

Survey to Chief APOs

Issue: Transgender Individuals on Supervision (personal searches & drug screens)

Question: (from Indiana County)

Have any counties created policies on how to handle transgender individuals as far as personal searches and obtaining drug screen.

Lancaster County

See addendum for Lancaster's policy

York County

See addendum for York's policy

ARTICLE A42

LANCASTER COUNTY ADULT PROBATION & PAROLE SERVICES **LGBTQ+ POLICY**

Section A42.1 Purpose

To establish policies for interactions with all clients regardless of sexual orientation, gender identity, and/or gender expression. All clients, as well as their families, should feel safe against any type of bias, prejudice, or discrimination.

Section A42.2 General Policy

- A. An officer should ask the individual what name and/or pronoun they prefer.
- B. An officer shall treat individuals with the same respect and dignity as those who do identify as Cisgender.
- C. An officer shall not discriminate nor conduct searches/investigations/violations/etc. based solely on an individual's identity/gender/appearance.
- D. Officers will not stop, detain, frisk or search any individual for the purpose of determining an individual's anatomical sex or in order to call attention to that individual's gender identity/expression.
- E. Officers will not require proof of an individual's gender or challenge an individual's gender identity/expression except when legally necessary (i.e. court processing).
- F. Officers will not unreasonably endanger themselves, another officer, or the public to conform to this policy.

Section A42.3 Definitions

- A. Gender - The term "gender" shall include an individual's actual or perceived sex and shall also include an individual's gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that individual at birth.

B. Sexual Orientation - A legal term. An individual's emotional and sexual attraction to others based on the gender of that individual.

Examples include (but are not limited to):

- Asexual - An individual who does not feel sexual attraction.
- Bisexual - An individual who is emotionally, romantically, and/or sexually attracted to individuals of two genders.
- Gay - Usually referring to a man who is emotionally, romantically, and/or sexually attracted to other men. Also, this term can be used in reference to the entire LGBTQ+ community.
- Lesbian - Usually referring to a woman who is emotionally, romantically, and/or sexually attracted to other women.
- Pansexual - An individual who feels attraction to all genders.
- Questioning - Denotes individuals who are not sure how they fit into the SOGI (Sexual Orientation and Gender Identity) continuum

C. Transgender - An umbrella term used to describe individuals whose gender expression is non-conforming and/or whose gender identity is different from their gender assigned at birth. It applies to all gender-variant individuals. An individual is not "transgendered," as transgender is not a verb but rather an adjective that describes a state of being.

- Intersex Individuals - Individuals who possess both male and female biological attributes to a varying degree. This may include sexual organs, DNA, chromosomes, hormones, or a combination. Intersex is always biological but because gender is self-perceived, physical intersex attributes do not determine the individual's gender. Being an intersex individual does not necessarily mean the individual identifies as transgender.
- Transitioning - An individual who is in the process of permanently adopting the outward or physical

characteristics of the gender one identifies with, as opposed to those associated with one's birth sex.

- D. Cisgender - An individual who identifies with and is comfortable with the gender they were assigned at birth. "Cisgender" indicates an individual who is not Transgender.
- E. Gender Identity - A legal term. An individual's inner sense of being male, female, a combination of both, or neither, regardless of the individual's sex at birth.
- F. Gender Expression - An individual's expression of their gender identity. This includes appearance, dress, mannerisms, speech, and social interactions.
- G. Gender Nonconforming, Gender Queer, Gender Expansive - An individual whose appearance or mannerisms do not conform to traditional societal gender expectations.
- H. Agender - An individual who does not identify themselves as having a particular gender.

Section A42.4

APPS Policy Addendums

- A. Adult Probation (AP) Case Management System:
 - How to add a preferred name over a legal name in APPS: The preferred name should be entered on the main screen and their legal name should be placed under the Alias tab with a comment that it is the legal name.
 - There is also an LGBTQI+ Alert that should be used in conjunction with the above process. The legal name should also be placed in the comment section in the Alert. Make sure to check the Prompt User box
- B. Searches/Detentions/Drug Tests: When a search, detention, and/or drug test must be conducted, an individual who identifies as other than Cisgender may request either a male or female Probation Officer to be present and/or to conduct the search, detention, and/or drug test. Probation Officers shall accommodate the individual's request when possible, practical and consistent with departmental safety protocol and procedures.

- If an individual does not make a specific request, searches, detentions, and drug testing can be conducted by a Probation Officer in accordance with departmental safety protocol and procedures. All interactions with individuals shall maintain an environment free from humiliation and discrimination based on their sexual orientation, gender identity, and/or gender expression.

C. Holding Cell/Transport:

- Housing - An individual who identifies as other than Cisgender will be housed alone or on the bench.
- Transport - An individual who identifies as other than Cisgender will be transported alone or in a split cage vehicle.


D. Drug Testing and/or Searching Probation

Officers/Supervisors: A list of professional staff who have volunteered to witness a drug test and/or conduct a search of a client who does not identify as cisgender and who has completed the Voluntary Gender Identity Statement of Preference Form during intake shall be maintained by senior management and shall be made available to staff.

- See list of staff on Probation Matters

E. Training and Resources: It is anticipated that initial and annual? follow up training will be provided to staff. Should there be questions or concerns regarding the type of conduct, phrases and/or words that are considered offensive, employees should seek guidance from their supervisor or other designated person.

F. Deviation From Policy: Any deviation from this policy must first be approved by management, unless emergency or exigent circumstances exist.

	YORK COUNTY DEPARTMENT OF PROBATION SERVICES	Section:	<i>Supervision</i>
		Subject:	<i>Diversity, Equity and Inclusion</i>
ADULT AND JUVENILE OFFICE		Policy No.	
		Rule No.	N/A
		State Standard	5; 40
		Effective Date	4/1/2024

LGBTQ+ Policy

I. PURPOSE

To establish policies for interactions with all individuals, including those that work for the Court, as well as those under Court supervision, regardless of sexual orientation, gender identity, and/or gender expression. Everyone should feel safe against any type of bias, sexual harassment, prejudice, or discrimination.

II. DEFINITIONS

It is important to note that definitions for this population of individuals evolve over time. The below list of definitions is not meant to be exhaustive and will change over time.

- Agender - An individual who does not identify themselves as having a particular gender.
- Cisgender - An individual whose personal identity and gender corresponds with their birth sex.
- Coming Out - To out oneself is to share an identity that is previously unknown to people. Usually referring to sexual orientation or gender identity.
- Deadname - The birth name of someone who has subsequently changed their name, most attributed to transgender people, or any person who has changed their name.
- Gender - A person who identifies as male, female, both, or neither regardless of their sexual organs, DNA, chromosomes, hormones, or a combination thereof. The term “gender” shall also include an individual’s gender identity, self-image, appearance, behavior, or expression, whether that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the legal sex assigned to that individual at birth.
- Gender Expression - An individual’s expression of their gender identity. This includes appearance, dress, mannerisms, speech, and social interactions.
- Gender Fluid – An individual who does not identify themselves as having a fixed gender or who views themselves as a mix of both genders, and who may feel more male on some days and more female on others.
- Gender Identity - An individual’s inner sense of being male, female, a combination of both, or neither, regardless of the individual’s sex at birth.
- Gender Nonconforming - An individual whose appearance or mannerisms do not conform to traditional societal gender expectations and may change over time.

- Intersex Individuals - Individuals who possess both male and female biological attributes to a varying degree. This may include sexual organs, DNA, chromosomes, hormones, or a combination. Intersex is always biological but because gender is self-perceived, physical intersex attributes do not determine the individual's gender. Being an intersex individual does not necessarily mean the individual identifies as transgender.
- Men/Male - The classification of "men" shall include all individuals who identify as men regardless of biological characteristics (i.e., cis-men, trans-men, etc.).
- Non-Binary – An individual who is non-binary identifies as neither male nor female or as not exclusively male or female. These people usually go by they/them pronouns.
- Outing – The act or practice of revealing a person's sexual orientation without their consent. An individual should never be "outed."
- Pronouns – The way we gender people in our language. Pronouns affirm a person's identity and help them feel comfortable in their own body, and shows we respect a person for who they are. E.g., he, she, they, them.
- Sexual/Romantic Orientation - An individual's emotional and sexual attraction to others based on the gender of that individual. Transgender/Non-Binary people can be any sexual orientation (gay, lesbian, bisexual, heterosexual/straight, no label at all, or some others self-described label.)

Examples include (but are not limited to):

- Asexual - An individual who does not feel sexual attraction.
- Bisexual - An individual who is emotionally, romantically, and/or sexually attracted to individuals of more than one gender. Gender is part of their attraction.
- Gay - Usually referring to a man who is emotionally, romantically, and/or sexually attracted to other men. Also, this term can be used in reference to the entire LGBTQ+ community.
- Lesbian - Usually referring to a woman who is emotionally, romantically, and/or sexually attracted to other women.
- Pansexual - An individual who is capable of being emotionally, romantically, and/or sexually attracted to an individual regardless of gender.
- Questioning - Denotes individuals who are not sure how they fit into the SOGI (Sexual Orientation and Gender Identity) continuum.
- Transgender - An umbrella term used to describe individuals whose gender expression is non-conforming and/or whose gender identity is different from their gender assigned at birth. It applies to all gender-variant individuals. Transgendered individuals may also frequently identify as gender fluid. An individual is not "transgendered," as transgender is not a verb but rather an adjective that describes a state of being.
- Transitioning - An individual who is in the process of permanently adopting the outward or physical characteristics of the gender one identifies with, as opposed to those associated with one's birth sex. Gender transition looks different for every person. People often transition to reduce gender dysphoria and/or increase gender euphoria. While not all transgender people transition, a great many do at some point in their lives. It could include choosing a new name, changing pronouns, wearing different clothes and hairstyles, changing legal documents, hormone therapy, hair removal, speech therapy, fertility preservation (sperm/egg storage), etc.
- Women/Female - The classification of "women" shall include all individuals who identify as women regardless of biological characteristics (i.e., cis-women, trans-women, etc.).

III. POLICY

The department will safeguard the rights of all people, without consideration to a person's actual or perceived race, color, sex, gender, gender identity/expression, religious creed, sexual orientation, age, national origin, ancestry, handicap or disability, including employees, individuals under court supervision, their families and the community.

It is important to note that gender is often fluid and may change for some individuals over time. Probation employees should:

- Treat all persons with the courtesy and dignity which is inherently due to every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous and professional attitude during all contacts with the public.
- Respectfully treat all individuals in a manner appropriate to the individual's gender, or gender identity/expression.
- Not exhibit any bias or prejudice, sexual harassment or discriminate against an individual or group of members based on their actual or perceived sexual orientation, gender, or gender identity/expression.
- Address the public using pronouns, titles of respect, and preferred names as expressed by the individual. Staff should ask every individual what name and/or pronouns they prefer.
- Not use discourteous, demeaning, or disrespectful remarks regarding another person's actual or perceived ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.
- Treat individuals who identify as other than Cisgender with the same respect and dignity as those who do identify as Cisgender.
- Not disclose an individual's gender identity or sexual orientation to other individuals under supervision, members of the public, or other employees, absent a proper job-related purpose.
- Not make assumptions about an individual's sexual orientation based upon an individual's gender or gender identity/expression.
- Not stop, detain, frisk or search any individual for the purpose of determining an individual's anatomical sex or in order to call attention to that individual's gender identity/expression.
- Not require proof of an individual's gender or challenge an individual's gender identity/expression except when legally necessary (i.e., court processing).

IV. PROCEDURE

- Staff Gender Identification and Use of Pronouns
 - Probation staff that identify as transitioning, transgender, gender fluid or as gender non-conforming, will be treated with the same dignity and respect without consideration to a person's actual or perceived race, color, sex, gender, gender identity/expression, religious creed, sexual orientation, age, national origin, ancestry, handicap or disability.
 - Fellow employees will use the individuals preferred name and pronouns when addressing any employee who has transitioned or identifies as other than cisgender. This includes using the individual's preferred pronouns.
 - Until an individual's name is legally changed, the officer should sign all reports with their legal name, and add their preferred name also, i.e. John Smith (Jane Smith).

- Gender Classification and Caseload Assignment
 - During the intake process:
 - Every individual will be asked what **gender and pronouns** they identify as, using the Gender Identity Checklist.
 - In the adult office, the check list will be provided with the face sheet for the individual to complete in the waiting room. Intake Support Specialist will review this checklist during the intake process. This is the gender that should be entered into probation's case management system based on the design of the system.
 - In the juvenile office, the Gender Identity Checklist questions will be incorporated on the Client Information Sheet and should be reviewed with the youth during the portion of the intake process where parent/guardian is in the waiting room.
 - In the juvenile office, legal and preferred names should be entered in the Juvenile Information tab. Gender Identity and assigned sex at birth should be entered in the Juvenile Information tab, under Physical Description.
 - In the adult office, gender identity should be entered as an alert and the alias section should be used to indicate preferred name. Additionally, an alert should be entered with this information as well.
 - Pronouns should be entered into both case management systems using the alert function. In the juvenile office, the alert will be entered into the PO Safety module, selecting Preferred Pronouns in the dropdown menu under safety risk level. Enter the pronouns in the safety notes box, click show on start up and save.
 - If an individual is transitioning, transgender, gender fluid or is gender non-conforming, intake staff will ask the following:
 - Which gender they prefer be indicated in probation's case management system (unless both are allowable), since only two genders are contained in these systems.
 - What the individual's caseload assignment preference is, i.e. Alpha or general, and whether they prefer a female or male probation officer and accommodate that request.
 - Who the individual prefers drug test them, a male or a female probation officer.
 - This information will be noted in probation's case management system, along with the individual's preferred name, especially if it differs from their legal name and the individual's preferred pronouns. Individuals have the right to decline completion of the form. If so, a note should be entered into the case management system indicating this.
 - Intake staff should be sure to include any prior legal names in the alias section of the face sheet for criminal background purposes.
- Searches/Detentions/Drug Tests:
 - When a search, detention, and/or drug test must be conducted of an individual who identifies as other than Cisgender, the individual will be asked if they prefer a male or a female Probation Officer to be present and/or to conduct the search, detention, and/or drug test. Probation Officers shall accommodate the individual's request when possible.

- Probation officers may be required to drug test an individual with opposite sex organs than them. If appropriate, oral swabs may be used for drug testing where the individual or the officer feels this is the best option. Another good option for officers and individuals under supervision is to pat the individual down, have them empty their pockets, leave any coats or other outer garments, pocketbooks, and bags outside of the restroom and have them wash their hands prior to entering the bathroom with the urine catch cup. The officer can leave the bathroom door cracked if appropriate. When the individual gives the urine catch cup to the officer, the officer should verify that the urine is body temperature either through touching the cup (while wearing rubber gloves) or by checking the temperature strip on the outside of the cup, if applicable.
- The possession of a needle which is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, especially if the person being stopped or arrested has documentation from a physician confirming that it is being used for legitimate medical treatments.
- If an individual does not make a specific request, searches, detentions, and drug testing can be conducted by a Probation Officer in accordance with departmental safety protocol and procedures.
- All interactions with individuals shall maintain an environment free from humiliation and discrimination based on their sexual orientation, gender identity, and/or gender expression.
- In situations where an individual under Court supervision identifies as transgender or transitions and their preferred name differs from their legal name, the officer should use the individual's legal name in Court reports and memos.
- Training and Resources: Training will be held annually on culturally sensitive topics such as LGBTQ+ individuals. Should there be questions or concerns regarding the type of conduct, phrases and/or words that are considered offensive, employees should seek guidance from their supervisor or other designated person.

GENDER IDENTITY CHECKLIST

Gender Identity Checklist Instructions/Script

The best practice recommendation for staff administering the Gender Identity Checklist is to provide the juvenile with the Gender Identity Checklist while not in the presence of their parents or guardians and allow the juvenile to self-report.

The following steps below provide a detailed script to assist staff in administering the gender identity checklist, and an explanation around confidentiality.

Gender Identity Checklist Script:

1. Providing the Gender Identity Checklist:

You are being provided with a gender identity checklist, which is simply how you identify/view yourself. This information will also be used to compose data to better drive decision-making to create, improve and increase programming, and mainly to support you.

2. Explanation for Legal Name vs. Name:

What would you like for me to call you?

3. Explanation of Confidentiality:

It is important for you to know the answers you provide will not be shared with your family, or the Court unless you provide consent. However, if you tell me anything that suggests you might harm yourself, or that you are in danger of being harmed by someone, I will take steps to make sure that you are going to be safe.

4. Caseload Assignment (adult office only):

If the individual identifies as nonbinary, agender, gender fluid, gender nonconforming, or gender queer, ask the individual if they prefer to be on a female or male client caseload.

5. Drug testing:

If the individual identifies as nonbinary, agender, gender fluid, gender nonconforming, or gender queer, ask the individual if they prefer to be drug tested by a male or a female officer. In the adult office, this will likely coincide with caseload assignment.

6. Definitions: Officers should refer to the gender identity resource guide and/or the LGBTQ+ Policy for definitions and clarification

GENDER IDENTITY CHECKLIST

Legal Name: _____ **Preferred Name:** _____

Assigned Sex at Birth:

What sex were you assigned at birth, on your original birth certificate?

- Male
- Female
- Prefer not to answer

Current Gender Identify:

How do you describe yourself? (Check one)

- Male (biological male reproductive organs)
- Female (biological female reproductive organs)
- Trans Male (assigned female - identify as male)
- Trans Female (assigned male - identify as female)
- Different Identity (ex: Gender Fluid, Non-binary – please state): _____
- Prefer not to answer

My pronouns are:

He/Him She/Her They/Them Self-Described: _____

For your safety and confidentiality, is your family aware of your current gender identity?

- Yes
- No

Is there anything else you would like to share about your gender identity?