

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

---

MEMORANDUM

TO: BART Police Department, Chief of Police                      DATE: March 11, 2015

FROM: Independent Police Auditor

SUBJECT: **Policy Recommendation – Interactions with Individuals Identifying as Transgender**

This memorandum is intended to represent the collaborative effort of the following stakeholders:

The BART Citizen Review Board (CRB), members of the BART Police Department (BPD) including, but not limited to, staff of the Professional Standards Bureau and representatives of the BART Police Officers' Association and the BART Police Managers' Association, and staff of the Office of the Independent Police Auditor (OIPA).

Chapter 2-08(C) of the BART Citizen Oversight Model states that the CRB shall develop recommendations as to the General Orders and Directives, procedures, and practices of BPD in consultation with OIPA, with the goal of improving professionalism, safety, effectiveness, and accountability.

At the suggestion of the CRB, OIPA was tasked with researching and drafting a policy to address BPD officer interaction with individuals identifying as transgender. OIPA collected information regarding existing policies in other jurisdictions and reviewed recommended model policies and standards. OIPA staff attended trainings and contacted advocacy organizations, both nationally and locally, including Just Detention International and the National Center for Transgender Equality in Washington, DC, as well as Oakland's Transgender Law Center. Based on all of its research, OIPA crafted the first draft of a policy in response to the CRB's suggestion. The stakeholders listed above then engaged in an exchange of ideas and suggestions in an effort to refine the initial draft and optimize both its clarity and its potential effectiveness. Once ready, the draft was submitted to the CRB for approval as a policy recommendation to BPD.

On March 9, 2015, the CRB voted unanimously to accept the attached version of the policy and to recommend it to BPD for implementation. The recommended policy is therefore being forwarded to you for further action.

  
\_\_\_\_\_  
Mark P. Smith  
BART Independent Police Auditor

## **INTERACTIONS WITH INDIVIDUALS IDENTIFYING AS TRANSGENDER**

### **PURPOSE**

The San Francisco Bay Area Rapid Transit District Police Department (BPD) recognizes and places a high priority on the rights of all people. This directive establishes policies for interactions with transgender people.

### **DEFINITIONS**

Gender Identity:

One's internal, deeply held sense of gender. Unlike gender expression (see below), gender identity is not visible to others.

Gender Expression:

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

Transgender (adj.):

An umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex 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.

### **INTERACTIONS WITH TRANSGENDER PEOPLE**

BPD officers and employees are to interact with transgender people and the transgender community 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:

1. A person explicitly informs the officer(s) that the person is a transgender person.
2. 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, and/or routine policing procedures.

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 shall not question this identity or ask about the person's transition status unless there is a compelling, professional, and articulable reason to do so. The reason(s) shall be documented in written form on an official BPD document.

An officer shall not ask questions or make statements about a transgender person's genitalia, breasts, or transition status unless there is a compelling, professional, and articulable reason to do so. The reason(s) shall be documented in written form on an official BPD document.

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.

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. Under no circumstances shall transgender people be subject to more invasive search procedures than non-transgender people.

#### **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.

#### **MEDICAL TREATMENT OF TRANSGENDER ARRESTEES**

Whenever a transgender person who is detained by or in the custody of BPD requires or expresses a need for medical attention or medication (including, but not limited to hormone therapy), an officer shall respond to and address the need 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.

## **PROCESSING OF TRANSGENDER ARRESTEES**

Appearance-related items, including, but not limited to, prosthetics, clothes, wigs, or make-up should not be confiscated or removed from transgender people unless such items present a safety hazard, impede the administration of medical attention, or are needed for evidentiary reasons (see BPD Policy 902).

## **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 covering the processing and handling of juveniles.

## **PROTECTION OF PRIVACY**

Under no circumstances shall an officer disclose that a person is transgender to non-police personnel or to other non-relevant BPD personnel without a compelling, professional, and articulable reason to do so. The reason(s) shall be documented in written form on an official BPD document.

## **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 shall not be recorded in public documents without a compelling, professional, and articulable reason to do so. The reason(s) shall be documented in written form on an official BPD document.

## **RECORD-KEEPING AND DATA TRACKING**

All BPD forms and reports, (both paper and computerized/digital, which record the gender of a person shall be revised to include transgender identity.

BPD shall establish and maintain records concerning the number of calls involving transgender people and the corresponding police service response rate.

All case 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). Preferred gender pronouns should be used in the narrative.

## **TRAINING**

Training on interactions with transgender people and review of this Policy should be conducted as directed by the Personnel and Training Section.

All BPD members will be scheduled to attend a Peace Officer Standards and Training (POST) or other departmentally approved training on the subject of interactions with transgender people.

Each sworn member of this Department who receives initial training will thereafter be required to complete an approved refresher course, as deemed necessary, in order to stay apprised of changing cultural conditions.

POLICY RECOMMENDATION