

# Interactions with Individuals Identifying as Transgender

## 903.1 PURPOSE AND SCOPE

The Cheektowaga Police Department recognizes and places a high priority on the rights of all people. This policy establishes a procedure for handling interactions with transgender people.

## 903.2 DEFINITIONS

**Gender Identity** - One's internal, deeply held sense of gender. Unlike gender expression (see below), gender identity is not necessarily visible to others. In other words, someone may identify as one gender and present/dress as another gender.

**Gender Expression** - External manifestations of gender; expressed through one's name, pronouns, clothing, haircut, behavior, voice, or body characteristics.

**Sex** – The biological status of a person as male or female (physical attributes, sex organs someone had when they were born).

**Note: Intersex Individuals** are individuals born with chromosomes, external genitalia, and /or internal reproductive system that varies from what is considered “standard” for either male or females.

**Transgender (adj.)** - An umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the gender they were assigned at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms, including transgender.

## 903.3 POLICY

### Interactions with Transgender People

Officers and employees are to interact with transgender people and the transgender communities in a manner that is professional, respectful, and courteous. Officers are cautioned not to treat a person's transgender status or appearance as a basis of suspicion or as evidence of a crime.

Officers shall follow the policies governing interactions with transgender people when either of these two conditions is met:

- (a) A person explicitly informs the officer(s) that the person is a transgender person.
- (b) An officer has good reason to believe that the person is a transgender person. Good reason may be based on apparent intention of gender appearance and presentation; reasonable observation; background checks; third party information; prior interaction, routine policing procedures and/or knowledge and experience.

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If gender expression does not clearly indicate a transgender person's identity, an officer may politely and respectfully ask how the person wishes to be addressed. For example, an officer may ask a transgender person which name and pronoun the person prefers.

When a person self-identifies as a transgender person, officers should not question this identity or ask about the person's transition status. An officer should not engage in any argument, disagreement, or debate regarding a person's self-identification as a transgender person. If an officer does question such self-identification, or asks about a person's transgender status, that officer shall provide a compelling, professional, and articulable reason for having done so. Officers should not ask any questions about medical procedures, treatments, or surgeries. The reason(s) shall be properly documented in writing in the form of a Police Report, at minimum.

An officer should not ask questions or make statements about a transgender person's genitalia, breasts, or transition status. If an officer does ask such questions or make such statements, that officer shall provide a compelling, professional, and articulable reason for having done so. The reason(s) shall be properly documented in writing in the form of a Police Report, at minimum. **(Arrest processing and cell block placement will be considered one of those justifications.)**

Whether or not the name on a person's driver's license or identification card coincides with the person's gender identity, an officer shall address or refer to the person by the name that the person has used to identify him or herself. An officer shall also use the pronouns consistent with the name provided by the person.

This Department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. Under no circumstances may an officer frisk, search, or otherwise touch any person for the purpose of obtaining information about that person's gender status. An officer shall comply with all existing laws and Cheektowaga Police Department policies regarding search and seizure. Under no circumstances shall transgender people be subject to more invasive search procedures than non-transgender people.

#### **903.4 DETERMINATION OF LEGAL NAME**

In the event a transgender person's legal name is required, the person's legal name should be obtained in the following manner:

Absent extenuating circumstances, an officer should ask the person for his or her legal name in a one-on-one situation. If the contact is in a group environment, the officer should ask the person to step outside the group to obtain the legal name and avoid "outing" the person. If an officer asks a transgender person for his or her legal name in the presence of others, that officer shall provide a compelling, professional, and articulable reason for having done so. The reason(s) shall be properly documented in writing in the form of a Police Report, at minimum.

#### **903.5 TRANSGENDER ARRESTEES**

##### Medical Treatment of Transgender Arrestees

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Whenever a transgender person who is detained by or in the custody of this Department requires or expresses a need for medical attention or medication (including, but not limited to hormone therapy), the request shall be addressed with the same urgency and respect as required in connection with any other medical need, illness, or injury experienced by any other detainee or arrestee.

#### Arrest Processing and Secondary Searches of Transgender Subjects

If it is determined the subject is a transgender person, members will search consistent with the gender expression of the prisoner, unless otherwise requested by the subject. If the gender expression is unclear, the member will respectfully ask how the person would like to be referred to, and by which gender officer the person would prefer to be searched. Nothing in this policy precludes a Detention Officer or Matron from necessary frisk searches with the back of the hand, or alternatively, a search may be conducted jointly by the Matron and Detention Officer for individuals that may be in transition.

#### **903.6 JUVENILE TRANSGENDER INDIVIDUALS**

All interactions with juvenile transgender individuals shall conform to the mandates set out by this policy. This policy does not affect any other provisions outlined in applicable directives and laws covering the processing and handling of juveniles.

#### **903.7 PROTECTION OF PRIVACY**

Under no circumstances should an officer disclose that a person is transgender to non-police personnel or to other non-relevant CPD personnel. If an officer does disclose such information as described, that officer shall provide a compelling, professional, and articulable reason for having done so. The reason(s) shall be properly documented in writing in the form of a Police Report, at minimum.

#### **903.8 RECORDS AND DATA**

##### Confidentiality of Records and Data

If a person has self-identified as transgender, this information may be recorded in public documents. If the person has not self-identified as transgender, this information should not be recorded in public documents. If an officer does record such information in any public document, that officer shall provide a compelling, professional, and articulable reason for having done so. The reason(s) shall be properly documented in writing in the form of a Police Report, at minimum.

##### Record Keeping and Data Tracking

The Cheektowaga Police Department will track transgender identity for arrested offenders, by way of the prisoner tracking program. All police reports, other reports and non-charging documents shall refer to a transgender person's name as shown on official documents. The person's preferred name shall be listed as an alias or, "Also Known As," (AKA). The Department shall establish and maintain records concerning the number of arrests involving transgender people.

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### **903.9 TRAINING**

Training on interactions with transgender people and review of this Policy shall be conducted as directed by the Training and Personnel Development Division.