
**MONMOUTH COUNTY
UNIFORM POLICY**

**Interactions with
Individual Identifying
As Transgender**

October 2022

MONMOUTH COUNTY UNIFORM FIREARMS POLICY

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I. PURPOSE

The Monmouth County Prosecutor's Office recognizes and places a high priority on the rights of all persons. This policy establishes procedures for Monmouth County Law Enforcement agencies handling interactions with transgender people.

II. DEFINITIONS AND LANGUAGE

As this policy will explain, the language we use is often especially important for respecting the dignity of transgender, non-binary, and gender non-conforming individuals. That means it is important for law enforcement officers to gain an appropriate understanding both of the terms and proper language to use, as well as the language to avoid.

Law enforcement should be familiar with the following terms:

- A. **Chosen Name:** A name selected by a person for themselves that is different from the name the person was given at birth. An individual may have chosen a new name for themselves that more accurately reflects their gender identity or expression.
- B. **Chosen Pronouns:** The pronouns that a person chooses to use for themselves in line with their gender identity. For example, "she/her" for an individual who requests she/her pronouns; "he/his" for an individual who requests he/his pronouns; and "they/them" for an individual who requests they/them pronouns.
- C. **Cisgender:** A person whose gender assigned at birth (sometimes referred to as sex assigned at birth) matches their gender identity. For instance, if a person was assigned female at birth, and self-identifies as a woman or girl, that person is cisgender.
- D. **Gender Assigned at Birth:** The gender that someone was thought to be at birth, typically recorded on the original birth certificate. The gender someone was assigned at birth may or may not match his or her gender identity.
- E. **Gender Binary:** A societal construction of gender that accords two discrete and opposing categories – male or female.
- F. **Gender Expression:** A person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth. It is the manner in which a person represents or expresses their gender to others, such as through their behavior, clothing, hairstyles, activities, voice, or mannerisms.
- G. **Gender Identity:** A person's internal, deeply held knowledge of their own gender, regardless of the gender they were assigned at birth. All people have a gender identity, not just transgender people.

- H. **Gender Non-Conforming:** A person whose gender expression does not conform to traditional gender expectations. Not all gender non-conforming people identify as transgender.
- I. **Gender Transition:** A process during which a person begins to live according to their gender identity, rather than the gender they were assigned at birth. Gender transition looks different for every person. Possible steps in a gender transition may or may not include changing one's clothing, appearance, and name, and in some cases, changing identification documents or undergoing medical treatments. The steps each person takes depend on their individual needs and access to resources.
- J. **Intersex:** A person whose biological sex characteristics may not fit medical definitions of male and female. These characteristics may include, but are not necessarily limited to, internal reproductive organs, external genitalia, and sex chromosomes.
- K. **LGBTQ+:** An acronym that represents lesbian, gay, bisexual, transgender, and questioning individuals. The Q may also stand for queer. As the plus sign shows, this list is not meant to be exhaustive, and as used in this policy, the umbrella term also includes non-binary, gender non-conforming, and intersex individuals.
- L. **Non-Binary:** A term often used by people whose gender is not exclusively male or female. The term also captures those with more than one gender or with no gender at all. Individuals whose gender is neither male nor female may use other terms to describe themselves, such as gender fluid, agender, bigender, or gender expansive.
- M. **Queer:** A term that, although pejorative when used with intent to insult (historically and at present), is increasingly used by members of the LGBTQ+ community as a broad umbrella under which sexual and gender minorities may identify.
- N. **Questioning:** A term some people use when they are in the process of exploring their sexual orientation or gender identity.
- O. **Sexual Orientation:** A person's romantic, emotional, or sexual attraction to members of the same or different gender. Common terms used to describe sexual orientation include, but are not limited to, straight, lesbian, gay, bisexual, and asexual. Sexual orientation and gender identity are different: gender identity refers to one's internal knowledge of their gender, while sexual orientation refers to whom one is attracted.
- P. **Transgender:** Refers to any person whose gender identity or gender expression differs from societal expectations associated with the gender they were assigned at birth. Being transgender does not imply any specific sexual orientation. This term is an adjective ("transgender person," not "transgenders" or "transgendered").

- Q. **Transgender Man:** A term for a transgender person who was assigned female at birth but identifies as a man.
- R. **Transgender Woman:** A term for a transgender person who was assigned male at birth but identifies as a woman.

Of course, law enforcement officers must also avoid using terms that are designed to harm or offend individuals based on their gender identity or expression. To that end, law enforcement officers should avoid using:

1. The term “hermaphrodite.” The preferred term is “intersex person.”
2. The phrases “sex change,” “pre-operative” or “post-operative.” The preferred terms are “transition” or “transitioning.”
3. The word “transgender” as a noun (“transgenders” or “a transgender”) or as a verb (“transgendered”). Instead, the word is an adjective, as in “transgender person.”
4. Any slurs that demean LGBTQ+ individuals. The following offers a list of illustrative terms never to be used: “she-male,” “he-she,” “it,” “transvestite,” “trannie/tranny,” “d*ke,” “f*ggot,” and “gender-bender”.

III. GENERAL REQUIREMENTS

- A. Monmouth County Law Enforcement shall not harass or discriminate against individuals based on their actual or perceived gender identity or expression and/or sexual orientation, including by using offensive or derogatory words to describe LGBTQ+ individuals. To avoid engaging in such discrimination, law enforcement officers shall not:
1. Fail to respond to, delay responding to, or treat as less important, any call or request for service or assistance because of the individual’s actual or perceived gender identity or expression and/or sexual orientation;
 2. Consider a person’s actual or perceived gender identity or expression and/or sexual orientation as a basis for reasonable suspicion, or as prima facie evidence that the individual is, has, or is about to engage in a crime; or,
 3. Stop, question, search, arrest, or detain any individual, or subject any individual to more invasive search procedures:

- a. Because of that individual's actual or perceived gender identity or expression and/or sexual orientation;
 - b. Because that individual used a restroom that the officer knows was consistent with that individual's gender identity or expression; or,
 - c. In order to determine that individual's genitals or anatomy, or to assign gender.
- B. In other words, an officer may not consider a person's gender identity or expression and/or sexual orientation as a factor in deciding whether that person may be involved in criminal activity, or in deciding how to treat that person, except when an officer is pursuing specific leads in an ongoing criminal investigation or is trying to determine whether an individual matches the description in a B.O.L.O. ("Be On the Lookout").
- 1. Monmouth County Law enforcement officers shall not inquire about details of a person's sexual practices, genitalia, or anatomy, unless:
 - a. Doing so is necessary to the ongoing criminal investigation; or,
 - b. The individual raises the issue without prompting by the officer, and the officer's inquiries are tailored to ensure the individual's safety and dignity during a law enforcement interaction.
 - 2. Monmouth County Law enforcement officers shall not disclose an individual's LGBTQ+ status or gender assigned at birth to members of the public, unless:
 - a. A proper law enforcement purpose requires such disclosure, and the officer documents that purpose in writing; or,
 - b. The individual agrees to such disclosure.

Nothing in this policy prevents an officer from respectfully asking someone, "What pronouns do you use?" to ascertain their gender identity in an effort to ensure that an individual's rights and dignity are protected.

IV. RESPECTFUL COMMUNICATION

Transgender individuals chosen names and pronouns are critical to their dignity and identity. Monmouth County Law Enforcement officers, therefore, shall:

- A. Address individuals using their chosen names that reflect their gender identity—even if the name is not the one that is recognized on official legal records and even if that name changes over time—as well as their chosen pronouns;
- B. Include chosen names and chosen pronouns in all relevant documentation, and,
- C. Use chosen names and pronouns in any communications about that individual with members of the public, including with the press, except where doing so would disclose an individual's LGBTQ+ status, and except where necessary in legal filings and in communications about those filings.

Monmouth County Law enforcement officers should also be aware that the proper language and terms have evolved over time – and may continue to evolve in the future.

V. INTERACTIONS BASED ON GENDER

In the vast majority of interactions between law enforcement and the general public, gender is irrelevant. A Monmouth County law enforcement officer will have no occasion to treat men or women any differently whether they are a suspect, victim, or witness, but some interactions do turn on an individual's gender. Such interactions can include certain non-exigent custodial strip searches (in which cross-gender searches are prohibited), as well as gender-segregated detention in police stations.

The general rule under this policy is simple: whenever the action that an officer takes depends at least in part on an individual's gender, then that action shall be performed in accordance with the individual's gender identity, regardless of the gender that individual was assigned at birth and/or their anatomical characteristics, including but not limited to the examples outlined below. In other words, officers must treat a transgender woman as they would treat any other woman, and they must treat a transgender man as they would treat any other man.

A. Conducting Searches

1. For the purpose of conducting a search, officers shall treat a transgender woman as they would treat any other woman, and officers shall treat a transgender man as they would treat any other man, regardless of the gender that individual was assigned at birth and/or their anatomical characteristics.
 - a. For most searches, the gender of the person being searched will not be relevant because the search may be conducted by officers of any gender. That includes, but is not limited to, searches conducted under exigent circumstances—such as an immediate search in the field for weapons, when officer and public safety are paramount—and searches incident to arrest. Under this Policy, nothing will change for these kinds of searches: as before, a male officer can search a man or a woman (transgender or cisgender), and a female officer can search a man or a woman (transgender or cisgender).

- b. However, certain searches exist for which cross-gender searches are prohibited (e.g., non-exigent custodial strip searches) and where the gender of the person being searched thus matters. In those cases, where only a female officer can search a cisgender woman and only a male officer can search a cisgender man, then it is also the case that only a female officer can search a transgender woman and only a male officer can search a transgender man.
2. Nothing in this Policy prevents a Monmouth County law enforcement officer from respectfully asking a transgender individual as to their preference with respect to the gender of the searching officer, documenting that preference, and performing searches in accordance with that preference, if authorized by the relevant state, county, or local law enforcement agency.
3. Law enforcement officers shall never require transgender, non-binary, and gender non-conforming individuals to remove appearance-related items (such as prosthetics, bras, clothes, undergarments, wigs, chest binders, or cosmetic items) during a search unless all individuals, regardless of gender, would be required to remove such items during that search. As for any individual, officers may require the removal of such items when necessary to ensure the safety and security of any person, but should take care when practicable to remove the items in a respectful, non-invasive, and private manner.

B. Transportation

In most cases, Monmouth County law enforcement officers either transport one arrestee at a time or transport multiple arrestees together without regard to gender. However, where Monmouth County law enforcement officers are segregating individuals by gender when transporting them, law enforcement shall:

1. Transport individuals according to their gender identity or expression, regardless of the gender that individual was assigned at birth and/or their anatomical characteristics, unless they request otherwise.

In other words, where individuals are being transported together regardless of gender, this concern does not come into play. In any case in which transportation is based on gender, such that women are transported with women and men are transported with men, a transgender woman shall be transported with other women, unless she requests otherwise, and a transgender man shall be transported with other men, unless he requests otherwise.

2. Transport a transgender person alone, when requested and when doing so is practicable and ensures that individual's safety. The denial of such request must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.

C. Detention and Transferring in Police Stations/Correctional Facilities

Monmouth County Law Enforcement officers already take on the obligation of ensuring the safety and care of individuals in their custody, regardless of their gender identity or expression—a requirement that includes detained transgender individuals. The following section will further help law enforcement officers protect the safety of transgender arrestees.

1. If detained individuals are held in areas that are segregated on the basis of gender, law enforcement shall:
 - a. House, place, or otherwise detain individuals in line with their gender identity or expression, regardless of the gender individuals were assigned at birth and/or their anatomical characteristics unless they request otherwise.

In other words, a transgender woman shall be housed with other women, unless she requests otherwise, and a transgender man shall be housed with other men, unless he requests otherwise.
 - b. Permit individuals to use restrooms consistent with their gender identity or expression, regardless of the gender individuals were assigned at birth and/or their anatomical characteristics.
2. If a facility has available private cells and/or restrooms, law enforcement shall not:
 - a. Refuse to accommodate a request by a transgender, non-binary, or gender non-conforming individual to have a private cell or to use a private restroom, where doing so is practicable and ensures that individual's safety. The denial of such request must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.
 - b. Require someone to be housed, placed, or otherwise detained in a private cell or to use a private restroom on the basis of that person's actual or perceived gender identity or expression and/or sexual orientation, absent such a request.
3. Monmouth County Law Enforcement officers shall never deny transgender individuals access to any items (including clothing, personal property, and appearance-related items, like prosthetics, bras, wigs, undergarments, chest binders, and cosmetic items) and/or any programming (including educational programming) that they would allow cisgender individuals of the same gender identity to have, regardless of the gender individuals were assigned at birth and/or their anatomical characteristics.

4. Monmouth County Law Enforcement officers will continue to follow the standard operating procedures for communicating with dispatch over the radio when transporting transgender, non-binary, and gender non-conforming individuals. Officers should also be mindful of the arrestee's chosen name and pronouns, and should communicate such information to the temporary holding facility or detention facility. When appropriate to ensure an arrestee's safety, a transporting officer may communicate the individual's gender identity to the temporary holding facility or detention facility. For detention, prisoner logs and other documents used to keep track of prisoners while they are in custody should also include an individual's chosen name and pronouns so subsequent shifts of officers may address the prisoner respectfully.

D. Non-Binary and Gender Non-Conforming Individuals

New Jersey law and the Monmouth County Prosecutor's Office recognizes that some individuals do not identify or express themselves as strictly male or female. Again, this is irrelevant to the overwhelming majority of law enforcement interactions that do not turn on gender (such as, among other things, an exigent search for weapons to protect officer and public safety). However, because some law enforcement interactions do turn on gender, as explained above, the following rules apply in such interactions to ensure the safety of non-binary and gender non-conforming individuals.

1. **Conducting Searches:** Officers shall respectfully inquire of non-binary or gender non-conforming individuals as to their preference with respect to the gender of the searching officer and perform searches in accordance with that preference where possible. Any search that is not conducted in accordance with the individual's stated preference must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.
2. **Transportation:** Officers shall transport such individuals with arrestees of the gender that is safest for them, taking into account which gender that individual expresses to be safest for them. Any transportation that is not done in accordance with the individual's stated preference must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.
3. **Detention in Monmouth County Holding Cells:** Officers shall house, place, or otherwise detain such individuals with individuals of the gender that is safest for them, and allow them to use the restrooms of the gender that is safest for them, taking into account which gender they express to be safest for them. Any placement that is not done in accordance with the individual's stated preference must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.

VI. ASKING AND DOCUMENTING GENDER IDENTITY INFORMATION

Detention in Monmouth County Holding Cells: Officers shall house, place, or otherwise detain such individuals with individuals of the gender that is safest for them, and allow them to use the restrooms of the gender that is safest for them, taking into account which gender they express to be safest for them. Any placement that is not done in accordance with the individual's stated preference must, where practicable, be reviewed and approved by a supervisor. The denial shall be documented in writing.

- A. In many cases, an individual's gender will be properly reflected on their driver's license or other official documentation, and a law enforcement officer will be able to rely on that information alone. But there are circumstances in which an officer will need more information. Officers should recognize that some transgender, non-binary, or gender non-conforming individuals' government issued identification may reflect their gender assigned at birth rather than their gender identity. Moreover, an individual may have an "X" marker for gender on their official documentation, which indicates that the individual has an "undesigned/non-binary" identification.
- B. Law enforcement officers may ask for additional information to ensure the dignity, safety, and legal rights of the individual where:
 - 1. An individual does not have any form of official identification with them.
 - 2. An individual has an identification with an "X" marking.
 - 3. An individual indicates to the officer that their gender identity does not match the gender on their documentation.
 - 4. The officer does not know the individual's gender identity.

In such a scenario, law enforcement officers should respectfully ask the individual, "What pronouns do you use?" in order to address individuals using their chosen pronouns and titles of respect. As laid out in the Policy, however, Monmouth County law enforcement officers should not ask to see any physical or anatomical "proof" of gender.

- 5. Any individual's chosen name and chosen pronouns should be noted appropriately in all relevant documentation as "chosen name" and "chosen pronouns" (in addition to separate spaces already included for an "alias" or "nickname"). Officers should record an individual's legal name as stated on a government-issued identification document or other legal paperwork under "Legal name" in all Departmental forms and records. At the same time, when it is possible to do so, official forms must be updated to include designations for "male," "female," "non-binary" (which can consist of the word "non-binary" or the abbreviation "X"), and "Unknown" (where the person's gender has not been disclosed and is otherwise unknown).

VII. ACCESS TO MEDICATION

- A. Monmouth County Law Enforcement officers shall never handle an individual's request for medical attention with any less urgency or respect because of that individual's actual or perceived gender identity or expression and/or sexual orientation.
- B. Monmouth County Law Enforcement officers shall treat prescription hormones like any other prescription medication necessary for an individual's health and wellbeing.
- C. Monmouth County Law Enforcement officers shall document the circumstances of any medical treatment pursuant to applicable policies and procedures.

VIII. TRAINING AND COMMUNITY ENGAGEMENT

To ensure that Monmouth County Law Enforcement fully understands the rights of LGBTQ+ individuals and continues to build relationships with the LGBTQ+ community, the following training and community engagement steps shall be taken:

- A. Monmouth County Law Enforcement shall seek to establish relationships with organizations focused on LGBTQ+ issues, and other community leaders, to maintain a dialogue about issues affecting LGBTQ+ individuals.
- B. Monmouth County Law Enforcement shall stay updated and seek training to include information about the basics of gender identity, gender expression, sexual orientation, and intersex status; issues affecting the transgender community; and issues relating to implicit bias and cultural humility.