



NEWARK POLICE DIVISION GENERAL ORDER



SUBJECT:
LGBTQ Community & Police Interactions

GENERAL ORDER NO.
2019-03

SUPERSEDES:
G.O. 2019-03 (Issued 8/19/2020)

DATED:
APRIL 29, 2021

RELATED POLICIES:

Bias-Free Policing (G.O. 17-06)

Searches With or Without a Search Warrant (G.O. 18-15)

Municipal Arrest Processing Section (G.O. 16-03)

Biased Incidents Investigations (G.O. 03-01)

*Law Enforcement Interactions with Transgender Individuals (AG Law
Enforcement Directive 2019-3)*

Notifying Next of Kin of Deceased Persons (G.O. 67-7)

This Order consists of the following numbered sections:

- I. PURPOSE**
- II. POLICY**
- III. DEFINITION OF TERMS**
- IV. GENDER CLASSIFICATION PROCEDURES**
- V. PROFESSIONAL GUIDELINES**
- VI. SEARCHES, ARREST, DETENTION & TRANSPORTATION**
- VII. LGBTQ LIAISON**
- VIII. TIP-LINE**
- IX. EFFECT OF THIS ORDER**



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I. PURPOSE

The purpose of this policy is to establish policies and procedures for interactions with members of the Lesbian, Gay, Bisexual, Transgender, and Questioning community.

II. POLICY

It is the policy of the Newark Police Division that all decisions and actions by members shall be fair, impartial, and free of bias and unlawful discrimination. This policy shall be read in conjunction with *G.O. 17-06, Bias-Free Policing*.

Members of the Newark Police Division shall treat all persons equally, regardless of gender identity, gender expression, or sexual orientation. Members shall recognize that gender identity, gender expression, and sexual orientation do not constitute reasonable suspicion or evidence that a person has engaged in any crime.

III. DEFINITION OF TERMS

- A. **Bisexual** – A person emotionally, romantically or sexually attracted to more than one sex, gender or gender identity though not necessarily simultaneously, in the same way or to the same degree.
- B. **Chosen Name** - A name selected by a person for themselves that is different from the name the person was given at birth. An individual may have chosen a new name for themselves that more accurately reflects their gender identity or expression.
- C. **Chosen Pronouns** - The pronouns that a person chooses to use for themselves in line with their gender identity. For example, “she/her” for an individual who requests she/her pronouns; “he/his” for an individual who requests he/his pronouns; and “they/them” for an individual who requests they/them pronouns.
- D. **Cisgender** - A person whose gender assigned at birth (sometimes referred to as sex assigned at birth) matches their gender identity. For instance, if a person was assigned female at birth, and self-identifies as a woman or girl, that person is cisgender.
- E. **Deadnaming** – Referring to a person who’s transgender by the name they used before they transitioned. This is also described as referring to someone by their “birth name” or “given name”.
- F. **Gay** – A person who is emotionally, romantically or sexually attracted to members of the same gender.
- G. **Gender** – A person’s actual or perceived sex, which also includes a person’s gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image,



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appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

- H. Gender Assigned at Birth** - The gender that someone was thought to be at birth, typically recorded on the original birth certificate. The gender someone was assigned at birth may or may not match their gender identity.
- I. Gender Binary** - A societal construction of gender that accords two discrete and opposing categories – male or female.
- J. Gender Expression** - A person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth. It is the manner in which a person represents or expresses their gender to others, such as through their behavior, clothing, hairstyles, activities, voice, or mannerisms.
- K. Gender Identity** – A person's internal, deeply held knowledge of their own gender, regardless of the gender they were assigned at birth. All people have a gender identity, not just transgender people.
- L. Gender Non-Conforming** – A person whose gender expression does not conform to traditional gender expectations. Not all gender non-conforming people identify as transgender.
- M. Gender Transition** – A process during which a person begins to live according to their gender identity, rather than the gender they were assigned at birth. Gender transition looks different for every person. Possible steps in a gender transition may or may not include changing one's clothing, appearance, and name, and in some cases, changing identification documents or undergoing medical treatments. The steps each person takes depend on their individual needs and access to resources. **Note:** Phrases such as “sex change”, “pre-operative” or “post-operative” should not be used as the preferred terms are “transition” or “transitioning”.
- N. Intersex** – A person whose biological sex characteristics may not fit medical definitions of male and female. These characteristics may include, but are not necessarily limited to, internal reproductive organs, external genitalia, and sex chromosomes. **Note:** The term “hermaphrodite” shall not be used.
- O. Lesbian** – Refers to women who are emotionally, romantically or sexually attracted to other women.
- P. LGBTQ+** – An umbrella term to refer to persons who self-identify as Lesbian (L), Gay (G), Bisexual (B), Transgender (T), and Questioning (Q). The Q may also stand for queer. As the plus sign shows, this list is not meant to be exhaustive as the umbrella term also includes non-binary, gender non-conforming, and intersex individuals.
- Q. Nonbinary** - A term often used by people whose gender is not exclusively male or female. The term also captures those with more than one gender or with no gender at all. Individuals whose



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gender is neither male nor female may use other terms to describe themselves, such as gender fluid, agender, bigender, or gender expansive.

- R. Queer** – Historically used as an epithet/slur against people whose gender, gender expression and/or sexuality do not conform to dominant expectations, the term has been reclaimed as a celebration of not fitting into societal norms. Queer has also been embraced as a radical and anti-assimilationist stance that captures multiple aspects of identities.
- S. Questioning** - A term some people use when they are in the process of exploring their sexual orientation or gender identity.
- T. Sex** – A person’s biological or anatomical identity as male, female or intersex.
- U. Sexual Orientation** – A person’s romantic, emotional, or sexual attraction to members of the same or different gender. Common terms used to describe sexual orientation include, but are not limited to, straight, lesbian, gay, bisexual, and asexual. Sexual orientation and gender identity are different: gender identity refers to one’s internal knowledge of their gender, while sexual orientation refers to whom one is attracted.
- V. Transgender** – Refers to any person whose gender identity or gender expression differs from societal expectations associated with the gender they were assigned at birth. Being transgender does not imply any specific sexual orientation. This term is an adjective (“transgender person,” not “transgenders” or “transgendered”).
- W. Transgender Man** - A term for a transgender person who was assigned female at birth but identifies as a man.
- X. Transgender Woman** - A term for a transgender person who was assigned male at birth but identifies as a woman.

IV. GENDER CLASSIFICATION PROCEDURES

When a person identifies himself/herself as a gender, which may be in conflict with their physical appearance, officers shall respect the expressed gender and **not** question it. If the person does not self-identify, the following guidelines shall apply:

- A.** When the intention of a person’s gender presentation is clear to a reasonable person (based on attire and other cues), use this as a basis for gender determination.
- B.** When a person’s sex is unclear or the officer is uncertain of the person’s gender identity, it is appropriate to inquire, politely, how the individual wishes to be addressed.



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- C. Division personnel encountering the victim of a crime and/or persons seeking police assistance shall ask the victim directly if they identify as a member of the LGBTQ community. Personnel shall not inquire about details of a person's sexual practices, genitalia or anatomy unless doing so is necessary to the ongoing criminal investigation or the victim raises the issue without prompting by the officer, and the officer's inquiries are tailored to ensure the individual's safety and dignity during a law enforcement interaction.
1. If the victim of a crime is identified as a member of the LGBTQ community:
- a. The responding unit shall notify the Communications Division and note in the Incident Report that the victim/person seeking assistance is a member of the LGBTQ community.
 - b. The Communications Division shall contact the LGBTQ Liaison and/or the Consent Decree & Planning Division. An email notification shall be sent to the appropriate command and executive staff of any incident involving a member of the LGBTQ community.
 - c. The LGBTQ Liaison and/or CDPD shall notify LGBTQ community groups to assist the victim and/or family.
 - d. When there is an investigative unit required to respond to the scene, the responding Detective and unit supervisor shall ensure proper notification of Communications Division and documentation.
2. If the victim of a crime and/or persons seeking police assistance is later found to be a member of the LGBTQ community, the associated Police Division reports are to be amended accordingly when appropriate.
- D. In **arrest situations**, where the legal and/or birth name must be obtained for identification and arrest processing procedures, the legal or birth name shall be documented on the DPI:800 (Arrest Report) in Box #10, as an alias to ensure proper identification procedures for the arrest. Officers shall avoid "deadnaming" during this process.
- E. All information obtained about a person's transgender status (e.g., preferred name and pronoun) should be documented and provided to relevant Division members to ensure continuity of appropriate treatment.
- F. Under no circumstances shall Division members disclose to non-involved persons that a person is transgender. The disclosure of this information shall be on a "need to know" basis.



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V. PROFESSIONAL GUIDELINES

A. Division members SHALL:

1. Accept a person's gender expression or self-expressed gender identity and interact with the individual in a professional and courteous manner.
 - a. Address individuals using their preferred name, title, and pronoun. When the person does not self-identify and his/her gender is not clear to a reasonable person, or the officer is uncertain, the officer may professionally and directly ask the person what name and, if necessary, gender pronoun he or she uses.
 - b. When persons self-identify as transgender or state his/her gender identity, officers shall not question this identity.
 - c. Use chosen names and pronouns in any communications about that individual with members of the public, except where doing so would disclose an individual's LGBTQ+ status against their wishes, and except where necessary in legal filings and in communications about those filings.
2. Take the appropriate steps to address complaints of biased or discriminatory policing consistent with *G.O. 17-06 (Bias-Free Policing)*.
 - a. Notify a supervisor to respond to the scene to review the circumstances and determine the appropriate course of action.
 - b. Initiate an Investigation of Personnel (IOP), documenting the allegations and all actions taken.

NOTE: An allegation of bias-based or discriminatory policing occurs whenever, from the perspective of a reasonable person, an individual complains that an officer treated him, her, or someone else differently because of gender, actual or perceived gender identity, or actual or perceived sexual orientation.

3. In accordance with *Bias Incidents Investigations (G.O. 03-01)*, the initial responding officer shall determine if a bias incident has occurred. An offense is bias-based if the motive for the commission of the offense or unlawful act is racial, religious, ethnic or pertains to *sexual orientation* or handicap.



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- a. The responding **officer** will:
 - i. Request that a field supervisor respond to the scene.
 - ii. Complete standard police reports, documenting method of operation or unusual characteristics of incident.
 - iii. Notify appropriate investigative unit.
 - iv. Prepare a Supplementary Bias Incident Offense Report (UCR B1 Rev 7/87)
 - v. Refer the victim and witnesses to the Essex County Prosecutor's Office of Victim-Witness Advocacy, as appropriate, at (973) 621-4707.
- b. The **field supervisor** shall:
 - i. Supervise the preliminary response and investigation.
 - ii. Determine if the potential exists for further acts of violence.
 - iii. Arrange for immediate increase in patrols throughout affected area.
 - iv. Attempt to verify if the occurrence is a confirmed bias incident.
 - v. Request Command Operations Center Captain or Precinct Commander to the scene as appropriate.

B. Division members are prohibited from:

1. Stopping, detaining, frisking, or searching any person in whole or part for the purpose of determining that person's gender or in order to call attention to the person's gender expression;
2. Considering a person's gender identity as reasonable suspicion or prima facie evidence that the individual is or has engaged in a crime, including prostitution;
3. Disclosing a person's sexuality to other arrestees, members of the public, or other Division members, absent a proper law enforcement purpose;
4. Using language that a reasonable person in the same situation, would consider demeaning or derogatory, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation to demean or embarrass;
5. Seeking or requiring proof (i.e. identification or certificate of a name change) of an individual's identity to use that person's preferred title or pronoun. However, proof of identity may be required for law enforcement purposes, such as checking a driver's license;
6. Failing to provide police services on any basis related to the caller or complainant's actual or perceived gender identity or sexual orientation;
7. Requesting the removal of identity-related items, such as prosthetics, clothing, wigs, or cosmetics, that are beyond the scope of standard interactions with citizens or conflict with Division policy;



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8. Requesting identification or otherwise initiating contact, with any person solely because of actual or perceived sexual orientation, gender expression, or gender identity; or
9. Demeaning, disputing, challenging, criticizing or retaliating against anyone for clarifying the name or pronouns that he/she would prefer members to use. This also includes “deadnaming”.
10. Inquire about details of a person’s sexual practices, genitalia, or anatomy, unless doing so is necessary to the ongoing criminal investigation, or the individual raises the issue without prompting by the officer and the officer’s inquiries are tailored to ensure the individuals safety and dignity during a law enforcement interaction.

VI. SEARCHES, ARRESTS, DETENTIONS and TRANSPORTATION

A. SEARCHES

1. The Newark Police Division strictly prohibits members from considering a person’s demographic category in determining whether to conduct a search or to seek a search warrant. Searches of people based solely on a demographic category are illegal. Members may only use demographic categories to describe a specific person where the description is from a trustworthy source that is relevant to the locality and time. (*from G.O. 18-15, Searches With or Without a Search Warrant*).
2. For the purpose of conducting a search, Division members shall treat a transgender woman as they would treat any other woman, and officers shall treat a transgender man as they would treat any other man, regardless of the gender that individual was assigned at birth and/or their anatomical characteristics.
3. Under no circumstances shall members frisk or search any person to determine that person’s biological sex, to determine the status of, view, or touch the person’s genitals.
4. An officer of the **preferred sex (as the person being searched)** will conduct the search, when practical, based on the Gender Classification Procedures of this general order.

NOTE: An exception to this guideline will be if exigent circumstances make it necessary to conduct an immediate search of the person for weapons, contraband or other objects that may pose a danger to the person themselves, the public or officers.

5. Prior to searching a person, the officer shall ask the person what gender officer they are most comfortable with searching them.
6. In **Terry Frisk** situations, officers must take into account the reasonableness of any delay created by waiting for another officer. If an officer of the preferred gender is not available within a reasonable amount of time, officers shall proceed with the frisk.



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- a. Officers should be aware that a transgender person's possession of hypodermic needles may be indicative of prescribed hormone treatment and/or therapy and is not necessarily indicative of illegal drug possession or use. Prior to the issuing of any summons, the officer shall attempt to verify if the individual has a prescription for the hypodermic needle.
- b. Officers shall not rely on the mere presence of condoms as the sole basis for reasonable suspicion or probable cause that an individual has engaged or intends to engage in prostitution.
- c. Officers **will not** conduct more invasive frisks of transgender persons than would be required for any other person.

7. Custodial Searches

- a. The gender of the Division member(s) performing custodial searches of individuals, including searches incident to arrest or prior to transport, will be based on the preferred gender of the detainee, when feasible.
- b. When requested by a transgender individual, a Division member of the individual's gender identity or expression will be present, when practical, to observe the custodial search.
- c. Officers **will not** conduct more invasive searches of transgender persons than would be required for any other person.
- d. Requests to remove items related to a person's appearance, such as wigs and cosmetics, shall be consistent for all persons, regardless of gender expression or gender identity, while in police custody.

B. ARRESTS

- 1. An arrestee's sex shall be classified as it appears on the person's government-issued identification card. If the sex on the identification card is in contrast with how the arrestee self-identifies, the officer shall list them by their gender identity in Box #23 of the Arrest Report.
- 2. All paperwork shall be completed using the arrestee's preferred name. If the arrestee's preferred name differs from their legal or given name, the legal or given name shall be recorded as an alias in the Arrest Report (DPI:800) in Box #10.
- 3. The arresting officer shall document in the Arrest Report (DPI:800) in Box #45 if the arrestee identifies him/herself as transgender.



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4. Officers shall respect the privacy of juveniles who are arrested. Information about their gender identity or sexual orientation shall not be disclosed to their parents or guardians, except as it directly relates to the reason for their detention. Disclosing this information to parents or guardians may put the juvenile at increased risk for violence or rejection in the home. Officers shall consult with the juvenile to determine which pronoun they should use when communicating with the parent or guardian.
 - a. LGBTQ youth are at increased risk of homelessness as a result of being forced out of their homes or running away from their homes due to rejection, abuse, or conflict over the youth's gender identity or sexual orientation.
 - b. Division members shall seek to determine if the youth feels safe returning to the care of their parents or guardians. If a youth expresses legitimate concerns for their safety, Division members shall contact Child Protection and Permanency.
5. 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 officers, supervisors can attempt to establish communication necessary to make a determination of the arrestee's gender).

C. DETENTIONS

1. Whenever practicable, transgender arrestees shall be asked if they prefer to be housed in a single-person cell.
2. Division members shall not require someone to be housed, placed, or otherwise detained in a private cell or to use a private restroom on the basis of that person's actual or perceived gender identity or expression and/or sexual orientation, absent such a request.
3. While detained temporarily at a precinct or other unit, Division members shall house, place, or otherwise detain such individuals with individuals of the gender that is safest for them, and allow them to use the restrooms of the gender that is safest for them, taking into account which gender they express to be safest for them.
4. In the event that a transgender person requires immediate **medical care** or medication, including hormone therapy, Emergency Medical Services (EMS) shall be notified immediately and the arrestee shall be taken to the appropriate medical facility for treatment. Division personnel shall not handle the individual's request for medical attention with any less urgency or respect because of that individual's actual or perceived gender identity or expression and/or sexual orientation.



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D. TRANSPORTATION

1. When transporting a transgender and/or gender nonconforming person together with other individuals accused of committing separate crimes, officers shall transport the person with other arrestees of the same gender identity and expression, unless the person has expressed a safety concern and wishes to be transported alone or with people of a different gender. Denial of this request for a separate transport, where practicable, shall be reviewed, approved and documented by the supervisor.
2. When custody of the person is transferred to another agency, the officer will verbally advise the receiving agency that the person is transgender.

VII. LGBTQ LIAISON

The Newark Police Division shall appoint liaison(s) to serve as the contact point between the Division and the LGBTQ community. They will collaborate with the LGBTQ community on events and issues of interest and monitor the Division's response to LGBTQ-related crimes. The liaison(s) shall support the Division's ongoing efforts to foster a strong partnership with the LGBTQ community and provide critical feedback. The LGBTQ liaison(s) shall:

1. Report directly to the Community & Clergy Affairs Commander
2. Establish relationships with organizations throughout the City.
3. Attend LGBTQ community meetings, as appropriate.
4. Contact LGBTQ victims of suspected biased crime, when appropriate.
5. Provide monthly reports of community feedback, events attended and any LGBTQ-related information.
6. Coordinate with Federal, State and local LGBTQ law enforcement organizations to enhance Division efforts within the agency, community outreach and educational institution outreach.

VIII. TIP-LINE

A tip-line (**973-733-8809**) shall be established at the Shani Baraka Women's Resource Center (300 Clinton Avenue). The tip-line shall serve as a resource for at-risk members of the LGBTQ community to seek assistance, report misconduct by Division personnel or access services. Civilian personnel of the center shall maintain the line.

1. A call log shall be maintained for calls received
2. Voicemail service shall be available for calls received after hours



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3. The civilian staff shall be responsible for notifying the Police Division of any Division-related matters

IX. EFFECT OF THIS ORDER

All Division Orders, Memoranda, and sections of Rules and Regulations concerning the interaction with LGBTQ individuals that are inconsistent with this policy are hereby rescinded and repealed.

By Order of:



BRIAN A. O'HARA
PUBLIC SAFETY DIRECTOR

BO/CM/MA:rme