



Chesa Boudin
District Attorney

Policy Directive:

***San Francisco District Attorney's Office
Gender Neutral and Gender Inclusive Pronoun Use for People Encountering the
Criminal Legal System***

I. INTRODUCTION

June is Pride Month, which reminds our office and the greater community of the ongoing need to improve our policies to better support members of the LGBTQIA community, including transgender, nonbinary, and gender non-conforming people. The failure to properly refer to people by their correct gender pronouns or names (regardless of the gender markers or names reflected on their legal documents) can cause significant harm and even danger to the person addressed.

Promoting acceptance and the recognition of humanity of all persons is an important step in protecting public safety for all people. Transgender and gender nonconforming persons are disproportionately victimized by violent crime—which is also believed to be [significantly underreported](#). Reports of violence and hate crimes against transgender people have only [increased](#) in recent years, with [2020](#) being the deadliest year on record. What's more, failing to identify someone with the right pronouns can potentially put that person at risk for violence from those who may harbor bias or prejudice.

Using correct pronouns and names may increase trust in the criminal legal process. Misgendering can lead to distrust and fear of the legal system—which can make transgender and nonbinary people reluctant to cooperate with law enforcement. For example, one [report](#) showed that over a quarter of transgender people hesitated to consult with medical experts based on fears of being misgendered. Those same concerns can play a role in the legal system, where it is critical that transgender people feel safe.

Promoting use of correct pronouns, titles and names promotes public safety in other ways too. According to the [Trevor Project's](#) 2021 survey, more than half of transgender and nonbinary youth have seriously contemplated committing suicide. These impacts are disproportionately experienced by people of color. Yet transgender and nonbinary youth who are referred to by the correct pronouns have a 50% less chance of attempting suicide than those whose pronouns were not respected by those living with them.

Everyone who encounters the criminal legal system—whether crime victim/survivor, witness, or defendant—deserves to be treated with dignity, respect, and compassion. Doing so requires that individuals be addressed in a way that honors individual identity. Too often, harmful norms around sexuality and gender identity are reinforced in our courtrooms and throughout the legal system. In order to mitigate those harms and to promote a culture of respect and safety, the San Francisco District Attorney’s Office implements this policy, effective immediately.

II. DEFINITIONS

For purposes of this policy, “pronouns” refers to traditional gender pronouns (he/him/his and she/her/hers) as well as gender-neutral pronouns (such as, but not limited to, they/them/theirs or ze/hir/hirs).

“Correct” pronouns refers to the pronouns an individual uses and identifies with and wants others to use when being addressed.

Titles are the formal terms used to describe someone, typically followed by a last name. Examples of titles are gendered titles like “Ms.” or “Mr.” or gender-neutral terms like “Dr.” or “Professor” or “Mx.”

“Misgendering” refers to using a pronoun that does not correspond to a person’s gender identity.

“Correct names” or “chosen names” refers to the first name a person identifies with and uses in interacting with people, rather than using the name assigned to at birth or reflected on identity documents (for example, a chosen name might be a name accurately corresponding with a gender identity). A chosen name may differ from a legal name.

III. CORRECT GENDER NEUTRAL AND GENDER INCLUSIVE PRONOUN USAGE FOR CRIME VICTIMS/ SURVIVORS AND WITNESSES

When reviewing a case, SFDA’s Intake Division and/or charging ADA will document any available information regarding any witness/victim’s person’s correct gender pronouns in the SFDA file. If a witness or victim’s gender pronouns change during the course of a case, the assigned ADA will correct the pronouns in the SFDA file. If a witness or victim/survivor uses a first name other than their legal name that name will be documented and used by all staff.

All information regarding any such correction by witnesses or victims/survivors must be discovered to defense counsel/defendant as well, and ADAs should use their best judgment to inform other witnesses (such as officers) about these

corrections since they may be called to testify about observations or conversations with the witness.

After a case is filed and as SFDA interacts with witnesses or crime victims/survivors directly throughout a case, any new information about a witness's correct pronouns or identified first name must be documented in the file by the assigned ADA and used throughout the pendency of the case.

IV. CORRECT GENDER NEUTRAL AND GENDER INCLUSIVE PRONOUN USAGE OF DEFENDANTS

A. Inquiring about correct pronouns/first names

At or before arraignments or first court dates in all new cases, ADAs shall be required to inquire of all defendants (through their counsel when a defendant is represented) what the defendant's correct pronouns are, as well as whether the defendant uses a different first name than the one listed on the charging document and/or in the police report. This inquiry ideally should be made before a case is called on the record but may also be made on the record at the start of the appearance on a case. ADAs are encouraged to explain that this is a standard inquiry conducted in every case to honor and respect individual gender identity and preferences. If a defendant (or defense counsel) declines or refuses to respond to this inquiry, that should be documented in the ADA file and need not be addressed again unless raised by defendant (or defense counsel).

The defendant's correct pronouns must be documented in the SFDA file in all cases covered by this policy and must always be used by ADAs and SFDA staff in and out of court when referencing the defendant. Should a defendant indicate use of a different first name than their legal name, that too should be documented. ADAs and SFDA staff should also make an effort to use titles that correspond with correct pronouns, and when there is any ambiguity, should inquire of defendant/counsel.

B. Amending Charging Documents/ Future Filings

When a defendant uses a first name that does not correspond with the charging documents, these documents may be amended by the assigned ADA accordingly so long as defendant/counsel consents to the amendment and agrees to waive irregularities. For purposes of ensuring that a charged individual can be linked to prior convictions, fingerprints, and other records, other prior names should be included on the charging document as well, but listed subsequent to the defendant's chosen name and identified (in parentheses) as the legal name.

Defense counsel/defendant should always be consulted and must consent (verbal or written) before any such amendments. It is the intention of this policy to honor and

respect individual gender identity and there may be reasons (including safety reasons) why a defendant would prefer not to have charging documents amended. Subsequent SFDA motions or filings in connection with the case should similarly reflect any chosen names and correct pronouns.

C. Limits of this policy

This policy—particularly the requirements regarding amendment to filings—does not apply retroactively or to currently pending cases, though the spirit of this policy should still govern and all efforts to use correct pronouns and correctly name parties in pending cases should be made.

This policy does not govern any non-SFDA produced documents, such as CLETS reports or other documents generated by law enforcement partners.

**V. CORRECT GENDER NEUTRAL AND GENDER INCLUSIVE
PRONOUN USE AND NAMING OF NON-PARTIES**

This policy governs communications with and about parties and witnesses in criminal cases. The spirit of this policy should guide SFDA staff in communications with others as well—both within and outside of the SFDA Office. That means SFDA staff are encouraged to inquire as to correct pronouns for counsel, court staff, and colleagues whom they may encounter throughout their work, and to use those pronouns. It is also recommended, though not required, that SFDA staff include their own pronouns in email signatures to promote a culture of respect and acceptance.