

# THE COLLECTION, USE AND DISPLAY OF SEX AND GENDER INFORMATION AT THE FEDERAL LEVEL



Findings from six engagement sessions with  
Transgender, Non-binary and Two-Spirit Communities



Government  
of Canada

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du Canada

Canada

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## EXECUTIVE SUMMARY

Public policy undergoes natural shifts as impacts on society are better understood. Policies are changed to support stronger client service, improve outcomes for certain populations, and to ensure that Canadians are treated with respect and dignity. Following the implementation of changes to the *Canadian Human Rights Act* to provide explicit protections to Canadians on the grounds of gender identity and gender expression, many departments are reviewing departmental policies, processes and practices to consider impacts on transgender, non-binary and two-spirit (TNB2) people in Canada. Part of this work encompasses how federal departments collect, use and display sex and gender information. As the federal government considers moving forward with a new approach regarding sex and gender information, understanding the full scope of impacts on TNB2 communities will be critical.

The federal government collects and uses information in four different ways, which can be summarized into four different categories.

1. **“Tombstone” profile information** (information that has traditionally been defined as unchanging over time) is collected for identity management purposes (e.g. Social Insurance Registry).
2. **Administrative data** is collected to determine eligibility for programs and to understand trends and issues related to program delivery and client service (e.g. used to determine gender-based impacts of the program).
3. **Gender Display** for the purposes of identity management (e.g. gender marker on Canadian passport).
4. **Statistical data\*** is collected through a range of surveys administered by Statistics Canada (e.g. Census) in order to document demographic shifts, trends and issues across Canadian society.

\*For the purposes of this engagement project, the approach used to collect sex and gender information for statistical purposes will not be

addressed. Statistics Canada has done extensive engagement on this issue.

Currently, the federal government is working to better understand the impacts of public policy on TNB2 people in Canada. To look at the client experience and impact of current federal practice related to the collection, use and display of sex and gender information, a series of engagement sessions with TNB2 communities was conducted throughout February 2018. This report captures the findings of these conversations with nearly 100 TNB2-identified stakeholders and allied individuals, including parents and legal counsel of TNB2 individuals. The report also outlines some negative impacts of the current federal data collection approach for TNB2 communities in Canada.

In the engagement sessions, it was generally understood that gender information remains an important part of evidence-based, responsive, and responsible public policy development and its collection should continue. What was questioned, was why and when and if the collection of gender information is required, how the collection of gender information should occur, and if gender should be displayed on public-facing federal documents. An important secondary question to this line of inquiry is how accessible the process of changing a gender marker is or should be for official federal documents (e.g. changing the gender associated with an individual's Social Insurance Number or passport).

Important themes emerged from the engagement sessions and helped interpret the overall findings presented in this report:

- Participants were clear in stating that the terms “sex” and “gender” are not synonyms. Rather, each term represents specific, different information.
- The majority of participants felt that gender should not be seen as static or fixed, recognizing that for some, gender may change over time.
- Many participants felt that gender should be seen as private information that requires the consent of the individual for collection, use and disclosure over time.

- Some participants questioned the mandatory collection of gender information for what is defined as a legitimate purpose (e.g. Gender-Based Analysis) and queried the legitimacy of this approach vis-à-vis individual privacy rights.
- The majority of participants indicated that personal safety is a key concern and may influence how gender information would be provided (e.g. administrative data collection versus gender display on a public-facing document).

### **Considerations moving forward**

The Government of Canada could consider:

- a data collection approach that defaults to the use of gender data as opposed to sex. Collection of sex information should be viewed as an exception
- implementing a consistent approach to gender information change across government in order to prevent unequal treatment across programs
- anonymized gender data collection in order to respond to data needs, while respecting the right of the individual to privacy
- an improved approach to informing Canadians how their personal information, including gender, will be used over time (e.g. informed consent)
- training front-line staff in order to support broader federal efforts to address discrimination based on gender identity and gender expression
- a consistent approach to reviewing federal forms and documents to ensure that language is gender inclusive. This includes introducing a consistent approach to prevent the use of gendered greetings and honourifics unless specified by the client
- removal of gender on all federal identification documents

- available levers to convene and accelerate the conversations needed to simplify inter-jurisdictional processes that will allow TNB2 stakeholders to obtain gender affirming identification
- a broader public education campaign to educate public servants and Canadians on gender identity and LGBTQ2 inclusion
- ongoing engagement with TNB2 communities in order to better understand the impacts of public policy on these communities

This report is a starting point for cultural change. The intent of respecting the lives of TNB2 people can be mistakenly interpreted by some as a lack of respect towards others. Therefore, the change management process needed to move forward with implementation of changes to government approaches and systems in the context of deeply held societal perspectives on gender and identity should not be underestimated. Further engagement, communication and education will be necessary to deepen public awareness of the issues and to facilitate evidence-based decision making by senior officials and front-line public servants.

# DIALOGUE PROCESS

## Scope

The lines of inquiry used during the sessions were intended to:

- Provide community feedback on the potential impacts of the Government of Canada's Proposed Approach to the Collection, Use and Display of Sex and Gender Information.
- Provide policy-makers with a first-hand view of the "lived experience" of those directly impacted by the proposed framework.

The dialogues took the form of 2.5 to 3-hour conversations with groups of 10 to 30 individuals from Canada's TNB2 communities and were conducted in five cities: Vancouver, Edmonton, Toronto, Montreal, and Halifax. The session in Montreal was conducted in French. A second session with Indigenous LGBTQ and two-spirit participants was held in Edmonton. Participants from all provinces and territories took part in the conversations.

Independent consultant/facilitators led the conversations. Up to five federal government representatives attended each session as observers. Representatives from the Privy Council Office (LGBTQ2 Secretariat); Treasury Board of Canada Secretariat; Department of Justice Canada; Immigration, Refugees and Citizenship Canada; Employment and Social Development Canada; and Crown-Indigenous Relations and Northern Affairs Canada participated as observers. The Canadian Human Rights Commission, an independent organization at arm's length from the federal government, also participated in two engagement sessions.

## Handouts

- Participants received a copy of the agenda prior to the conversation session.



- At the session, participants also received a document outlining terminology being used by Treasury Board of Canada Secretariat and the Department of Justice Canada to define gender related terms. These terms were open for discussion during the session. (as per Appendix A, section a.)

## **Approach**

The conversations began with the facilitator orienting the participants to the format and intent of the session. Each of the lines of inquiry was explored by introducing a brief contextual description of the topic, followed by a central question. The lead facilitator engaged the participants individually and collectively in an interview-style dialogue on their views with respect to the context and the question. The interview style provided a friendly approach for the facilitator to discover the maximum amount of detail and specificity that the participants had to offer. Participants were encouraged to indicate their preferred language for relevant gender identity terms or offer dissenting views whenever appropriate.

A second facilitator captured a real-time synthesis of the dialogue and helped to highlight key topics for further conversation.

Each conversation ended by the lead facilitator providing a synthesis of what was captured and the opportunity for the participants to refine the essential points that surfaced during the conversations. Each session closed with a government representative thanking the participants and mentioning again how government would use the results of the conversations.

At the end of every session some participants chose to stay behind to have informal, but informative conversations with the government representatives. A real-time debriefing between the facilitators and government observers followed each conversation so that key points could be clarified, and any needed process refinements put in place prior to the next conversation.

## **Diversity of participants**

The need for the government to base their policy decisions on the lived experience of members of the TNB2 communities was reinforced in every session. It was frequently expressed that the necessary dialogue should continue beyond this series of engagements and that every effort should be made to broaden the diversity of participants to more fully capture the lived experience of all members of these communities. Participants in the engagement sessions were identified based on several criteria, including:

- Regional representation
- Age
- Diversity of gender identity and expression
- Lived experience
- Linguistic representation
- Ethnocultural representation
- Indigenous identity

# PARTICIPANT FEEDBACK

## Working terms and definitions

As the federal government moves forward with efforts to better support TNB2 communities, it is valuable to understand the reactions and responses of trans communities to the terminology being used by federal departments leading the work on the collection, use and display of sex and gender information.

Definitions provided by the federal government were critiqued in various ways (see Appendix A, section a). In particular, participants felt that the use of definitions to pin down someone's identity to something that is more socially recognizable and acceptable (and static) was problematic.

The majority of participants indicated that any definition attempting to assign gender based on a person's anatomical or visual characteristics at any moment in time should not be adopted at the federal level. These types of definitions were seen as an attempt to invalidate a person's right to define who they are.

It was generally agreed that the government should avoid the use of restrictive definitions, and rather develop a set of reference statements that might inform government and citizens on the realities and the fluidity of the lived experience of TNB2 people.

This report refers extensively to the term "gender identity." However there is disagreement across TNB2 stakeholders in terms of when and how this term should be used. In the context of this report, the term can be considered to mean "A person's internal and deeply felt sense of being a man or woman, both or neither." The word "gender" was viewed less favourably by participants, who felt that the definition, as defined in Appendix A, emphasized gender presentation and the interpretation of others as defining the validity of an individual's gender.

The words "sex" and "gender" were felt to be different terms by the majority of participants. Participants indicated that there are very

limited circumstances under which sex information should be collected, particularly within the context of federal administrative data. Participants indicated that efforts should be made to amend government forms, guidelines, regulations, and information databases to correct the “sex” field to “gender.”

The terms “sex at birth” and “current sex” were seen as being unhelpful in the context of administration data and irrelevant other than in a limited number of healthcare situations.

In the context of policy development, the participants expressed that the word “gender” had no meaning unless extended and specified by the terms “gender identity” and “gender expression.” “Gender expression,” however, was set aside in most sessions as having no relevance in the context of the policy issues being discussed. Everyone, both TNB2 and cisgender people, have some form of gender expression. Gender expression is fluid and changes over time for most people; therefore it does not provide a valuable frame of reference in a policy context.

“Gender identity” was seen as the most useful option. Gender identity is also understood as changing over time. Although many individuals reported settling on a single gender identity as they aged, this was not true for all. Gender identity is self-determined.

Other terms were used within the context of the engagement sessions to define individual gender identities or gender expression, including non-binary, gender fluid, and two-spirit. Transgender was broadly understood within these engagement sessions as an umbrella term that refers to an individual whose current gender identity does not align with the sex that they were assigned at birth.

In order to comprehend the context of the responses provided by participants in these engagement sessions, the range of considerations that many trans people must weigh when asked to disclose gender information is important to understand. Participants in all engagement sessions indicated that their response to a request for gender information is situationally dependent. Factors considered in determining what response to provide include:

- Personal safety (e.g. Am I exposing myself to some level of risk by providing this information—for example, display on a passport?)
- Need to access services (e.g. Will my response result in barriers or challenges in accessing services?)
- Need/desire for self-expression

## **Collection and use of sex and gender information**

Over the course of the engagement sessions, the issue of sex and gender information collection was addressed, and problematized, in a variety of ways.

The majority of participants were clear in stating that they felt an individual's sex and gender information was private and personal information. As a result, many participants indicated that an individual should be informed of the *intended use and disclosure over time* of this information before they decide whether to provide their information.

As previously addressed in the summary, most participants felt that the collection of sex information should never be required unless for medical purposes. Gender information was seen as valid for a number of purposes, including for administrative data that is used to adjust program components or client service objectives. Participants were clear in indicating that the use of gender to validate identity is becoming outdated as concepts of gender identity evolve. Beyond this, in the age of biometrics, gender was seen by many participants as an identifier that is impermanent or that changes over time and, therefore, invalid for identity management/validation purposes.

If federal program areas are seeking to better serve clients by understanding their gender identity, this engagement process provided no clear answer as to how this information could or should be collected. Asking an individual for transgender status was seen by some as offensive, while others indicated that they would gladly provide this information in order to receive improved services. It was often mentioned, particularly by researchers, that in the absence of asking for “transgender status” the most relevant gender/lived

experience data is best obtained by deriving transgender identity from two or more relevant questions. Often, researchers will ask for “sex assigned at birth” and contrast this information with the information provided for “gender” to determine transgender status. Yet, participants were clear that federal programs should not ask for sex information. The federal government will need to continue to explore how best to obtain this information to inform program and policy development.

Gender information collected for the purposes of program administrative data should be more flexible and allow the individual to use the language that aligns most closely with their personal identity. As a result, it was suggested that if a third gender option were to be introduced for gender data collection, providing an open field for individuals to write in their gender would be most appropriate.

While collection is understood as being important to program development, whether this information is used appropriately and responsibly was questioned by participants. Many individuals felt as though gender information was collected as a default as opposed to programs actually articulating a clear need and use for the information. Generally, it was felt that more work could be done to support federal departments to improve their decision-making around when to collect gender information.

Participants questioned how their gender information was shared across federal departments. Several participants recounted situations where their gender information was known to a frontline officer, program officer or a government program without the information having been disclosed by the individual in question. Participants questioned the legitimacy of the government use of their gender information that had been provided to government (e.g. through the Social Insurance Registry) when they had not provided their (informed) permission for the information to be used beyond the purpose for which it was collected.

Gender-based Analysis Plus (GBA+) is an analytical approach used at the federal level to inform the inclusive development of programs and policies. Participants had no objection to, and many fully supported

the provision of gender information for the purpose of GBA+. However, the vast majority of participants indicated a desire for this information to be collected anonymously and voluntarily or for Statistics Canada data to be used as the foundation for this analysis.

### **Display of gender information**

Jurisdictions across Canada and internationally have begun to shift how gender information is displayed or have removed the gender field from public-facing documents entirely. As the Government of Canada considers how to move forward with gender markers on public facing documents, participants indicated that safety was a primary concern.

Continued use of a gender field on public documents (e.g. passport, status card, permanent resident card) was seen as having the potential to leave individuals vulnerable to those who are assessing the gender marker on the document against the gender expression of the individual. Participants expressed concern that if a mismatch between the individual's presentation and the indicated gender was perceived, they could experience challenges, or at worst, violence. Because of this, many participants felt that there was rarely any need to display gender information on a public-facing document.

Participants were asked about their reaction to a possible "X" marker being provided on public-facing federal documents. While there was no clear consensus, participants indicated that an "X" is preferable to having no additional options for the gender field. The definition of the "X" was discussed, and while some participants indicated a preference for the term to clearly denote a "non-binary" option, others indicated that for safety purposes, particularly when travelling, the "X" should denote an undeclared or undisclosed gender.

### **Approach to changing name and gender information**

Participants indicated support for the proposed approach to gender information change at the provincial and federal levels, which would be used by all federal departments. They also highlighted the importance of working towards alignment with the provincial

jurisdictions on the matter of name changes. At present, the draft approach for changing gender information is as indicated below:

- The submission of a recognized identity document (e.g. birth certificate) OR
- A validation of the request by a “guarantor” (same definition of guarantor as for a passport), or a notarized statutory declaration.

The financial barriers to changing gender identity at the federal level were seen by participants as being onerous, particularly for transgender individuals who are often economically marginalized. Support was broadly expressed for a mechanism that would lessen the collective costs associated with gender change.



## OTHER CONSIDERATIONS

TNB2 stakeholders rarely have opportunity to provide feedback directly to government, particularly at the federal level. As a result, a range of issues that are less directly related to the collection, use and display of sex and gender information emerged during the engagement sessions. This feedback does provide important context for the lived experiences of TNB2 people in Canada and issues that should be considered moving forward.

An overarching consideration for the importance of this work is the invisibility of transgender people within government data collection. While an additional gender marker will allow for the collection of gender information for non-binary people, understanding the experiences of transgender people through program administrative data is currently not possible. However, strides are being made to integrate more options for gender identity in federal statistical information through Statistics Canada.

More generally, the challenges faced by TNB2 communities, while very real, are more challenging to validate with data, given that statistics collected across jurisdictions, levels of government and institutions can be vastly different. For instance, data on homicides may not reflect the correct gender of the victim if they are transgender. There is a broader conversation to be had across Canada regarding the affirmation of trans identities through data, which will ultimately allow governments and service providers to better meet the needs of trans stakeholders.

### **Age cohort**

Overall, engagement sessions uncovered perspectives on TNB2 identities that were somewhat divided by age cohort. Younger participants (under 30, typically) were more likely to align themselves with a non-binary identity, while older participants were more likely to align with a binary identity (e.g. transgender woman/man). This observation is not meant to devalue the identities of any of the participants, but instead may indicate a generational shift in thinking

about gender and the rejection of binary labels. For those trans people who identify with a binary gender construct, understanding how federal data will validate their identities is an important issue to be addressed by the Government of Canada.

## **French language**

The session in Montreal introduced the unique challenges of TNB2 communities in French speaking Canada. Although the French word “genre” is used occasionally to refer to “gender,” it is not in common use. The word “sexe” is more commonly used in French as the one word to refer to both “sex” and “gender.”

Although this semantic and cultural challenge may have required more conversation time to fully explore the points being made, the views of the Montreal participants on the collection, use and display of gender information were in alignment with those heard in all the sessions.

## **Two-spirit communities**

Two-spirit participants stressed that the two-spirit identity goes beyond gender to encompass emotional, spiritual, mental, and physical aspects of identity. Two-spirit is an English word used to broadly capture similar identities that exist across a number of Indigenous cultures in North America. As was clearly articulated in the two-spirit session, in addition to other sessions with two-spirit participation, western categorizations of sexual orientation and gender identity often do not fully align with Indigenous understandings of gender. Many two-spirit people will also have gender and sexual identities that fit within LGBTQ and non-binary identities. Additionally, not all LGBTQ Indigenous people will identify as two-spirit.

Participants raised challenges with the pan-Indigenous nature of exclusively using the term two-spirit and neglecting the culturally specific names for and understandings of these identities. The participants also noted that in a similar vein, one should be mindful of people coming to Canada from other countries with local cultural gender identities that do not easily translate into Western concepts.

Both cases highlight the usefulness of having an “another gender” category when collecting gender information.

The participants asked that the Government of Canada be mindful of the historical context surrounding the collection of data on Indigenous peoples and the impact this has on trust and feelings of safety. Participants were clear that they would support data collection when it had a clearly stated use that was beneficial to them, such as creating funding opportunities for Indigenous LGBTQ and two-spirit projects.

Participants stated that two-spirit people were not referenced in the *Indian Act*, the Royal Commission on Aboriginal Peoples, or the Truth and Reconciliation Commission. Therefore there is some worry that ongoing reconciliation efforts between the Government of Canada and Indigenous Peoples will continue to invisibilize these identities. Capturing data on the numbers of two-spirit people was important to some participants. They also stated that they would like the government to ask Indigenous organizations who apply for funding how they have considered the needs of LGBTQ and two-spirit people in their program design.

### **Trans immigrants**

Trans and non-binary immigrants, especially refugees, face specific challenges when interacting with governments in Canada. In some cases, they are required to present documents from home countries that display inaccurate information. In other cases, they may have left countries that do not recognize or that actively seek to harm members of transgender and non-binary communities. Therefore, it is not possible to obtain corroborating documents on status from the country of birth. In such cases, a federal expectation of equivalent foreign government practices puts an onerous if not impossible expectation on these individuals.

Several trans immigrants raised the issue that they have a personal need for two sets of documents. One that is familiar/acceptable/safe for use when travelling to visit their families abroad, and a second set that represents their true gender lived in Canada. Participants expressed that it was important for Canadian border officials to

understand why such a difference in their documents is essential to their safety.

### **Religious and cultural communities**

Several individuals participating in the engagement sessions indicated that they experience some level of oppression and, at times, risk to their own safety, within their religious and cultural communities. Participants alluded to the difficult choice between their gender and the religious and/or cultural expectations of their family and loved ones.

In the discussion of removing gender markers from public-facing documentation, some participants mentioned that this may address the vulnerability that could result if unsupportive members of their community or family become aware of their gender identity.

### **Parents of trans children**

Supportive parents who wish to honour and respect the gender identity needs of their children are often challenged to do so. Legislation that forbids a change of gender identity prior to the age of majority complicates the lives of these families.

This is particularly an issue when a parent crosses a border with a child whose identity documents do not match the child's chosen name, gender expression and/or self-declaration of gender identity. There is an opportunity for the Government of Canada to better understand the needs of both parents and transgender children by providing appropriate training and reasonable operating procedures for border agents and other federal government agents.

An additional consideration that emerged was that parents who are not supportive of their trans or non-binary youth can deny them the legal and other support they require to affirm their identity.

## **Interjurisdictional issues**

Challenges related to the the entanglement of federal and provincial policies and programs with respect to gender, identification documents, and the process for name and gender change were a major concern among all participants.

While the Government of Canada may be able to effect useful change at the federal level, it was made clear to participants that the federal government could not mandate provinces and territories to work together to align federal, provincial and territorial approaches to the collection, use and display of sex and gender information. This consideration extends to international jurisdictions. Dialogue and federal/Canadian leadership was seen as a means to achieve improved alignment in the near term.

## **Education and awareness**

Overall, participants indicated that there was a need for more awareness and sensitivity to trans experiences. This is particularly true in the context of front line service provision, but should extend to policy and program development. Linking this education to the changes to the *Canadian Human Rights Act* was seen as a means of establishing the need for education in order to ensure that all Canadians are treated with respect and dignity.

## CONCLUSION

TNB2 communities in Canada are hopeful about change at the federal level, particularly in the context of an array of changes at provincial levels related to identity management and data collection. Since the implementation of Bill C-16 in June 2017, TNB2 communities have been awaiting federal action to demonstrate commitment to this legislative change.

Many members of TNB2 communities in Canada engage with the government with some level of skepticism given the slow movement of the federal government on a number of human rights and equality issues. It is incumbent upon the Government of Canada, particularly in a post-Bill C-16 context, to demonstrate a willingness to move federal processes into a new, more inclusive era. While TNB2 communities may not be in uniform agreement on how this work should move forward, most TNB2 stakeholders would agree that a common starting point for this work should be the principle of doing no harm.

As the Government of Canada moves forward on an inclusive data collection approach, it is recommended that the considerations identified through this engagement process be used as a guide for their work. In particular, the following key observations are highlighted for further analysis of new approaches to inclusive federal data processes.

- Explore the option of using open fields for data collection as opposed to binary options or drop down lists.
- Explore the potential for anonymized data collection that would allow TNB2 Canadians to have their identities factored into program development, while avoiding linking personal information to their federal identity profile.
- Explore a more nuanced approach to data collection that provides federal public servants with tools to determine the need to collect the information and to differentiate between profile information, administrative data and statistical data collection.

Overall, a cultural change in the federal public service may be required in order to prioritize a more respectful approach to data collection. As this culture shift happens, improved services to all Canadians is the inevitable outcome.

## APPENDIX A - LINES OF INQUIRY

This appendix provided the lines of inquiry developed in advance to guide the dialogue sessions. They were shared with the federal government observers. The facilitators used these lines of inquiry as a starting point, but often found that the conversations evolved towards additional information with the potential to inform policy.

### A. Clarification of terms

The focus of the conversation was to better understand the terminology necessary to make data collection gender inclusive. The following definitions were provided (as a handout) to the participants and time allocated for their responses.

- **Sex.** Sex is a person's **biological status** as male, female, or intersex. There are a number of indicators of biological sex, including sex chromosomes, internal reproductive organs, and external genitalia.
- **Gender:** Gender is **a person's status in society as a man, woman, or as gender diverse.** A person's gender may be influenced by several factors, including biological features, cultural and behavioural norms, and self-identity.
- **Gender Identity:** A person's internal and deeply felt sense of being a man or woman, both or neither. A person's gender identity may or may not align with the gender typically associated with their sex.
- **Gender Expression:** Gender expression is the way in which people publicly present their gender. It is the presentation of gender through such aspects as dress, hair, make-up, body language, and voice.
- **Cisgender:** Cisgender (often abbreviated to simply cis) is a term used to refer to people whose gender identity matches the sex that they were assigned at birth.



## *Questions*

### **1. What should the government take into consideration regarding these terms?**

Optional:

- Are these terms useful? How so?
- Are there better terms?
- Are there specific uses of these terms that could make data collection more gender inclusive?

### **B. Collection and display of sex and gender information**

#### *Issue*

The government currently collects sex and gender information for the following reasons: gender-based analysis, program and service delivery, research, operational decisions, and identity documents.

#### *Background*

- Sex and gender information should only be collected or displayed when **directly related to an operating program or activity**.
- The need to collect and the need to display should be determined separately.
- The rationale for the collection and display should be publicly available at the moment of collection.
- In some cases the government is required to collect sex/gender information to comply with international agreements. For example: passports.

## *Questions*

### **1. What should the government take into consideration as it revises how it collects, uses and displays sex and gender information?**

Optional:

- When is it appropriate for the government to identify gender diverse communities? For example: Gender-based analysis, program and service delivery, research, operational decisions or identity documents.
- What should the government take into consideration as it balances the need for gender-inclusive data with the need to protect the privacy and security of Canadians?

### **C. Default to use of gender vs sex information**

#### *Issue*

Impact of defaulting to gender information vs sex.

#### *Background*

Currently, many people use the terms sex and gender interchangeably. When this is the case, much of the vital statistics collected will be inaccurate to an extent. Note: Provincial/territorial governments are making policies that recognize that gender identity should be gathered over sex, however, when it comes to vital statistics, this information is still recorded as “sex.”

If sex or gender needs to be collected or displayed, then **gender information will be used by default.**

Sex information will only be used by exception when biological information is necessary to fulfil the specific needs of a particular program or service (for example, for health research or to record vital statistics).

## Questions

**3. What might be considered as appropriate purposes for the collection and display of a) gender and b) sex information?**

### **D. Three options to collect and display gender information issue**

The full impact on transgender, other gender diverse and cisgender Canadians of the introduction of an X-marker. The intent of an additional gender marker is to provide an alternative to non-binary persons to identify themselves with the gender they are most comfortable with.

## Background

If gender information needs to be collected, the options **male, female, or gender-diverse or “other gender”** would be used. Whenever possible, a blank field option would be provided for the individual to specify their gender.

Whenever sex or gender information needs to be displayed, individuals can choose the marker M, F or X as best reflects their gender.

The gender-diverse marker X will be an option available to individuals who do not want to be identified with the M or F markers (for example, individuals who are non-binary or two-spirit).

## Questions

**4. What are the impacts of the government’s introduction of a third option for gender?**

**5. Are there terms other than “gender-diverse” or “another gender” that might be better suited for collection of non-binary gender?**

Optional:

- What are the impacts of using an X as the marker for non-binary gender?

- What should the x-marker mean?
- Are there other possible terms that might be used to characterize and define the third designation for gender on government forms?
- Is there a risk that opting for the X-designation could lead to unwanted conversations for people who are not prepared to have their gender made public?
- How could gender equality objectives be achieved if the x marker was allowed as an option to simply opt out of providing?
- Do you see the X-marker having an impact on international travel considerations?
- How can we / need we disaggregate X-marker information to make it useful?

## **E. Collection of sex information**

### **6. What options are needed to collect sex information?**

Optional:

- When is it appropriate for the government to collect “sex assigned at birth” information vs gender information?
- Should the “I” option be included?

## **F. Approach to changing sex or gender information**

*Issue*

Provide a non-intrusive mechanism for changing gender information.  
 Note: For purposes of the discussion, the current ambiguity of the terms sex and gender is acknowledged. The focus here is the mechanism of how to change the information.

Note: This question is very relevant to immigration or refugee stakeholders. There is also an FPT dynamic of different markers on

documents and different mechanisms for changing. This issue can be even more challenging in an international context.

### *Background*

Updating sex or gender information should be non-intrusive and proportionate to the level of security required by a program.

To change sex or gender information:

- An amended birth certificate or other foundational identity documents establishing the requested gender
- If above not available, a self-declaration—or, in some situations, a third-party attestation— would be sufficient to change the information.

### *Questions*

## **7. With respect to obtaining accurate identity documents, what is working well and what needs to be better?**

Optional:

- Are there considerations that the Government of Canada should be aware of in determining a process for third-party attestations, where required?
- Are there issues related to situations where they may need to change the sex/gender marker more than once i.e. gender fluidity.
- Are there rural and remote issues related to changing markers, getting access to resources to be able to do this?

### *Wrap up question*

**What other considerations should the Government of Canada have as it develops and implements a new approach to sex and gender information?**

*Supplementary topics / questions*

**Trans immigration and refugee situations**

Beyond gender x passports, are there issues related to ID and documents from an immigrant/refugee's home country that do not accurately reflect their gender identity?

**French (Montreal only)**

Are there language barriers in the use of sex and gender terms in French?

**Indigenous LGBTQ and two-spirit (Edmonton only)**

Are there perspectives on the issues discussed that are unique to members of the Indigenous LGBTQ and two-spirit communities?

# APPENDIX B

## Considerations moving forward

The Government of Canada could consider:

- a data collection approach that defaults to the use of gender data as opposed to sex. Collection of sex information should be viewed as an exception
- implementing a consistent approach to gender information change across government in order to prevent unequal treatment across programs
- anonymizing gender data collection in order to respond to data needs, while respecting the right of the individual to privacy
- an improved approach to informing Canadians how their personal information, including gender, will be used over time (e.g. informed consent)
- training front-line staff in order to support broader federal efforts to address discrimination based on gender identity and gender expression
- a consistent approach to reviewing federal forms and documents to ensure that language is gender inclusive. This includes introducing a consistent approach to prevent the use of gendered greetings and honourifics unless specified by the client
- removal of gender on all federal identification documents
- available levers to convene and accelerate the conversations needed to simplify inter-jurisdictional processes that will allow TNB2 stakeholders to obtain gender affirming identification
- a broader public education campaign to educate public servants and Canadians on gender identity and LGBTQ2 inclusion
- ongoing engagement with TNB2 communities in order to better understand the impacts of public policy on trans communities