

Transgender Policy

375.1 PURPOSE

The Orange County Sheriff's Department is committed to working with the diverse communities it serves. The Department has been working with the LGBTQ (lesbian, gay, bisexual, transgender, and queer (and/or questioning) Community to establish procedures that create mutual understanding, prevent discrimination and conflict, and ensure the appropriate treatment of transgender individuals. This policy will apply to all Department Members.

Department Members are also required to comply with Policies 328 (Policy Against Unlawful Harassment and Discrimination) and 402 (Bias Free Policing).

375.1.1 DEFINITIONS

Transgender: A term used to refer to a person who is born with the genetic traits and anatomy of one sex (i.e., male or female) and self identifies as another gender (i.e., feminine or masculine). A transgender person can be pre-operative, post-operative, or non-operative.

Gender identity: A person's sense of being a man or a woman.

Gender expression: Displays of gender identity through dress, demeanor, language and which may or may not conform to the socially defined behaviors and characteristics typically associated with being either masculine or feminine.

Gender Non-Conforming: Individuals who display gender traits which are not generally associated with the sex assigned to them at birth. Gender Non-Conforming individuals may or may not identify as male, female, or transgender.

Cisgender: A term used for a person who is not transgender.

Sex assigned at birth: The designation of "female" or "male" sex based on a visual inspection of anatomy at birth by a medical professional.

Apart from one's birth sex as male or female, an individual may identify as a particular gender and express the gender in various ways. For example, males express masculinity in different ways and females express femininity in different ways. Likewise, transgender individuals express femininity and masculinity in different ways and in ways that may not be consistent with their sex at birth.

375.2 POLICY

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits differential treatment of similarly situated people based on certain protected characteristics, including sex, transgender status, and perceived failure to conform to gender stereotypes. Discrimination against transgender and gender-non-conforming people is also prohibited in virtually every area of life in California including housing, employment, education, insurance, and public accommodations.

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375.3 CONTACT WITH TRANSGENDER INDIVIDUALS

1. Department Members' contacts with transgender individuals shall be professional, respectful, and courteous.
2. Department Members shall not use language that a reasonable person would consider demeaning to another person, in particular, language that references a person's gender identity, gender expression, or sexual orientation.
3. Department Members shall treat transgender persons in a manner that shows respect for the individual's gender identity and gender expression, which includes addressing them by their preferred name and using gender pronouns appropriate to the individual's gender self-identity and expression.

375.4 DETERMINING HOW TO ADDRESS A TRANSGENDER INDIVIDUAL

1. When a person identifies himself/herself as transgender, Department Members shall respect the expressed gender.
2. If the individual does not self-identify as transgender, the following shall apply:
 - (a) When the intention of a person's gender presentation is clear to a reasonable person (based on attire and other cues), it is appropriate to use this as a basis for gender determination.
 - (b) When a person's gender is unclear or the Department Member is not certain of the person's gender identity, it is appropriate to inquire how the individual wishes to be addressed (e.g., Sir, Ma'am) and the name by which the individual wishes to be addressed. This name shall be noted as an "also known as" (AKA) if it differs from the individual's legal name.
 - (c) If a transgender person is unwilling to provide information that enables the Department Member to know what name and/or gender is preferable, then the Department Member should make a determination about the person's gender based on the person's gender expression (i.e., clothing, language, demeanor) and any other evidence available to the Department Member. For example, if the person is clearly dressed like a woman and is presenting as a woman, then the person should be recognized and addressed as a woman.
3. Any information obtained about an individual's transgender status (e.g., preferred name and gender pronoun) should be documented and provided to relevant Department Members for the purpose of ensuring continuity of appropriate treatment.
4. Under no circumstances shall Department Members disclose to non-involved persons that an individual is transgender. As with other policies, a need to know basis should guide decisions about disclosure.

375.5 HANDLING CALLS FOR SERVICE AND CITIZEN COMPLAINTS INVOLVING TRANSGENDER INDIVIDUALS

1. Request for service or complaints generated by transgender individuals shall be addressed or investigated in a manner that is consistent with Department policy.

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2. Citizen complaints against Members (sworn or professional staff) or those concerning the quality of Sheriff services shall be handled in accordance with established Department policy.
3. A Member 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.

375.6 FIELD SEARCHES INVOLVING TRANSGENDER INDIVIDUALS

1. A search shall not be performed for the sole purpose of determining an individual's anatomical gender.
2. Transgender individuals shall not be subject to more invasive search procedures than non-transgender individuals.
3. When an individual is identified as a transgender person, Department Members shall respect the gender identification expressed by the individual.
4. Deputies should not inquire about the intimate details of an individual's anatomy or surgical status to determine an individual's gender because no proof of an individual's gender is required. For specific considerations related to booking and classification, refer to the CCOM.
5. Requests to remove appearance related items, such as prosthetics, clothing that conveys gender identity, wigs, and cosmetics shall be consistent with requirements for the removal of similar items for non-transgender individuals.
6. A Deputy shall not refuse to search a transgender arrestee based upon the arrestee identifying as transgender.

375.7 TRANSPORTING OF TRANSGENDER ARRESTEES

1. When transporting a transgender individual, deputies shall give the dispatcher the name, DOB, mileage to the tenth of the mile, point of departure, and destination.
2. Whenever practical, a transgender individual shall be transported apart from other arrestees.

375.8 REPORT WRITING

Note: The explanation of a person's transgender identity in the first paragraph of the narrative preserves respect for the individual. Maintaining his or her legal name on the face page of the report avoids confusion with service of subpoenas and court appearances. When arresting a transgender suspect whose legal name does not match the name he or she is currently using include the name he or she uses in the "AKA" box on the face page of the report (in addition to the narrative section as described above).

Department Members are also required to comply with Policy 317 (Victim Confidentiality), if applicable.