

FRAMINGHAM POLICE DEPARTMENT		Next Review Date: Annually
Subject: Handling Interactions with Transgender Individuals		Effective Date: 09/01/2015; Rev. 01/25/2023
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MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 41.4.2		POLICY 100-39
Distribution: Police Department	Issuing Authority <i>Lester Baker</i> Lester Baker Chief of Police	

Background

Interactions between police officers and transgender individuals present a unique set of issues. The term "transgender" is used to describe persons with transgender identities, and includes a wide variety of groups that differ from traditional gender norms. Some issues encountered by police include: difficulties in determining gender for identification purposes, transportation, processing, housing, and medical treatment. Although "sexual orientation" is not the same as "gender identity or expression," many individuals incorrectly perceive transgender persons as gay men or lesbians and, as a result, treat them as such, rather than as a transgender individual.

The Massachusetts Transgender Equal Rights Act bars discrimination in employment, housing, education, and lending. The law also enables police officers to bring hate crime charges in attacks that target someone for being transgender.

Policy

The policy of the Framingham Police Department is to interact with the transgender community in a manner that is professional, respectful, and courteous. Additionally, it is the Framingham Police Department policy to handle transgender arrestees in a manner

that ensures they are processed and housed safely and efficiently to the greatest extent possible.

Definitions

When used in this directive, the following terms are defined as follows:

Cell: Any area, space, or enclosure, wherein a prisoner is locked or placed, which prohibits his/her freedom of movement.

Field Search: The removal of a coat, jacket, or outer clothing to facilitate the search of the garments and clothes the prisoner is wearing

Frisk: A limited protective search for concealed weapon(s) and/or dangerous instrument(s). Usually it occurs during a “stop” and consists of a pat down of the individual’s clothing to determine the presence of weapons or other dangerous objects. An officer may frisk a person on the basis of “reasonable suspicion” that the person is carrying a concealed weapon or dangerous instrument. A frisk is done for one purpose only: officer safety

Gender Identity or Expression: A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's gender at birth.

Holding Facility: A temporary confinement facility in which a prisoner is usually held for less than forty-eight (48) hours, pending his/her release, arraignment, adjudication, or transfer to another facility.

Intersex: A set of medical conditions that features a congenital anomaly of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, or an internal reproductive system that is not considered “standard” for either male or female.” (Intersex Society of North America)

Member: Any Framingham Police Department employee, either sworn or non-sworn.

Prisoner: A person who has been arrested and is being held, transported, treated, booked, or otherwise detained pending arraignment, release, adjudication, transfer to another facility, or otherwise being processed or handled.

Processing Area: A room or space used for processing, questioning or examining prisoners. While in these areas, the prisoner shall be under continuous control or supervision of agency personnel and may be restrained to a fixed object that is designed and intended only for this use.

Sexual Orientation: Includes male or female homosexuality, heterosexuality, and bisexuality, by preference or practice.

Squat Search: Having a prisoner crouch or squat while their undergarments and other

clothing are removed, exposing the genital and anal area. This type of search permits contraband or other material concealed in the genital or anal area to become visible or dislodged.

Strip Search: Having a prisoner remove or arrange his/her clothing to allow a visual inspection of the genitals, buttocks, anus, breasts, and undergarments.

Transgender: Refers to any person whose identity or behavior differs from traditional gender expectations. This term includes transsexual individuals, cross-dressers, androgynous individuals, and others whose appearance or characteristics are perceived to be gender-atypical.

Transsexual: A person whose personal sense of his or her gender conflicts with their anatomical sex. Some, but not all, transsexuals undergo medical treatments (such as hormone therapy or surgery), to change their physical sex so that it is in harmony with their gender identity.

Transvestite: An outdated term that refers to people who sometimes cross-dress, or whose dress is typically associated with the opposite sex. Many cross-dressers are heterosexual and typically present themselves in a manner consistent with their birth sex.

I. Procedures

- A. Under no circumstances shall officers search any person solely for the purpose of determining that person's gender.
- B. Members of the Framingham Police Department shall not use language that a reasonable person would consider demeaning to another person, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation.
- C. Members of the Framingham Police Department shall treat transgender persons in a manner appropriate to the individual's gender presentation, which includes addressing them by their preferred or legal name, and shall use personal pronouns appropriate to the gender that the person claims to be.
- D. Police Officers shall not solely construe gender expression or presentation as reasonable suspicion or prima facie evidence that an individual is or has engaged in prostitution or any other crime.
- E. When an individual self-identifies as being a transgender person, members of the Framingham Police Department shall not question this identity except for articulable compelling reasons.

II. Procedural Guidelines

- A. Handling Calls for Service and Citizen Complaints Involving Transgender Individuals.

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1. Requests for service or complaints generated by transgender individuals shall be addressed or investigated in a manner that is consistent with Department policy.
2. A police officer shall not fail to respond to a call for service or complaint on the basis of the gender identity or expression and/or sexual orientation of the caller or complainant.

B. Stop and Frisk Situations Involving Transgender Individuals:

1. During a stop (e.g. Motor Vehicle Stop, Pedestrian Stop, and/or Threshold Inquiry), police officers shall respect the gender identification expressed or presented by the individual.
2. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender.
3. Transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
4. Unless a police officer has an articulable reason for questioning the gender identity of an individual being stopped, the gender identity expressed or presented by the individual shall be accepted and honored.
5. Identification issued by the Commonwealth of Massachusetts - Registry of Motor Vehicles (RMV), the Department of Motor Vehicles of any of the fifty (50) states, or any other government-issued form of identification (such as a passport), shall be acceptable as initial proof of gender identity in the absence of self-identification by the subject individual.
6. When a situation arises that involves questionable gender identification, the police officer shall inquire how the individual wishes to be addressed (e.g., Sir, Miss, Ms.) and the name by which the individual wishes to be addressed. This name shall be noted as an (AKA) if it differs from the individual's legal name.
7. Police Officers shall not require proof of an individual's gender or inquire about intimate details of an individual's anatomy to determine an individual's gender without articulable reasons.

C. Handling Arrest Situations Involving Transgender Individuals.

1. Searching of Transgender Arrestees:

Generally speaking, all arrestees, including transgender arrestees, will be searched on several different occasions by Framingham Police personnel

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from the time of their arrest to the time they are released or transferred to the custody of the District Court for presentment in court. The first search of a transgender arrestee will take place at the scene of the arrest before the person is transported to the Framingham Police Station to be processed.

Framingham Police personnel who are involved with searching a transgender arrestee shall adhere to the following procedures:

- a. When an arresting officer has reason to believe that the arrestee is a transgender individual, before searching that individual prior to transport to the station, the officer shall:
 - i. Specifically inform the arrestee that he/she must, and will be, searched before being placed in a transport vehicle;
 - ii. Ask the arrestee if he/she has any objections to being searched by a male or female officer; and
 - iii. If the prisoner does object, inquire as to the nature of the objection.
- b. If the arrestee states an objection to either the male or female gender, then, absent exigent circumstances, the arresting officer shall:
 - i. Ask an officer who is of the gender requested by the arrestee to conduct the search; and
 - ii. Document the arrestee's objection (by writing it in his or her arrest report and by advising the dispatcher over the radio), indicating that he/she requested to be searched by a male/female officer (specifically indicating the stated preference).
 - iii. No Framingham Police Department member shall refuse to search a transgender arrestee.
 - iv. In instances where the arrestee is uncooperative, or makes a claim with regard to his/her gender that is not credible:
 - a) The arresting officer shall notify a sergeant prior to searching the arrestee; and
 - b) The sergeant shall assess the situation and decide whether it shall be a male or female Framingham Police officer who conducts the search to facilitate the transportation of the arrestee.

- v. All information that the arresting officer obtains concerning the arrestee shall be passed on to the transporting officers, including gender identity.
- vi. Transporting officers are required to again search all prisoners prior to transporting, even if the prisoner has just been searched by the arresting officer.
- vii. Requests to remove appearance-related items such as prosthetics, clothes of the presenting gender, wigs, and cosmetic items, shall be consistent with requirements for the removal of similar items for non-transgender individuals.

D. Transporting of Transgender Arrestees

The general rule for transporting transgender arrestees is that, whenever practical, they shall be transported separately.

1. When the transporting vehicle is a patrol car, the arrestee shall be the only prisoner in the back seat.
2. In a transport wagon, the arrestee shall be either the only prisoner or the only prisoner on one side of the wagon.
3. Transporting officers shall adhere to the same guidelines as arresting officers with regard to searching transgender arrestees.
4. The transporting officers shall provide to the booking officer, who will be processing the arrestee, all information obtained from the arresting officer.
5. Transporting officers shall also record the beginning and ending mileage for all transports involving transgender arrestees.

E. Processing and Housing of Transgender Arrestees

The general rules for processing and housing transgender arrestees are:

1. Processing officers are required to search all prisoners they process, even if the prisoner has just been searched by the arresting and/or the transporting officer.
2. Framingham Police personnel assigned to the holding facility must be cognizant of the gender identity or expression of all arrestees being processed so that accurate gender information can be recorded and inconsistencies properly noted and documented as follows:

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- a. When a member finds a record for an arrestee (e.g., LiveScan, CORI, CJIS, NCIC, or any other law enforcement database) that lists a different gender from what the arrestee is currently presenting, the member shall immediately notify the Commanding Officer / Officer in Charge and apprise him/her of the situation.
- b. The Commanding Officer / Officer in Charge shall evaluate the documentary evidence available and, if practical, speak with the arrestee and determine the course of action to take with regard to housing the arrestee.
- c. Information concerning conflicting gender information on the arrestee's computer records shall be clearly noted in the arrest report.
- d. In addition to conflicting gender information being noted on the paperwork, members shall verbally bring this information to the attention of all personnel that they transfer custody of the arrestee to. Members transporting such an arrestee to another facility shall advise the personnel at the receiving facility of the housing requirements and status of the arrestee.
- e. Members shall bring conflicting gender information to the attention of the District Court when the arrestee is remanded to their custody.
- f. In other situations involving the transfer of transgender or ambiguously gendered prisoners (e.g., processing by federal authorities or other police agencies), members shall ensure that all paperwork accompanying the prisoner adequately describes the gender-related identity issues that are presented.
- g. Restrictions on the wearing of appearance-related items must be consistent with restrictions on the wearing of similar items for non-transgender individuals. Appearance-related items, including, but not limited to, prosthetics, clothes of the presenting gender, wigs, or make-up should not be confiscated or removed from transgender individuals unless such items present a safety hazard or are needed for evidentiary reasons.

F. Handling Juvenile Transgender Arrestees

Juveniles handled under any circumstances addressed in this directive shall be accorded all relevant considerations contained herein that relate to their gender identity or expression, in addition to all safeguards provided in applicable directives covering the processing and handling of

juveniles.

1. All relevant procedures regarding Juveniles shall be observed in addition to the handling provisions delineated in this order.

G. Medical Treatment of Transgender Arrestees

Transgender individuals who have had, or are involved in transsexual operations, or are undergoing hormone treatments, may experience adverse physical reactions or may require medical attention.

1. Whenever a transgender individual expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any other illness or injury pursuant to the Policy on Transporting and Handling of Prisoners.
2. The circumstances of the medical treatment shall be fully documented at booking.

H. Motor Vehicle Stops

1. Members shall respect the gender identification or expression provided by any individual cited for a violation that is appropriate for the issuance of a Massachusetts Uniform Citation.
2. Where gender may be questionable or a hindrance to correct identification, members shall make an appropriate notation on the back of the Massachusetts Uniform Citation.