

<b>Somerville Police Department</b> 	<b>TYPE:</b> <b>General Order</b>		<b>POLICY NUMBER:</b> <b>117</b>		<b>Version:</b> <b>1.04</b>	
	<b>Subject:</b> <b>Transgender, Intersex, and Gender Nonconforming Individuals (TIGN)</b>					
	<b>Issuing Authority:</b> <b>Charles Femino</b> <b>Chief of Police</b>		<b>Signature:</b> 		<b>Effective Date:</b> July 18, 2023	
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<b>Accreditation Standards (6<sup>th</sup> Edition) [72.8.3]</b>			<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised <input type="checkbox"/> Amended			
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## Purpose

The purpose of this Policy is to establish guidelines for the appropriate treatment of Transgender, Intersex, and Gender Nonconforming Individuals (TIGN) who come into contact with members of the Somerville Police Department.

Interactions between police officers and transgender, intersex, and gender nonconforming individuals (TIGN) present a unique set of issues. One of the most common forms of mistreatment faced by transgender people is being referred to as a gender other than the one they identify with — often called “Misgendering.” Avoiding this can be a crucial bridge to transgender people and their community, establishing a firm understanding and respect with law enforcement. In short, a transgender person is more likely to cooperate with officers who refer to them with the correct name, honorifics, and pronouns.

Every members of the Somerville Police Department will make every effort to address individuals using names, pronouns, and titles of respect, appropriate to the person’s gender identity *as expressed by that person*. According to a survey by the [National Center for Transgender Equality](#), nine out of every ten transgender people carry some form of identification with a name or gender other than the one they use on a daily basis. This survey demonstrates why it is a best practice to let the individual identify their name and pronouns whenever possible. While a small step, it can frequently mean the difference between a cooperative and uncooperative engagement.

## Policy

The policy of the Somerville Police Department is to treat all persons with the courtesy and dignity which is inherently due every person. Department members will interact with the

TIGN community in a manner that is professional, respectful, and courteous. Additionally, it is the department's policy to handle transgender arrestees in a manner that ensures they are processed and housed safely and efficiently.

## Definitions

**Legal Name** – The name that identifies a person for legal, administrative and other official purposes. A person's first legal name generally is the name of the person that was given for the purpose of registration of the birth and which then appears on a birth certificate, but may change subsequently through filing a petition in court.

**Adopted / Common Use Name** – Non-birth name that a transgender individual uses in self-reference (this may or may not be in the individual's legal name).

**Gender Expression** – Social characteristics and behaviors that are socially viewed as masculine, feminine, or androgynous. Gender expression is the external manifestation of one's gender identity. This can include clothing, hair styles, names, pronouns, and other visual or social elements relative to masculinity, femininity, or androgyny.

**Gender Identity** – Refers to a person's internal sense of and deeply held feeling about their own gender identity and its expression. It is viewed as a sincerely held aspect of one's core beliefs about oneself. A person's gender identity may or may not correspond to the person's identified sex at birth and may change over one's lifetime. The legal definition of gender identity does not require the individual to have had transitioning surgery or any other medical treatment and additionally that it is not asserted for any improper purpose. Gender Identity is distinguished from sexual orientation.

**Gender Non-Conforming** – Denoting or relating to a person whose behavior or appearance does not conform to prevailing cultural and social expectations about what is appropriate to their gender.

**Gender Binary** – The cultural norm to classify people as male or female.

**Misgendering** – Occurs when you intentionally or unintentionally refer to a person, relate to a person, or use language to describe a person that doesn't align with their affirmed gender or refer to a person using incorrect pronouns.

**Non-Binary** – Non-binary is a spectrum of gender identities that are not exclusively masculine or exclusively feminine – identities that are outside the gender binary.

**Sex** – An individual's biological or anatomical assignment as male, female, or intersex.

**Transgender Individual** – 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 trans-sexual, intersex individuals, and others whose identity are perceived to be gender nonconforming.

**Transgender Man** – A person who transitions from female to male, meaning a person who was assigned female at birth, but identifies and lives as a man. A transgender man should be addressed using he/him or whatever pronouns they prefer. Some transgender individuals may use the pronouns “they/ them”.

**Transgender Woman**– A person who transitions from male to female, meaning a person who was assigned male at birth, but identifies and lives as a woman. A transgender woman should be addressed using she/her or whatever pronouns they prefer. Some transgender individuals may use the pronouns “they/ them”.

**Intersex** – A group of conditions where there is a discrepancy between the external genitalia and the internal genitalia (testes and ovaries).

**Field Search** – A pat-frisk and/or a search incident to arrest that takes place outside of the police station.

**Gender-affirming Healthcare** – All supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to the treatment of gender dysphoria.

**Reproductive Healthcare** – All supplies, care, and services of a medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature relating to pregnancy, contraception, assisted reproduction, miscarriage management, or the termination of a pregnancy.

## Procedures

### A. Guiding Principles

#### 1. Officers Will:

- a. Respectfully treat TIGN individuals in a manner appropriate to the individual’s gender expression.
- b. Officers shall address transgender individuals by the individual’s common use name, if known or advised of such. This is true even if the individual has not received legal recognition of the adopted name. In addressing or discussing a transgender person, officers will use pronouns appropriate for that person’s gender expression (she, her, hers, he, him, his). An officer should use “they/them” pronouns if a person articulates those are their pronouns or if an officer is unsure what pronoun to use. If officers are uncertain about which pronouns are appropriate, then officers will respectfully ask the individual.
- c. When requested, address a TIGN individual by a name based on their gender identity rather than that which is on their government-issued identification.

## 2. Officers Will Not:

- a. Stop, detain, frisk, or search any person in whole or in part for the purpose of determining that person's anatomical gender or in order to call attention to the person's gender expression.
  - i. **Note:** The above limitation does not prevent an officer from following the established department procedures relative to ensuring the proper processing of arrestees.
- b. Use language that a reasonable person would consider demeaning or derogatory, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation.
- c. Consider a person's gender identification as reasonable suspicion or prima facie evidence that the individual is or has engaged in a crime, including prostitution.
- d. Disclose an individual's TIGN identity to other arrestees, members of the public, or non-department members, absent a proper law enforcement purpose.
- e. Unreasonably endanger themselves or another person to conform to this policy.

## B. Search and Detainee Procedures / Gender Classification

1. For the purposes of Stops and Frisks, Exigency Searches, Consent Searches, Personal Searches Pursuant to a Warrant and all other lawful searches of a person, officers shall continue to use standard practices and procedures when conducting these searches as delineated in Somerville Police Department's policies, [111 - Stop- and- Frisk](#), [303 - Detainee Transportation](#), and [106 - Strip Search and Body Cavity Searches](#).
2. When possible, the search of a transgender individual should be conducted by an officer of the gender requested by the transgender person, if such a request is made.
3. When possible, at least two officers should be present for these searches; however, some situations are such that immediate searches are necessary to preserve officer and public safety and to prevent the destruction of evidence.
4. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender. Additionally, transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
5. Transgender detainees should be transported alone.

6. The Booking Supervisor will process transgender detainees in accordance with normal booking procedures. When booking a transgender person, the Booking Supervisor should include the detainee's adopted/common use name (the name that the individual uses in self-reference only) as an alias. The transgender detainee will be booked under their legal name which appear on the detainee's government issued identification.
7. When booking a transgender detainee, the Booking Officer should request the detainee complete the [Statement of Search Preference Form](#) during the booking process. This form allows detainees to express the preference of the gender in which they are to be treated.
8. If no identification is available, then the Booking Officer will use the name provided for booking purposes.
9. Transgender detainees should be placed in holding cells or holding areas consistent with their gender identity, to the extent possible. Transgender detainees shall not be placed in a cell with another detainee. Cell placement for transgender detainees who opt not to identify a preference on housing/placement, will be at the discretion of the Booking Supervisor.
10. Restrictions on the wearing of appearance-related items while in custody should be consistent with restrictions on the wearing of similar items for non-transgender individuals. Appearance-related items, including, but not limited to, prosthetics or clothes of the presenting gender should not be confiscated or removed from transgender individuals unless such items present a safety hazard or are needed for evidentiary reasons.
11. Matrons – A matron and/or female officer shall be responsible for cell checks of transgender detainees identifying as female. If a transgender detainee identifies as a male, a matron or female officer is not required to conduct their cell checks. [72.8.3]
12. In the event a TIGN individual requires immediate medical care or medication, including hormone therapy, it will be provided in the same manner as any other person under department control. The subject will be immediately transported to the nearest emergency room.
13. In situations involving the transfer of TIGN detainees to court, or another police agency, the Shift Commander will ensure that the paperwork accompanying the detainee adequately describes gender identity related issues.

### C. Guidelines for Securing the Rights of Individuals Seeking Gender Affirming Care and Reproductive Healthcare

1. Members of the Somerville Police Department shall not:
  - a. Initiate investigations or take law enforcement action on the basis of an individual seeking or providing gender-affirming healthcare or reproductive healthcare, or on the basis of an individual's gender identity; or
  - b. Provide information or assistance to a federal law enforcement agency or any other state's law enforcement agency or any private citizen or quasi-law enforcement agent in relation to an investigation or inquiry into the provision of gender-affirming healthcare or reproductive healthcare, if such services would be lawful as provided if they occurred entirely in the commonwealth.
2. No officer or employee of the City of Somerville, including the police department, shall comply with any request for information pertaining to any civil or criminal action regarding gender-affirming healthcare or reproductive healthcare if such services would be lawful as provided if they occurred entirely in the commonwealth; provided, that they are not required to do so by Massachusetts or federal law, or as required by the Massachusetts Public Records law pursuant to Chapter 66 of the General Laws and its regulations.
3. Any member of the Somerville Police Department that receives a request for information pertaining to any civil or criminal action regarding gender-affirming healthcare or reproductive healthcare from any individual or agency shall immediately forward the request to the Compliance Sergeant via email.
4. Beginning on the date of passage of [City of Somerville Ordinance No. 2022-12](#) and every six months thereafter, the Chief of the police department shall submit to the mayor and the city clerk a report on the number and type of requests received, if any, from other jurisdictions for assistance or information related to civil or criminal action on the basis of an individual or entity providing, allowing, or seeking gender affirming care or reproductive healthcare. Such report will be placed on the agenda of the next-occurring meeting of the city council.
5. Allegations of violations of this ordinance may be filed by any method provided for filing of complaints, including without limitation with the personnel department or, in the case of a complaint against an officer or employee of the police department, the Department's Professional Standards Unit, who shall investigate the complaint and take appropriate disciplinary action.