



# FAILING TO PROTECT AND SERVE: POLICE DEPARTMENT POLICIES TOWARDS TRANSGENDER PEOPLE

## New York Police Department

### Availability of Policy on Transgender Interactions ■

Department's Patrol Guide is readily accessible online. The department does not have a transgender-specific policy, but policies on interactions with transgender individuals are spread through the document.

### Nondiscrimination Based on Gender Identity ■

Department policies fail to explicitly prohibit the use of gender identity or expression as a basis to stop, question, search, or arrest any individual, as a sole basis for initiating contact, or as evidence of a crime. Policies explicitly prohibits the use of derogatory language based on gender identity, but does not state that transgender people are not to be asked invasive questions that are not relevant to the police interaction.

### Nondiscrimination Based on Sexual Orientation ■

Policies prohibit profiling, harassment and discrimination by members of the Department based on sexual orientation or perceived sexual orientation.

## **Non-Binary Recognition** ■

Policy fails to mention non-binary identities or how to search, lockup, or other policies apply to them.

## **Use of Respectful Communication** ■

Department policy requires addressing members of the public with names and pronouns they currently use.

## **Department Forms** ■

Policy instructs members to record the arrestee's name and gender as they appear on government ID, and does not require recording pronouns. Members are instructed to record "preferred" name on the "Prisoner Pedigree Card," "Prisoner Movement Slip," and "On-line Booking System Arrest Worksheet," but record it as "Nickname/Alias" under the "On-line Booking System Arrest Worksheet."

## **Search Procedures** ■

Department policy prohibits the use of searches to determine gender, anatomy, or transgender status, and allows for the arrestee to request the gender of the officer performing the search. Requests are to be honored and clearly documented reasoning should be provided when requests are not able to be honored.

However, policy fails to prohibit its members from subjecting transgender individuals to more invasive searches or frisk procedures than other individuals in the field or in police holding facilities.

"Under no circumstances shall members of the service conduct searches for the purpose of determining gender. Additionally, officers shall not ask questions about an arrestee's anatomy without a reasonable basis for doing so. Refer to P.G. 203-10, "Public Contact - Prohibited Conduct."

## **Transportation** ■

All members are required to contact dispatch at the beginning and end of transport and to document mileage of each trip and "gender" of arrestees. However, policy fails to set guidelines for transporting transgender individuals.

## **Officer Sexual Misconduct** ■

The Department policy does not clearly define or prohibit officer sexual misconduct towards members of the public, include meaningful prevention and oversight mechanisms, reporting requirements, or fully incorporate the PREA Lockup Standards. (Procedure 210-01 "Prisoners General Procedure", and Procedure 210-07 "Prisoners-Unusual Occurrence")

## **Placement in Temporary Lockup** ■■

Department “Guidelines for Prisoner Holding Pens” (Procedure 210-08) policy states that “male and female prisoners” should at no time be held in the same cell, and references “Public Contact - Prohibited Conduct” (Procedure 203-10) on respecting gender identity. However, the policy does not clearly prohibit the practice of housing transgender prisoners based on surgical status or gender marker on ID documents. Lastly, although the Training Memo states that transgender prisoners are not to be automatically listed as “special Category,” policies fail to explicitly reference this under prisoners who “will not be designated as ‘Special Category’” under P.G. 210-17.

## **Access to Medical Care in Lockup** ■■

Department policy provides for arrestee’s prescribed medication to be administered, but does not clearly state that this applies equally to hormone medications for transgender people.

## **Removal of Appearance-Related Items** ■■

Department policy does not address the removal of appearance related items.

## **Bathroom Use** ■■

Department policy fails to prohibit police from monitoring public restroom use or address bathroom use in stations.

## **Use of Condoms as Evidence for Sex Work** ■■

New York State law 240.37 “loitering for the purpose of prostitution” allows for the possession of condoms to be used as evidence in prostitution related crimes. Police Commissioner William Bratton in May 2014 announced that the NYPD would no longer use possession of condoms as evidence of prostitution, but would still allow for condoms to be used as evidence in trafficking cases. Police Commissioner Bratton’s comment is not reflected in the Patrol Guide.

## **Trainings** ■■

Department policy does not require training on interactions with transgender individuals as part of officer training

## **Cooperation with Immigration** ■■

Policies do not address cooperation with immigration enforcement.

## **Civilian Oversight** ■■

The Civilian Complaint Review Board (CCRB) is an independent committee that produces semi-annual reports. However, the committee does not have the authority to initiate investigations or impose discipline, and does not provide an anonymous complaint system.

# About the National Center for Transgender Equality

The National Center for Transgender Equality advocates to change policies and society to increase understanding and acceptance of transgender people. In the nation's capital and throughout the country, NCTE works to replace disrespect, discrimination, and violence with empathy, opportunity, and justice.



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