

# SEX WORK ENFORCEMENT GUIDELINES & PRINCIPLES

**BRITISH COLUMBIA ASSOCIATION OF CHIEFS OF POLICE**

**MISSING WOMEN COMMISSION OF INQUIRY**

**ADVISORY COMMITTEE**



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## Acknowledgements

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These guidelines were adapted from those of the Vancouver Police Department and developed in consultation with police agencies in BC, with input from community and advocacy groups, and with the assistance of the Ministry of Public Safety and Solicitor General, Policing and Security Branch.

The BC Association of Chiefs of Police Missing Women Commission of Inquiry Advisory Committee gratefully acknowledges the valuable input of subject matter experts from the following organizations in producing this Guide:

- RCMP “E” Division’s Criminal Operations, Counter Exploitation Unit
- Vancouver Police Department’s Special Investigation Section
- Vancouver Police Department’s Counter Exploitation Unit
- Victoria Police Department’s Sex Worker Liaison

## Context for the Development of the BCACP Sex Work Enforcement Guidelines

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From 1997 to 2002, 67 women went missing from the Downtown Eastside of Vancouver and several other Metro Vancouver municipalities. Many of these women were found murdered, while others remain missing. The women who went missing were some of the most marginalized and vulnerable women in British Columbia.

The Missing Women Commission of Inquiry (MWCI) was established in 2010 to examine the police investigations conducted between January 1997 and February 2002 into women reported missing from Vancouver's Downtown Eastside and the circumstances surrounding the decision of the Criminal Justice Branch in January 1998 to stay criminal charges against Robert Pickton for a 1997 alleged attack on a sex worker in Coquitlam. In December 2012, [\*FORSAKEN: The Report of the Missing Women Commission of Inquiry\*](#) (MWCI Report) was released.

The MWCI Report outlined 63 recommendations for action – 33 of which were police-related – including recommendation 5.8, “that all police forces in British Columbia (BC) consider developing and implementing guidelines on the model of the Vancouver Police Department's *Sex Work Enforcement Guidelines* in consultation with women engaged in the sex trade in their jurisdiction.”

### BCACP MWCI Policing Policy Review

In 2013, the British Columbia Association of Chiefs of Police (BCACP) formed a Committee to examine policing-related MWCI recommendations. The resulting review confirmed a gap in relation to MWCI recommendation 5.8 noting “the potential for inconsistency across police agencies when enforcing laws related to the sex industry and sex trade workers.” Subsequently, the BCACP reviewed the Vancouver Police Department's (VPD) *Sex Work Enforcement Guidelines* and endeavoured to develop a common policy for police agencies in BC guiding sex work enforcement practices and interactions between the police and persons involved in sex work.

## Objectives

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The development of the *BCACP Sex Work Enforcement Guidelines and Principles* start from the recognition that the safety of persons involved in sex work is a crucial consideration in the development of enforcement priorities and police policies in regard to sex work related laws.

These guidelines were created in consideration of the cultural and geographic diversity within BC. As such, they are intended to provide both guiding principles and concrete expectations that are equally applicable to large, densely populated regions as they are to the most remote communities.

This is a living document which exists in the current legislative context in relation to sex work and acknowledges the important role of police discretion in providing fair and proportional policing. This document also recognizes the importance of building trust and promoting the safety, dignity, and well-being of those involved in sex work.

The objectives of the guidelines are to encourage consistent sex work enforcement practices and enhance the safety of persons involved in sex work. The guidelines were written to support BC police agencies as they:

- ensure the safety, dignity, and well-being of those involved in sex work;
- enhance police response to violence against persons involved in sex work;
- develop local policies and procedures that promote measured and proportional police response when investigating issues surrounding sex work in their community;
- build trust, respect, and encourage the reporting of criminal offences against persons involved in sex work; and
- promote evidence-based decision-making to reduce exploitation and abuse within the sex industry.

To that end, the BCACP agreed to develop:

- The following principles to guide the development of enforcement priorities, policies, or other processes regarding sex work in BC jurisdictions; and
- The BCACP Sex Work Enforcement Guidelines.

## Principles Underlying the BCACP Sex Work Enforcement Guidelines

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The following principles are key elements to be considered in the development of BC police agencies' enforcement priorities, and policies and procedures with regard to the enforcement of sex work-related legislations.

### **The safety of persons involved in sex work is a key consideration.**

Sex work can occur in different contexts or settings. Exploitation occurs by definition in cases involving children and youth. Marginalized persons are also vulnerable because of the intersection of socio-economic, health, or mental health-related issues, and due to experiences of racism, sexism, poverty, addiction, and lack of education. Violent crimes against person involved in sex work are under-reported. Persons involved in sex work are entitled to all available police and Criminal Code protections to address such crimes.

Police agencies and police officers in BC are cognizant of the dangers faced by those involved in sex work and endeavour to reduce these threats. The safety of persons involved in sex work is a key consideration in developing enforcement priorities, policies, and practices that do not unnecessarily marginalize those involved in sex work or exacerbate fears of reporting offences committed against them.

### **Persons involved in sex work are to be treated with dignity and respect: every interaction counts.**

All persons involved in sex work are entitled to be treated with dignity and respect and can expect the same level of safety and protection under the law as all residents of BC.

Every interaction counts. Over time, respectful and compassionate interactions with marginalized and vulnerable persons involved in sex work contribute to building trust and increasing likelihood of their seeking help from police.

### **Enforcement priorities are to be determined based on risk.**

It is the role of police to ensure public safety and uphold the laws of Canada. Police agencies and police officers have discretion in deciding when and how to enforce the laws, but must use discretion ethically in responding proportionally to public safety issues.

Police agencies in BC should prioritize the enforcement of Criminal Code provisions respecting sexual services based on the principles and guidelines outlined in this document. Enforcement priorities should be based on risks and safety considerations.

Police action should be taken as soon as operationally feasible in the following circumstances: (1) if a child or youth is sexually exploited or trafficked; (2) if an adult women or man is a potential victim of human trafficking for sexual services; (3) if there is abuse or violence, (4) if organized crime or gangs are involved; (5) if any other criminal activity or offence is perpetrated against them. Human trafficking is an extreme form of exploitation, is a serious crime, and a gross violation of human rights.

Police do not seek to increase the dangers faced by sex workers, especially survival sex workers. Where police receive nuisance-related complaints concerning sex work activity, and especially in cases involving persons involved in survival sex work or who are exploited, consideration will be given to whether enforcement, alternative measures, or assistance is the best response to both keep sex workers safe and mitigate community concerns.

There will be cases where police will determine it is necessary to take enforcement action. In such cases, the least intrusive strategy necessary to keep the sex worker(s) safe and mitigate the community concerns should be taken and the enforcement action should be proportional to, and consistent with, the risks presented to the sex worker(s) or the community.

Where there are nuisance related complaints against survival sex workers, alternative measures and assistance should be considered, with enforcement a last resort.

**Sex work related issues are complex and differ depending on the social, economic, demographic and geographic contexts in which sex work occurs.**

Most but not all persons involved in sex work are women. Sex work spans different cultural and socio-economic situations – involving people from all walks of life and ethnic origins. The selling and purchasing of sexual services occurs in different contexts, including cases where consenting adults enter into a transaction that may never come to the attention of the community or the police. In other cases, persons involved in sex work find themselves in circumstances where there are risks to their safety.

Involvement in sex work occurs in some cases within the context of poverty, marginalization, homelessness, and substance use. For some, involvement in sex work can be described as ‘survival sex’ (the exchange of sex for food, shelter, money for subsistence, or drugs). LGBTQ communities who are involved in sex work are also at higher risk of violence.

Indigenous women are overrepresented among persons involved in survival sex work in the province. This is an indicator of broader, systemic issues resulting from colonization,

racism, and the trauma and intergenerational legacies of policies such as the Residential School System.

Consistent with the recognition that long-term systemic issues underlie the lived realities of persons involved in sex work, police should take an informed and sensitive approach. Police agencies in BC are encouraged to commit to work with their community partners in order to increase understanding, build trust, and foster mutual respect among all stakeholders who work towards ending the exploitation and abuse of persons involved in sex work.

Being responsive to the reality of persons involved in sex work, being trauma-informed, and working toward cultural safety in the delivery of policing services is a work in progress and requires that police continuously educate themselves in the approaches and practices required to address the needs of those who are impacted.

**Building relationships is key to improve reporting and safety.**

Historically, there has been little trust between persons involved in sex work and the police. Indiscriminate enforcement practices can adversely affect trust. All jurisdictions are encouraged to work with community partners to improve, or continue to improve practices and policies in order to create safety for all community members, including those involved in sex work. Community partners should include service providers, indigenous leadership, and elders as appropriate.

Building positive relationships with those involved in sex work will lead to increased trust and the likelihood they will contact police to seek help, report crimes against them, and report serious criminal issues such as human trafficking, gang connections or exploitation, or the involvement of youth.

**Common principles and guidelines inform local policies.**

All police jurisdictions are encouraged to adapt their policies and enforcement priorities based on these principles and on the guidelines, to respond appropriately to the unique contexts in which sex work occur in their communities.

In particular, police in BC are encouraged to build relationships and engage in ongoing dialogue with community-based partners, including those serving or advocating for persons involved in sex work or specializing in anti-violence to determine the ideal application of the guidelines within their jurisdiction. Local policies will consider key factors such as: the prevalence of sex work, identified risks to the safety of persons involved in sex work, community concerns, sex work venues (e.g., street-based, brothel,

or private residence) or methods of offering sexual services, and available resources. This will be particularly important in rural and remote areas as the depth and breadth of available resources may vary considerably.

## BCACP Sex Work Enforcement Guidelines

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When responding to sex work-related calls or situations, the priority for police in BC is to ensure the safety and security of sex workers. Police calls regarding violence against sex workers are a priority for assessment and response.

- 1) All cases of violence or abuse of sex workers are treated as serious criminal matters. When a sex worker speaks to an officer or attends a police station in person reporting violence, an officer should be assigned to investigate. The victim should not be directed to return at another time, or to complete a written statement and return it later. The timeliness of the victim's report (e.g., several days, or weeks after the event) does not lessen the severity of the incident and must not diminish the police response. If the incident occurred in another police jurisdiction, the member receiving the complaint must ensure a timely referral to the correct police agency. The member should inquire as to whether the sex worker is connected to any support services.
- 2) When responding to complaints about indoor and outdoor sex work, including complaints about "Micro Brothels" and "Independent Operators," the safety and rights of the sex worker(s) will be respected ensuring that police intervention is as nonintrusive as possible to protect their safety and privacy. Officers shall consider whether a complaint involves a civil matter and use discretion to resolve complaints at the lowest level of enforcement appropriate.
- 3) When a sex work-related call or situation arises regarding indoor or street-based sex worker(s), it is expected that:
  - a. The assigned unit will build rapport with sex workers by offering assistance, providing safety information, and discuss safe and lawful options regarding locations of work;
  - b. Officers will, where applicable, involve the appropriate community policing centre and the neighbourhood policing officers to determine the extent of any community complaints and identify possible courses of action to resolve the complaint;

- c. Where sex workers are the subject of complaints, officers will engage internal subject matter experts and/or an appropriate community outreach service to assist with resolving the situation;
  - d. In consultation with the police agency, officers will determine if more formal enforcement action is appropriate in cases that cannot be resolved informally or involve a high risk situation;
  - e. Where enforcement action is deemed necessary, all reasonable steps will be taken to show respect and dignity for those parties involved (for example, at the execution of a search warrant, officers should be prepared to supply sex workers with blankets or robes to wrap themselves in while in police presence, or provide adequate time for the worker to dress); and
  - f. Officers will consistently use their professional judgment and discretion in determining the most proportional and least intrusive response necessary to reach the desired outcome.
- 4) Police in BC will investigate and enforce all relevant federal, provincial, and municipal laws against those who abuse, exploit or sexually exploit children/youth. Police will identify, investigate, and remove exploited children/teens (under the age of 18) involved in sex work. Police will endeavor to resolve the situation using all reasonable means to ensure the removal of youth from unsafe circumstances. The objective will be to introduce under-aged victims found working in sex work to supporting social agencies that can assist in placing them in a safe environment and support them in identifying exit strategies. Police will also ensure the Ministry of Children and Family Development (MCFD) is notified of all situations where children are found at risk under the [Child, Family and Community Safety Act](#), and will work with MCFD to address the circumstances that exist, where possible.
- 5) Police in BC will actively enforce the laws to target exploitive practices against those who engage in human trafficking, organized crime, and financial exploitation/avoidance.
- 6) Police agencies in BC will, where appropriate and available, engage with local government and community groups such as those supporting or advocating for persons involved in sex work, groups who are assisting persons who wish to cease their involvement in sex work (i.e. exiting programs), or community-based anti-violence programs.