

	SFASU POLICE DEPARTMENT	
	Policy 7.8 Arrests of Transgender, Intersex, Gender Nonconforming (TIGN) Individuals	
	Effective Date: 04/29/19	Replaces:
	Approved: John Fields, Jr. Chief of Police	
	Reference:	

I. POLICY

It is the policy of this department to recognize the rights of all persons and to treat all persons with the dignity and respect due every individual as a human being. Personnel will act, speak, and conduct themselves in a professional manner, recognizing our obligation to safeguard life and property and to maintain a courteous, professional attitude in all contacts with the public. Personnel will not exhibit any bias or prejudice and they will not discriminate against an individual or group of TIGN individuals. Department personnel shall take all necessary precautions to ensure the safety of TIGN individuals who are arrested and detained.

Inappropriate or disrespectful interactions with TIGN individuals can interfere with the ability to provide police assistance. A pattern of this kind of conduct can generate a climate of fear or apprehension in which TIGN individuals are afraid or are too uncomfortable to report crime, limiting the department in its ability to provide a safe community.

II. PURPOSE

The purpose of this policy is to establish standards for interactions with transgender, intersex, and gender nonconforming (TIGN) individuals that provide safety and respect for all persons. It also defines certain terms that pertain to processing TIGN individuals and establishes procedures for processing and holding TIGN arrestees.

III. DEFINITIONS

- A. Gender Identity or Expression: The actual or perceived identity or behavior of a person as being male or female.
- B. Transgender: Refers to any person whose gender identity or expression differs from the one which corresponds to the person's sex at birth. This term includes transsexuals, intersex individuals, and those whose identity is perceived to be gender nonconforming.

- C. Transsexual: A person whose personal sense of their gender conflicts with their anatomical sex at birth.
- D. Sexual Orientation: An individual's enduring romantic, emotional, and/or sexual attraction to individuals of a particular gender.
- E. Intersex: an individual displaying sexual characteristics of both male and female.
- F. Cross-Dresser: A term that refers to individuals whose clothing is typically associated with the clothing of the opposite sex.

IV. PROCEDURES

A. Determining Transgender Status

1. Officers shall follow the below procedures governing interactions with transgender persons when either of these conditions are met:
 - a. An individual explicitly informs an officer that he/she is a transgender person.
 - b. An officer has good reason to believe that the individual is a transgender. Good reason may be based on apparent intention of gender appearance and presentation, reasonable observation, frisking that inadvertently discloses transgender status, background checks, third-party information, and routine policing procedures.
2. When an individual self-identifies as a transgender person, officers shall not question this identity or ask about the person's surgical status except for compelling and professional reasons that can be clearly articulated.

B. When coming into contact with a TIGN individual, personnel will do the following:

1. Respectfully treat TIGN individuals in a manner appropriate to the individual's gender expression.
2. Use pronouns as requested by a TIGN individual. Use "she," "her," "hers" for a person who self-identifies as a female. Use "he," "him," "his" for an individual who self-identifies as a male.

3. When requested, address the TIGN individual by a name based on their gender rather than that which is on their government-issued identification.
 4. If a custodial arrest is made, conduct field searches as prescribed in Department Policy 7.4 Searches Incident to Arrest.
 5. If a custodial arrest is made, and the individual has had gender change operative procedures and considers himself/herself a gender different than at birth, personnel should check for warrants under both genders.
- C. When coming into contact with a TIGN individual, personnel will not do the following:
1. Stop, detain, frisk, or search any person for the purpose of determining that person's gender or in order to call attention to the person's gender expression.
 2. Use language that a reasonable person would consider demeaning or derogatory, specifically language aimed at a person's actual or perceived gender identity or expression or sexual orientation.
 3. Consider a person's gender identification as reasonable suspicion or prima facie evidence that the individual is or has engaged in a crime.
 4. Consider the possession of condoms as evidence or intent of criminal activity.
 5. Disclose an individual's TIGN identity to other arrestees, the public, or non-department individuals absent a proper law-enforcement purpose.
- D. Responders to domestic-violence situations shall respond to transgender individuals in a manner that is appropriate to their gender identity. When responding to a domestic violence call, officers will not automatically determine the batterer and survivor based on actual or perceived gender identity and/or sexual orientation but rather on an assessment of the particular situation.

V. GENDER CLASSIFICATION OF TIGN ARRESTEES

- A. For purposes of departmental records and operations, an arrestee's gender will be classified as it appears on the individual's government-issued identification card.

- B. Arrestees who are post-operative gender re-assigned are the exception to the government-issued identification card.
 - 1. Male-to-female will be processed as female.
 - 2. Female-to-male will be processed as male.
- C. In the event that a government-issued identification is unavailable, the following criteria will be used in determining gender.
 - 1. An arrestee who has male genitalia will be classified as a male.
 - 2. An arrestee who does not have male genitalia will be classified as a female.
- D. In the event a TIGN individual objects to any questioning regarding this sexual classification, the officer should explain the need for searching prior to transport, and the officer should attempt not to unduly embarrass the individual by using an inappropriate search method or jeopardize the individual's safety by inappropriate placement in the holding facility.
- E. 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.

VI. SEARCHING AND TRANSPORT OF TIGN INDIVIDUALS

- A. Searches of TIGN individuals:
 - 1. Field searches will be conducted by a member who is the same gender as the arrestee based on the gender guidelines as prescribed in Section V of this policy and in accordance with established department search procedures.
 - 2. Personnel taking a TIGN individual into custody, accepting custody from another, or conducting a custodial search will be responsible for conducting a thorough search in accordance with established department procedures.
 - 3. If or when requested by a TIGN individual, department personnel of the TIGN individual's gender identity or expression will be present to observe the custodial search. When practical, the observing member will be a sworn supervisor.

4. Personnel will not conduct more frequent or more invasive searches of TIGN individuals than other individuals.
5. Requests to remove identity-related items -- such as prosthetics, clothing, wigs, and cosmetic items -- will be consistent with requirements for the removal of similar items from non-TIGN arrestees.
6. The possession of a needle that is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, specifically if the person or arrestee has documentation from a physician for being in the process of a sex modification.

B. Transporting TIGN Individuals:

1. Whenever practical, TIGN arrestees will be transported alone.
2. When requested by a TIGN individual, department personnel of the TIGN individual's gender identity or expression, if available, will be present during the transport.
3. In situations with multiple TIGN arrestees, mass arrests, where a TIGN individual's gender identity or expression is unavailable, or where individual transport is not practical, TIGN arrestees will be transported by gender classification.

VII. HOUSING OF TIGN ARRESTEES

- A. In all cases where a TIGN arrestee is turned over to any other authority for processing or holding it is the officer's responsibility to ensure the receiving officer is made aware of the arrestee's status.
- B. TIGN arrestees held in our holding facility will be processed and held in accordance with Policy 10.1 "Holding Facility Operations."