

POLICE POWERS: IN-CALL AND OUTCALLS

By and for sex workers
Living and working in safety
and dignity



This document should not be taken as legal advice. This is a tool offered to sex workers so that we may improve living and working conditions. This information is not intended to influence anyone to commit illegal acts.

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SEX WORKERS & THE POLICE

Historically, sex workers and the police have had a hostile and antagonistic relationship. **This conflict persists because of criminalization and stigma: by treating sex workers as victims and criminals, and by treating sex work as a social problem.** Police harassment, profiling, and their arbitrary and questionable treatment of people who are marginalized, racialized and who hang out in public spaces, worsens this relationship.

Sex workers often cannot access the same rights and freedoms that most other people enjoy. Ex: other people can expect to work without fearing that their work place will be raided or that their clients and colleagues will be arrested. However, many sex workers work in a climate of fear, with a constant worry of being harassed, questioned, raided, detained or arrested.

The criminal laws related to prostitution are the same all across Canada. However, the prosecutor's powers depend on provincial authorities, while police guidelines and policies depend on municipal or regional authorities.

Enforcement of prostitution laws can vary from one city or region to another.



REMINDER

Under the previous criminal laws we feared police entering our workplace because indoor work spaces were illegal under the "bawdy house" law. Simply being inside a workplace - your home, a hotel, a parlour - is no longer a crime.

However, in-call locations still cannot operate legally because:

All clients can be prosecuted for purchasing, or attempting to purchase, our services. (See *Clients and the Law*)

Colleagues who help operate the location risk being prosecuted for various offences (e.g.: receiving material benefit, procuring, advertising and participating in the purchase of our services). (See *Third parties and the Law*)

SPEAKING TO THE POLICE = MAKING A STATEMENT

If you are approached by the police:

You can identify yourself, but anything else that you say will be considered a statement. **Statements may be used to incriminate you, your colleagues and/or your clients.** They are used to help the police investigate further and obtain enough evidence to make an arrest.

Once you make a statement to the police **you become a witness and your statement becomes evidence.** Once you have made a statement **you can be ordered to appear in court and testify against the people they arrest (e.g.: your colleagues or clients).**

This is one of the reasons why some sex workers do not speak to police.

Some sex workers speak with police in an attempt to avoid a hostile relationship with police. Even when police do not have the authority to come through your work place, some sex workers allow them in because they think this decreases their chances of being raided, detained or even arrested. Because sex workers are constantly trying to avoid this, they may let the police look around and even make small talk with the police.

A GOLDEN RULE: YOUR RIGHT TO REMAIN SILENT

The general rule is that you have no obligation to identify yourself to the police. But there are exceptions (See *Arrest and Detention*).

For example, if the police come to your commercial in-call location (e.g.: massage parlour, strip club, in-call escort agency):

- Municipal laws may allow the police to enter for "inspection" and to ask you additional questions, and may also allow police to see your permit.

Although there are certain situations where you must identify yourself, you have the fundamental Right to say nothing else. If you are arrested, once you ask to speak to a lawyer, the police must stop asking you questions. But once you have spoken to a lawyer (usually on the phone):

- The police have the right to question you - they can ask you the same questions over and over again.
- The police are legally allowed to lie to you to get you to talk (make a statement).
- Police are trained to provoke you and to make you talk. They will try to convince you that it's in your best interest to do so.
- If you decide not to make a statement do not react to anything the police do or say - stay calm, avoid confrontation, and remain silent.
- Police might try to detain you under the guise of "helping you" or "making sure you're alright". This is not a valid reason to detain you.

Some people panic and talk to police because they fear staying silent makes them look guilty. **Your silence cannot incriminate you, but your statement might.**

The police can only take you to the police station if you are under arrest for a crime (e.g.: receiving a material benefit):

See *Arrest and Detention* to understand when the police can legally detain you.



IF THE POLICE COME TO YOUR RESIDENCE (home, apartment, condo):

The police cannot legally enter your residence without a warrant, **unless the person who answers the door agrees to let them in OR if the police have reason to believe that:**

Someone inside is committing, or about to commit, a criminal offence

Someone they are looking to arrest is inside

The life or security of the public, or of an occupant, is threatened

In these cases, if you do not identify yourself the police might arrest you for obstructing their work.

You're not obliged to answer any other questions they might ask.

IF THE POLICE COME TO YOUR COMMERCIAL LOCATION (parlour, agency, strip club):

Unlike your home, the police have the right to enter a commercial property without a warrant. This does not mean that they can enter and do whatever they want. Regulations – such as municipal by-laws – give the police the power to enter for an “inspection” but the same by-laws also limit what the police can ask you and what they can inspect.

It is important to be familiar with the by-laws that apply to your indoor location. Although by-laws do not permit a search of the premises, they may allow the police to enter:

- To look around the building to verify for “fire safety”; or
- To look inside cupboards to ensure the equipment “satisfies hygiene standards”.
- To look through your work supplies

By-laws do NOT give the police the power to search you, your bag, your coat, etc.

The fundamental rule is the police cannot search you without a warrant. But there are exceptions. See *Arrest and Detention* for more information.

Don't say more than you need to. Remember the police have the right to inspect your work place and ask for your permits. They may ask you additional questions about your work. If these questions go beyond what the by-laws permit you do not need to engage. **But remember that the by-laws give them the power to ask certain questions and make certain verifications.**

Plan in advance what you will, and will not say, if the police enter your work place. If possible, share your strategy with your colleagues.

Police are trained to make people talk. Stay calm and do not be intimidated.

IF THE POLICE STOP YOU IN A MOTEL OR A HOTEL

If you are in the hotel bar or lobby, you are in a public place:

- Unless the police have grounds to believe you have committed a criminal offence or there is a current warrant for your arrest, you have no obligation to speak with them.
- Being a sex worker, or a perceived sex worker, is not a criminal offence and is not a valid reason for arrest.
- Remember, the police can arrest you for simply “causing disturbance” (e.g. screaming or being drunk in, or near, a public place).
- Stay calm and ask if you are under arrest. If they say no, tell them you wish to leave and walk away.
- The fundamental rule is the police cannot search you without a warrant. But there are exceptions. See *Arrest and Detention* for more information.

If you are in a hotel/motel room:

- You are no longer in a public space and you have the Right to an expectation of privacy.

The police can enter your hotel room without a warrant if the person who answers the door agrees to let them in OR if the police have reason to believe that:

- Someone is committing, or is about to commit, a criminal offence (e.g.: your client is purchasing a sexual service).
- Someone they are looking to arrest is inside.
- The life or security of the public, or of an occupant, is threatened.

If the police come to the door of your hotel/motel room:

- Politely ask them why they are there.
- You have the right to an expectation of privacy in your hotel room, and you have the right not to be disturbed.
- You have no obligation to let them in unless they have a warrant or unless one of the exceptions above apply.

If the police have a warrant or force their way into the room:

- Stay calm.
- You have no legal obligation to identify yourself, and it is your choice whether or not to do so.
- Many police officers will give you a hard time if you refuse to hand over your ID or tell them your name, but some may respect your legal right not to identify yourself. Lying about your identity to a police officer is a crime.
- If you choose to identify yourself, say nothing else.
- Although your client might be arrested for “purchasing sexual services”, the police cannot arrest you for selling your services.
- If they arrest your client, they may temporarily detain you as a “witness” or “victim” to the crime.
- “Helping you” or “Making sure you're alright” is never a valid reason to detain you.
- Stay calm, because if you get into a confrontation with the police they may arrest you for “obstructing their work”.

For more information, see *Arrest and Detention*.

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