- [38] *Ibid.*
- [39] *Ibid.*
- [40] Chicago, IL, Police Department, "Transgender Training Video," (Chicago, IL, Police Department), YouTube, Adobe Flash Player video file, November 15, 2008, <http://www.youtube.com/watch?v=58JMQmS-vno> (accessed March 9, 2015).
- [41] Justice Planning and Management Associates, "Transgender Awareness for Law Enforcement Officers," Justice Planning and Management Associates website, Adobe Flash Player slideshow, <http://www.jpmaweb.com/test/transgender/player.html> (accessed March 9, 2015).
- [42] *Ibid.*
- [43] Transgender Community of Police and Sheriffs, "Community Policing Corner," <http://www.tcops-international.org/CommunityQA.html> (accessed March 9, 2015).
- [44] Whelan, "New Phila. Police Policy."
- [45] Catherine Hanssens, Aisha Moodie-Mills, Andrea Ritchie, Dean Spade, and Urvashi Vaid, *A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV* (New York, NY: Center for Gender & Sexuality Law at Columbia Law School, 2014), [https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/roadmap\\_for\\_change\\_full\\_report.pdf](https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/roadmap_for_change_full_report.pdf) (accessed March 9, 2015).
- [46] Whelan, "New Phila. Police Policy." 2015.

## FAQs continued . . .

### 4) DOES THE LAW PROHIBIT SEX-SEGREGATED RESTROOMS?

**No.** It is perfectly legal in Vermont for businesses to maintain sex-segregated restrooms. The Human Rights Commission interprets the law to require that an individual be permitted to access restrooms in accordance with his/her gender identity, rather than his/her assigned sex at birth. Just as a non-transgender individual is entitled to use a restroom appropriate to his/her gender identity without having to provide documentation or to respond to invasive questions, a transgender individual must also be allowed to use a restroom in accordance with his/her gender identity without being questioned or harassed.

### 5) DOES THE LAW APPLY TO CHURCHES AND OTHER HOUSES OF WORSHIP?

**Sometimes.** The Human Rights Commission interprets the law to exempt religious institutions with respect to any religion-based qualifications when such qualifications are related to a *bona fide* religious purpose. Where qualifications are not related to a *bona fide* religious purpose (such as a child care facility operated in a church building and available to the public), religious institutions are subject to the provisions of these laws.

If you believe you have been discriminated against, you can learn how to file a complaint with the Human Rights Commission by contacting us by telephone or e-mail, or by going to our website to download a complaint form; contact information is listed below. You have one year from the date of an alleged act of public accommodations discrimination to file a complaint with the Human Rights Commission.

## SEX, SEXUAL ORIENTATION AND GENDER IDENTITY: A Guide to Vermont's Anti-Discrimination Law for Stores, Restaurants, Schools, Professional Offices and other Places of Public Accommodation



## Vermont law:

*It is unlawful in Vermont for a public accommodation to discriminate because of a person's sex, sexual orientation or gender identity. It is also illegal to discriminate because of other protected categories, such as an individual's race, color, religion, disability, marital status or national origin.*

## What do these terms mean?

- **"Gender identity"** is defined by Vermont law as "an individual's actual or perceived gender identity, or gender-related characteristics intrinsically related to an individual's gender or gender identity, regardless of the individual's assigned sex at birth."
- **"LGBT"** refers collectively to lesbian, gay, bisexual, and transgender people.
- **"Sex"** means the biological classification of people as male or female. Newborns are assigned a sex at birth based primarily on the appearance of their genitals.
- **"Sexual Orientation"** is defined by Vermont law as "female or male homosexuality, heterosexuality, or bisexuality."
- **"Transgender"** is an umbrella term which refers to individuals whose gender identity diverges from societal norms.

## Who must obey this law?

All places of public accommodation. Places of public accommodation include:

- Stores, restaurants, professional offices, theaters, insurance companies, and other establishments that provide goods or services to the general public.
- State and local governmental units that receive tax support (such as police departments, schools, libraries, etc.)
- Any place offering free services (such as food banks, emergency shelters, civic festivals, etc.)
- Dentist and medical offices, hospitals, and transportation services (buses, taxis, airlines, etc.)

## FAQs

### 1) ARE ALL BUSINESSES, OFFICES, AND ORGANIZATIONS PLACES OF PUBLIC ACCOMMODATION?

**No.** Any private club, religious organization (see more information at FAQ #5) or other place which is distinctly private by its nature is not a place of public accommodation. However, if it offers some goods or services to the general public, to that extent it will be treated as a public accommodation.

### 2) MAY PLACES OF PUBLIC ACCOMMODATION DENY SERVICES TO AN INDIVIDUAL BECAUSE HE/SHE IS AN LGBT PERSON??

**No.** Refusing to provide any goods or services because of a person's sex, sexual orientation or gender identity is illegal. It is also illegal to provide goods or services of in-

ferior quality, in an unreasonably hostile manner, or under different terms because of a person's sex, sexual orientation or gender identity.

Some examples of possible illegal discrimination by a place of public accommodation are:

- Providing false information about the availability of seating, tickets, or services
- Refusing to allow an individual to use all the facilities or services of the public accommodation when they are available to others
- Harassment, intimidation, or other demonstrations of hostility

### 3) WHAT IS ILLEGAL HARASSMENT?

Harassment may consist of, but is not limited to:

- Repeated spoken or written remarks of a demeaning nature
- Inappropriate sexual conduct
- Physical or psychological abuse
- Implied or explicit threats
- Demeaning jokes, stories, or actions
- Intentional use of derogatory names and pronouns related to a person's sex, sexual orientation or gender identity

A public accommodation can be held liable for harassing conduct by its employees. A public accommodation may also be liable for failing to intervene when a patron engages in harassing conduct towards another patron and the owner or a manager of the public accommodation is informed of the harassment.



**PHILADELPHIA POLICE DEPARTMENT DIRECTIVE 152  
(12-20-13)**

**SUBJECT: DEPARTMENT INTERACTIONS WITH TRANSGENDER INDIVIDUALS  
PLEAC 1.8.3**

---

**I. PURPOSE**

- A. This directive establishes policies for interactions with transgender individuals to provide for the safety of police officers and citizens, and for the protection of the constitutional rights of citizens in all official interactions.
- 

**II. POLICY [PLEAC 1.8.3]**

- A. Consistent with the Philadelphia Police Department Mission Statement and Oath of Office, personnel will safeguard the rights of all people, without consideration to a person's actual or perceived race, color, sex, gender, gender identity/expression, religious creed, sexual orientation, age, national origin, ancestry, handicap or disability.
- B. Treat all persons with the courtesy and dignity which is inherently due to every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous and professional attitude during all contacts with the public.
- C. Officers will not exhibit any bias or prejudice, or discriminate against an individual or group of members based on their actual or perceived sexual orientation, gender, or gender identity/expression.
- D. Officers will address the public using pronouns, titles of respect, and preferred name as expressed by the individual.
- E. Officers will not use discourteous or disrespectful remarks regarding another person's actual or perceived ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.
- F. Officers will adhere to the following procedures during departmental contacts with and arrests of transgender individuals.

---

### 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.

**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. The term may include, but is not limited to:

**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.

**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.

**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. Phila. Code. § 9-1102(h.1).

**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.

**Sexual Orientation:**

an individual's enduring romantic, emotional, and/or sexual attraction to individuals of a particular gender. Male or female homosexuality, heterosexuality, and bisexuality; by preference, practice or as perceived by others (Phila. Code §9-1102). It is not related to gender identity. Transgender people can be any sexual orientation [gay, lesbian, bisexual, heterosexual/straight, no label at all, or some other self-described label].

**Officer:**

For this directive, the term "officer" includes Philadelphia Police Correctional Officers [PCO's] and all sworn members of the Philadelphia Police Department.

---

**IV. PROFESSIONAL GUIDELINES****A. Officers WILL:**

1. Respectfully treat individuals in a manner appropriate to the individual's gender, or gender identity/expression;
2. Use pronouns as requested by the individual ( e.g., "she, her, hers" for an individual who self-identifies as a female; "he, him, his" for an individual who self-identifies as a male);

**NOTE:** If officers are uncertain by which gender the individual wishes to be addressed, they will respectfully ask the individual for clarification [e.g. "Do you prefer to be referred to as 'she' or 'he'?" Or simply ask, "What are your pronouns?"].

3. When requested, address the individual by the name based on their gender identity rather than that which is on their government issued identification.
4. Conduct ALL searches [custodial and strip] in accordance with Directive 7, "Search Warrants" and existing departmental procedures listed in Section VI of this directive.

B. Officers **WILL NOT**:

1. 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 [PLEAC 1.8.3];

**NOTE:** The above limitation does not prevent an officer from following the established department procedures relative to ensuring the proper processing of arrestees.

2. Except when legally necessary [i.e. processing an arrest], either require proof of an individual's gender or challenge an individual's gender identity/expression.
  3. 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.
  4. 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.
  5. Make assumptions about an individual's sexual orientation based upon an individual's gender or gender identity/expression.
  6. Use a person's gender or gender identity/expression alone as reasonable suspicion that the individual is or has engaged in a crime, including prostitution. [PLEAC 1.8.3]
- C. Officers will not unreasonably endanger themselves or another person to conform to this directive.

---

**V. GENDER CLASSIFICATION GUIDELINES FOR TRANSGENDER INDIVIDUALS WHO HAVE BEEN ARRESTED**

- A. An arrestee's gender will be classified as it appears on the individual's government-issued identification card.
1. For the purposes of listing gender on citations, arrest reports, and other official documentation, members shall use the designation listed in the most recent records in official government databases, starting with the BMV records.
  2. For purposes of listing the name, members shall always write an individual's name as it appears on the individual's government-issued identification card. If the arrestee identifies himself or herself using a different name, that name will be listed as the alias on the arrest paperwork.

B. The exceptions to the government-issued identification card policy are those arrestees who have had gender conforming/affirming surgery from:

1. male-to-female will be processed as a female;
2. female-to-male will be processed as a male.

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

If the arrestee states they:

1. have male genitalia, the arrestee will be classified as a male;
2. do not have male genitalia, the arrestee will be classified as a female.

D. In the event that there is uncertainty regarding the appropriate classification of an arrestee's gender, a supervisor will be consulted for further guidance on the appropriate classification [e.g. In situations in which the arrestee does not have identification, and will not speak to police, supervisors can attempt to establish communication necessary to make a determination of the arrestee's gender].

---

## VI. PROCEDURES

### A. Searches

1. All searches will be conducted by officers of the same gender as the detainee, based on the gender guidelines in Section V of this directive and in accordance with established department procedures.

**EXCEPTION:** If an officer of the same gender is not immediately available, and it is imperative that an immediate search be conducted, officers will not endanger themselves or the public to comply with this requirement.

- a. Prior to search, officers are to first refer to the arrestees government-issued identification. In the event the identification card is unavailable, officers will refer to the identification information listed in the BMV database. If the subject does not have any government-issued identification, officers will be guided by the following information:

- 1) Arrestees who state they do not have male genitalia, and do not have any government-issued identification in their possession will generally be searched by female officers.

- 2) Arrestees who state they do have male genitalia, and do not have any government-issued identification in their possession will generally be searched by male officers.
  2. Officers taking individuals into custody, accepting custody of detainees, or conducting searches (custodial and/or strip) will be responsible for conducting a thorough search in accordance with departmental procedures.
    - a. The gender of the department member(s) performing custodial searches of the individuals, including custodial searches incident to arrest, prior to transport, and within a designated holding facility, will be based on the gender guidelines as outlined in Section V of this directive.
    - b. When requested by a transgender individual, a Department member of the individual's gender identity or expression will be present, when practical, to observe the custodial search. When practical, this observing member will be a sworn supervisor.
  3. Officers will not conduct more invasive searches of transgender individuals than other individuals.
  4. Requests to remove identity- related items such as prosthetics, clothing, wigs, and cosmetics items will be consistent with the requirements for the removal of similar items for non-transgender arrestees, as outlined in Directive #91 "Property taken into Custody" and Directive #82 "Criminal Identification, Processing, Transportation and Detention of Adult Prisoners".
  5. The possession of a needle which is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, especially if the person being stopped or arrested has documentation from a physician confirming that it is being used for legitimate medical treatments.
  6. If a strip/body cavity search is to be conducted, the procedures outlined in Directive 7, Appendix B, "Strip and Body Cavity Searches" must be followed.
- 

## **VII. TRANSPORTATION, DETENTION, AND PROCESSING**

- A. Whenever practical, transgender arrestees will be transported alone by prisoner transport van, EPW, or RPC.
  1. When requested by a transgender individual, an officer of the individual's gender identity or expression, when practical, will be present during the transport.

2. Upon request by a transgender arrestee being transported from a police facility to a prison, the arrestee will be transported separately from the male and female prisoners, when practical.
  3. In situations with multiple arrestees, mass arrests, or where individual transport is not practical, transgender arrestees will be transported by gender classification, as outlined in this directive.
- B. Whenever practical, transgender arrestees will be maintained in single cell occupancy.
- C. The designated holding facility of transgender arrestees will be the division of occurrence, unless the arrestee meets the prerequisite conditions for holding at the PDU [diabetic, wheelchair-bound, mass arrest, etc].
- D. Personnel will record a transgender individual's gender information on Department reports in accordance with Section V of this directive and all other demographic information as it appears on their government-issued identification. Any name used by the subject other than what is listed on their government-issued identification will be recorded as an alias.
- E. 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, in accordance with Directive 82, Appendix C, "Prisoner Safety" and Directive 81, "Prisoners in Hospitals."
- F. If an individual explicitly informs personnel that he or she is a transgender individual, an officer finds a record for an individual (NCIC or any other law enforcement record) that lists a different gender from what the individual is currently presenting or an officer observes that a person is presenting a gender which is different than their gender classification, the officer shall notify the cell block assistant [CBA] or police correctional officer [PCO] before delivering the individual into their custody. The CBA/PCO will document the information in the "Notes" section on the Prisoner Flow Chart/Medical Checklist and in the "Prisoner Log" by entering:
1. "Transgender Arrestee, male presenting as a female," or
  2. "Transgender Arrestee, female presenting as a male."
- G. In situations involving the transfer of transgender prisoners to county prisons or other police agencies, the CBA/PCO will ensure that the paperwork accompanying the prisoner adequately describes gender identity related issues.

---

## VIII. RELEASE OF INFORMATION TO THE MEDIA REGARDING INCIDENTS INVOLVING TRANSGENDER INDIVIDUALS

- A. In incidents involving transgender individuals [victim, witness, or arrestee], personnel will:
1. Refer to the individual using the name based on their gender identity rather than that which is on their government issued identification.
  2. Use pronouns as requested by the individual [e.g., “she, her, hers” for an individual who self-identifies as a female; “he, him, his” for an individual who self-identifies as a male] and as used on the appropriate department reports [incident or arrest report].
- B. Even in the case of a person’s death, members of the Philadelphia Police Department will use pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual. In incidents where a transgender victim is deceased, personnel will refer to the decedent:
1. **\*\*\*If government-issued identification exists\*\*\***  
using the name based on their government-issued identification. If the victim’s next-of-kin provides information which conflicts with the victim’s gender expression or identity, the victim will still be referred to using the appropriate pronouns and names, based on the victim’s government-issued identification.
  2. **\*\*\*If no government-issued identification exists\*\*\***  
using the name based on that provided by next of kin and from friends or community members [e.g. “known to next-of-kin as John Doe, she was known to friends and community members as Jane Doe”].

---

## IX. CONFLICT PROVISION

If this directive conflicts with any Department directive, this directive will take precedence.

---

**BY COMMAND OF THE POLICE COMMISSIONER**

---

**PLEAC** Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission

---

---

<b>RELATED PROCEDURES:</b>	Directive 7 –	“Search Warrants”
	Directive 81 -	“Prisoners in Hospitals”
	Directive 82 -	“Criminal Identification, Processing, Transportation and Temporary Detention of Adult Prisoners”
	Directive 91 -	“Property Taken into Custody”

---



APPENDIX "A"

SUBJECT: INFORMATIONAL DEFINITIONS

---

**Other gender non-conforming individuals who identify as transgender:**

There are many members of the transgender community whose gender identity or expression differs from their birth-assigned sex, but who do not specifically identify as transsexuals, cross-dressers, or some other specific subcategory. Some of these individuals may take hormones or take other steps to modify their appearance or physiology, but some of them do not. This may sometimes make it confusing for officers when speaking with members of the communities. The best and most respectful thing to do is to always ask for the individual's name and pronouns. In these circumstances, allow the individual to explain how they wish to be addressed [Phila. Commission on Human Relations Gender Identity Guide].

**Trans:**

Abbreviation for transgender.

**Female-to-Male (FTM), or Transgender Man, or Transman:**

A person born with female genitalia at birth who knows himself to be male, and who lives as male/a man. Some will just use the term male.

**Male-to-Female (MTF), or Transgender Woman, or Transwoman:**

A person born with male genitalia who knows herself to be female, and who lives as female/a woman. Some will just use the term female.

**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.

**Sex:**

the classification of people as male or female. Children are assigned a sex at birth based on a combination of characteristics including genitals, chromosomes, internal reproductive organs and hormones. (Phila. Commission on Human Relations Gender Identity Guide)

---

BY COMMAND OF THE POLICE COMMISSIONER

---