



# MILWAUKEE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### 117 – INTERACTIONS WITH TRANSGENDER, INTERSEX, AND/OR GENDER NON-CONFORMING (TIGN) PERSONS

**GENERAL ORDER:** 2018-16  
**ISSUED:** May 23, 2018

**EFFECTIVE:** May 23, 2018

**REVIEWED/APPROVED BY:**  
Director Regina Howard  
**DATE:** May 9, 2018

**ACTION:** Rescinds and Recreates General Order 2016-56 (October 10, 2016)

**WILEAG STANDARD(S):** NONE

#### 117.00 PURPOSE

The purpose of this standard operating procedure is to establish the department's policy, procedures and responsibilities for interactions with transgender, intersex, and/or gender non-conforming (TIGN) persons.

#### 117.05 POLICY

It is the policy of the Milwaukee Police Department to treat all persons with the courtesy and dignity that is inherently due to every person as a human being. Members shall not exhibit any bias, prejudice or discriminate against any individual or group based on their actual or perceived sexual orientation, gender, or gender identity/expression.

#### 117.10 DEFINITIONS

##### A. GENDER EXPRESSION

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

##### B. GENDER IDENTITY

An individual's internal deeply held sense of gender. Unlike gender expression, gender identity is not visible to others.

##### C. GENDER NON-CONFORMING

Gender expression that does not conform to cultural norms, such as traditional notions of masculinity or femininity.

##### D. GOVERNMENT-ISSUED IDENTIFICATION CARD

This shall only include a Wisconsin operator's license or identification card, a city of Milwaukee municipal identification card, a passport or passport card, or state or federal government issued identification card.

**Note: Members should be aware the Milwaukee municipal identification card may include other gender markers, such as the non-binary gender marker (signified with an "X") or non-disclosed / other gender mark (signified**

with a “-“). Other state and local governments (including Oregon, California, the District of Columbia, etc.) also include gender markers other than male or female.

#### E. INTERSEX INDIVIDUALS

An umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of "male" or "female." In some cases, intersex traits are visible at birth, while in others they are not apparent until puberty. Some intersex variations may not be visibly apparent at all. People with intersex conditions should not be assumed to be transgender. The term "hermaphrodite" is an offensive and out-of-date term that should not be used.

#### F. SEXUAL ORIENTATION

A term describing a person's attraction to members of the same sex and/or a different sex, often termed lesbian, gay, bisexual, heterosexual, pansexual or asexual.

#### G. TRANSGENDER

A term for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth. "Trans" is shorthand for "transgender." Transgender is correctly used as an adjective, not a noun, thus "transgender people" is appropriate but "transgenders" is often viewed as disrespectful.

### **117.15 PROCEDURE FOR TREATMENT OF TIGN POPULATION**

- A. If an individual self identifies as TIGN, members shall respect the expressed gender and use pronouns that are appropriate for the individual's gender presentation or the person's pronoun of choice (e.g., "she, her, hers"; "he, him, his"; or "they, them.").
- B. When requested, members shall address the individual by the name based on their gender identity rather than the name that appears on their government issued identification. Members should be aware that individuals' names may change between one interaction and the next and should use the name currently used by individuals.
- C. When a situation arises that involves the need to clarify gender identification, the member shall respectfully and discreetly inquire as to 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 documented as an alias if it differs from the individual's legal name. The member may also ask, "What are your pronouns?" to clarify the preference for use of she, he, they, or them.
- D. Members shall not, unless legally necessary (e.g., processing an arrest), require proof of an individual's gender or challenge an individual's gender identity/expression.
- E. TIGN individuals who present a gender or name that differs from the gender and/or

gender marker or name on their identification documents or in official databases typically may be expressing their gender identity. Therefore, TIGN individuals should not be presumed to have knowingly misrepresented information concerning name or gender and should not be arrested for obstruction solely on that basis.

**Note: If the TIGN individual presents a different gender marker or name from the gender marker or name on their identification documents or in official databases, the member shall complete a field interview card in accordance with SOP 085 (Citizen Contacts, Field Interviews, and Search and Seizure). The member shall ensure the TIGN individual's preferred gender marker and/or name is included in the narrative field of the TriTech Field Interview module.**

- F. Members shall not request an individual during a field encounter to remove appearance related items such as wigs or clothing that conveys gender identity unless there is an articulable and specific law enforcement reason to do so.
- G. Members shall not make assumptions regarding an individual's sexual orientation based on the individual's gender or gender identity/expression.
- H. Members shall not disclose an individual's gender identity or sexual orientation to other arrestees, members of the public, or other governmental personnel, absent a proper law enforcement purpose.
- I. Absent providing details regarding a pertinent criminal investigation, members shall not disclose to parents or guardians sensitive information they discover about a juvenile's gender identity, gender expression, or sexual orientation. This information shall be kept private so as to avoid placing the juvenile at increased risk for violence or rejection in the home and to allow the juvenile to choose whether to provide the information.

#### **117.20 GUIDELINES FOR SEARCHES OF TIGN ARRESTEES**

- A. When a member has reason to believe that an individual is TIGN and a frisk or search of that person is necessary, they will respectfully and in a professional manner ask the individual their preference with respect to the gender of the searching officer. The individual's search preference should be honored as long as no exigent circumstances exist that would require an immediate search.
- B. If an individual does not name a search preference, the individual's gender shall be classified as it appears on the individual's government-issued identification card or in official department databases and the search shall be conducted by a member of the same sex as the government-issued identification card or official department database designation.
- C. At least two officers should be present for these searches when possible. It is understood that the dynamic, fluid and emergent nature of some situations are such that immediate searches are necessary to preserve officer and public safety and to prevent the destruction of evidence. Accordingly, searches may be undertaken by any

officer where made necessary by these emergent conditions or the lack of availability of the officer of a specific gender.

- D. In the event that an arrestee objects to any element of this standard operating procedure, if they make claims regarding their gender that are not credible, are uncooperative, or do not have a government-issued identification card / do not appear in any official department databases and do not indicate a search preference, the member shall notify a supervisor prior to searching the arrestee. A supervisor shall make a determination based on the information available to them at the time.
- E. Members should be aware that the presence of needles may be indicative of prescribed hormone treatment and/or therapy and is not necessarily indicative of illegal drug possession, use, or drug paraphernalia.
- F. If it is imperative that an immediate search be conducted, members shall not endanger themselves or the public to comply with this section.

#### **117.25 GENDER CLASSIFICATION GUIDELINES FOR TIGN INDIVIDUALS WHO HAVE BEEN ARRESTED**

- A. An arrestee's gender shall be classified as it appears on the individual's government-issued identification card.
  - 1. For the purpose of listing gender on citations, arrest reports, and other official documentation, members shall use the designation listed on the individual's government-issued identification card.

**Note: Members should be aware the Milwaukee municipal identification card may include other gender markers, such as the non-binary gender marker (signified with an "X") or non-disclosed / other gender mark (signified with a "-"). Other state and local governments (including Oregon, California, the District of Columbia, etc.) also include gender markers other than male or female. If the individual has a gender marker of "X" or "-," or a gender marker other than male or female listed on their identification card, the member shall respectfully ask the individual whether they most closely identify with male or female and use that for data entry of the individual's gender.**

- 2. For the purpose of listing the name, members shall always enter the individual's name as it appears on their government-issued identification card. If the arrestee identifies himself or herself using a different name, that name shall be listed in the alias section on the arrest reports.
- B. In the event that a government-issued identification card is unavailable:
  - 1. If the member has established identification through official department databases, the name and gender from that identification shall be used. If the arrestee identifies himself or herself using a different name, that name shall be listed in the alias section on the arrest reports.

2. If no government identification is established through either a government-issued identification card or through official department databases the member shall respectfully ask the individual whether they most closely identify with male or female and use that for data entry of the individual's gender.
- C. When there is uncertainty regarding the appropriate classifications of an arrestee's gender or if the individual is not comfortable with either option or refuses to answer, a supervisor shall be consulted for further guidance on the appropriate classification.

### **117.30 DETENTION OF TIGN ARRESTEES**

- A. Members transporting transgender, intersex, and/or gender non-conforming (TIGN) persons shall report the arrestee's gender identity and preferences to the municipal lockup or detention facility.
  1. The booker shall document the TIGN individual's pronoun of choice (e.g., "she, her, hers"; "he, him, his"; or "they, them.") and gender marker preference in the narrative field in the Inform Jail System. Members shall share the arrestee's gender identity and preferences only with necessary personnel.
  2. All information concerning the arrestee's gender identity and preferences shall be passed on to subsequent shifts and to the municipal lockup facility or detention facility the arrestee is transferred to, if applicable.
- B. Booker requests to remove appearance-related items due to safety and security concerns (e.g., prosthetics, clothes of the presenting gender, wigs, cosmetic items) shall be consistent with SOP 090 Prisoners and Booking. TIGN arrestees shall not be asked to remove appearance-related items if non-TIGN arrestees are not required to do so.
- C. TIGN arrestees shall be asked by the booker where they would feel most safe before placement and every effort shall be made to ensure the individual is placed in the cellblock area consistent with their request. Unless the individual expresses a concern for their safety, the individual shall be housed in a cellblock area consistent with their gender identity.

**Note: If the arrestee's preference for placement cannot be accommodated, the booker shall document the reason in the narrative field in the Inform Jail System.**
- D. TIGN individuals shall receive the same standards of care as other individuals based on medical need, including needs related to hormone medications or therapy. Whenever a transgender individual expresses a need for medical attention, members shall handle the situation pursuant to SOP 090 Prisoners and Booking.



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