



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: May 31, 2016
BOARD MEETING DATE: June 16, 2016
BOARD REPORT # 1606P01
Regular

TO: Vancouver Police Board
FROM: Drazen Manojlovic, Director, Planning, Research and Audit Section
SUBJECT: Recommended Addition to the Regulations and Procedures Manual Section
1.14.4 *Initial Contact with Transgender People*

RECOMMENDATION:

That the Vancouver Police Board approves the recommended addition to the Regulations and Procedures Manual Section 1.14.4 *Initial Contact with Transgender People*.

SUMMARY:

The proposed policy and procedure was developed in order to comply with the British Columbia Human Rights Tribunal's (the "Tribunal") findings in the case of *Dawson v. Vancouver Police Board* (VPB). The Tribunal ordered that "policies are to be adopted by the VPB that allow identification of trans people without discrimination" and that "officers are to be trained in implementation of these policies."

The VPD has taken steps to comply with the Tribunal's order by: 1) revising the Vancouver Police Jail's (the "Jail") Manual of Operations (JMO); 2) developing the recommended addition to the VPD's Regulations and Procedures Manual (RPM); and 3) designing and delivering training about the transgender community.

The recommended policy is supported by the VPD's LGBTQ Advisory Committee and both the Trans Alliance Society Board and the City of Vancouver's LGBTQ2+ Advisory Committee have voted to endorse this policy.

BACKGROUND:

Angela Dawson is a transgender woman who has had many interactions with Vancouver Police Department (VPD) members, often due to her habit of directing traffic at various intersections in

Vancouver. Ms. Dawson filed a complaint with the Tribunal, citing six incidents where she felt interactions with VPD members violated her human rights.

The Tribunal heard her complaint in 2014 and, while dismissing four of the incidents, they did substantiate two of the incidents. In summary, the two substantiated incidents were specifically about her treatment at the Jail and how she was referred to as a male in some of her interactions with VPD members. The Tribunal ordered that “policies are to be adopted by the VPB that allow identification of trans people without discrimination” and that “officers are to be trained in implementation of these policies.”

DISCUSSION:

The VPD has taken steps to comply with the Tribunal's order and they are categorized accordingly: 1) changes to the JMO; 2) developing recommended policy and procedure to the RPM; and 3) designing and delivering training about the transgender community.

Changes to the JMO

A revision was made to the JMO to address one of the substantiated complaints, where the Tribunal concluded that Ms. Dawson was not provided sufficient medical care in accordance with her post-operative gender reassignment requirements. To prevent such issues from occurring in the future, in September of 2015, Insp. John de Haas (Court and Detention Services Section) proactively revised section 9.3 *In-House Treatment* of the JMO by adding the following direction to Jail staff:

“Should any Jail personnel have concerns over the adequacy of medical response to the observed or claimed medical concerns of any prisoner, they will immediately notify the Jail NCO. The Jail NCO will forthwith inquire and as necessary take steps to ensure that adequate actions are taken by medical staff to ascertain the validity of the prisoner's medical situation or concerns, and that these are addressed in an appropriate manner. [per the Dawson Human Rights Tribunal recommendations March 2015]”

In July of 2015, Insp. de Haas also proactively revised the JMO to address the second substantiated complaint, which was when she was arrested and searched; Ms. Dawson was treated and referred to as a male rather than a female. To ensure that such errors do not occur in processes specific to the Jail, the following sub-section, to section 6.5 *Searches of a Transgender Individual*, was added to the JMO:

“s7. Jail staff are to document on the Jail Arrest Report and any court documents served to the prisoner both current legal names and gender, as well as chosen names and gender.”

These changes to the JMO will comply with the Tribunal's order and have been communicated to Jail staff.

Developing Policy and Procedure to the RPM

To comply with the Tribunal's order that “policies are to be adopted by the VPB that allow identification of trans people without discrimination”, the VPD is recommending the attached addition to the RPM. The development of this procedure included reviews of similar procedures recently developed by the Denver Police Department, the Seattle Police Department, and the

Capitol District Police. More importantly, the policy was developed in consultation with people representing the transgender community and who are also part of the VPD's newly-formed LGBTQ Advisory Committee.

In general there are two aspects of police interactions with transgender people that may lead to possible discrimination specific to identification: a) how the transgender person wants to be referred to by name and pronoun use when speaking with VPD members; and b) how the transgender person's name and gender is entered into police databases (when necessary):

- The recommended procedure requires VPD members to refer to the transgender person's "chosen name" (if it differs from their name that is shown on government issued identification, e.g., a BC driver's license). This is an important act that respects the transgender person's right to be conversed with using the name and gender that they have chosen.
- Police do have an obligation to verify the identity of people they interact with, and usually these people are most often a victim, witness, or suspect involved in a police investigation or incident. Verifying identification usually requires basic information such as name, birthdate, address, and gender. Such basic information is required in police reports that may ultimately go before the Courts, and as such it is crucial for the proper investigation and prosecution of offenses that there be no doubt as to the identity of people involved.

When a transgender person's basic identification information is required to be entered into a police report, the recommended procedure requires VPD officers to enter the basic information as it appears on government-issued identification; however, officers are asked to refer to the transgender person's adopted name and gender when completing the report.

The recommended policy and procedure will comply with the Tribunal's order as it respects the transgender person's right to be referred to by their adopted name and gender, while also meeting the police's legal obligations of identifying people with certainty in police reports and other documentation (when required). As previously mentioned, the recommended policy is supported by the VPD's LGBTQ Advisory Committee, which includes people representing the Trans Alliance Society of Vancouver, Qmunity, and the LGBTQ2+ Advisory Committee to the City of Vancouver. In fact, both the Trans Alliance Society Board and the City of Vancouver's LGBTQ2+ Advisory Committee have endorsed this policy.

Designing and Delivering Training About Transgender People

The Training and Recruiting Section and the Diversity and Aboriginal Policing Section, have completed a training video, titled "Walk With Me", on issues faced by transgender people and how police officers can better understand and interact respectfully with a transgender person. As part of the distribution of this policy, this video will be shown to all VPD employees. The video is scheduled to be shown to staff shortly after the approval of this recommended policy. Furthermore, the Training and Recruiting Section is developing additional classroom training that is scheduled to be delivered in 2017.

CONCLUSION:

The VPD values and respects the diversity of Vancouver and recognizes that each community may have unique needs related to policing. This recommended policy and procedure strikes an appropriate balance between VPD members' legal responsibility to verify identity in official reports, while being respectful to the transgender person's right to be referred to by name and gender identity they have chosen, while also complying with the BC Human Rights Tribunal's order.

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Submitting Executive Member:

Deputy Chief Steve Rai Date: May 31, 2016

Recommended Policy

1.14 Community, Diversity, and Victim Services

1.14.4 Initial Contact with Transgender People

(Effective: 2016.06.16)

Policy

Part of the core values of the VPD are compassion and respect. Effectively serving diverse communities begins with understanding and respecting the sensitivities of individuals. With these values in mind, persons may identify, or present themselves, as a gender that is different to their perceived appearance or what is stated on their official identification. Although 'gender identity' and 'gender expression' are not included in BC's Human Rights Code, the courts have established that transgender people are protected from discrimination because they are covered by the ground of 'sex'. As such, members should make reasonable attempts to avoid labelling a person during interactions and when recording the name and gender of a person in police documentation and reports.

Definitions

The following definitions go beyond what is described in procedure but are listed in order to provide relevant, educational information that may be helpful when interacting with a transgender individual. The VPD encourages members to use non-judgmental language that will promote respect and equity towards the transgender community.

Sex: is the current anatomical classification of people as male, female or intersex, usually assigned at birth.

Intersex: people who possess or develop physical sex characteristics that do not fit into conventional medical definitions of male or female. This can include chromosomes, genitals, hormones and other sex attributes. Intersex people have been referred to in the past as "hermaphrodites"; however "Intersex" is the appropriate term.

Transgender or Trans: an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans women (male-to-female MTF), trans men (female-to-male FTM), transsexual, or gender non-conforming, gender variant, gender queer, or non-binary. The term "trans" is also appropriate; however, it is noteworthy that some transsexual people do not identify as transgender.

Chosen name: non-birth name that a transgender individual uses in self-reference (this may or may not be the individual's legal name). Many transgender people refer to their birth name as their "dead name" and it is very disrespectful to use their birth name in interactions after you have been informed of their chosen name.

Gender expression: is how a person expresses or presents their gender to others. This can include behavior and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are common ways of expressing gender and a

person's gender expression may change from day to day. Others perceive a person's gender through these attributes.

Gender identity: is each person's internal and individual experience of their gender which may be the same as, or different from, their birth assigned sex. It is important to note that a person's gender identity does not have to match their gender expression.

Gender binary: is the concept that there are only two totally distinct, opposite and static genders (feminine and masculine) to identify with and express.

Gender non-binary: is the concept that gender identity and expression are comprised of degrees of femininity and masculinity, or neither as some trans people identify as non-binary, and do not see themselves as either men or women. These people often use 'they, them, their' pronouns for themselves.

Procedure

1. Upon being informed that a person identifies as, or is, a gender other than what they may appear, or what their government issued identification indicates, members shall refer to the person's chosen name and gender descriptive pronoun associated to that gender identity. For example:
 - a) She, her, hers for feminine pronouns;
 - b) He, him, his for masculine pronouns;
 - c) They, them, their for a person who requests gender-neutral pronouns; and
 - d) Or other pronouns requested by the person.

If a member is uncertain of which pronoun to use then they are encouraged to discretely ask the person.

2. When entering the person into a general occurrence report (GO), or other official report as an "entity", they are to be entered by the gender indicated on their official government identification (e.g., Driver's license, Birth Certificate, BCID, etc.).
3. When completing the synopsis and narrative portions of the GO, members shall use the person's chosen name and appropriate pronoun. It is recommended that members use language such as "the complainant, John Doe, will be referred to by their chosen name – Jane Doe – in the remainder of this report" when preparing the synopsis and narrative.
4. If the transgender person is to be transported and lodged at the Vancouver Jail, the Jail NCO is to be contacted and informed of the person's chosen name and gender identity (which may differ from the person's entered name and gender).