

# Know Your Rights Manual for the Sex Worker Community: Criminal Law



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This manual is a project of the National Lawyers Guild San Francisco Bay Area Chapter; many additional individuals and organizations made valuable contributions, including the St. James Infirmary and Just Cause Law Collective.

The National Lawyers Guild is an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers, and jailhouse lawyers of America in an organization that shall function as an effective political and social force in the service of the people, to the end that human rights shall be regarded as more sacred than property interests. The Sex Worker Know Your Rights Manuals are legal materials designed for sex worker community members and their advocates to provide a set of basic, current, and locally-specific legal information about how certain areas of substantive law uniquely affect sex workers.

This effort was inspired by Thomas Steel, tireless advocate for the San Francisco Bay Area LGBT community and longtime friend and supporter of the National Lawyers Guild San Francisco Bay Area Chapter. His leadership and vision enabled the work which the Transgender Know Your Rights Manuals seek to further.

The Sex Worker Know Your Rights Manual was made possible by the Thomas Steel Fund.

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This information was compiled by law students of the National Lawyers Guild, using statutory law, case law, and the work of numerous legal and non-legal organizations across the country, notably, the National Lawyers Guild San Francisco Bay Area chapter. While the information here is up-to-date through June 2014, it is possible that substantive changes have been made to the laws since it was last updated. Please keep this in mind while using this resource. Source and reference information will be provided for most of the content in this manual to help you verify that the information is still good before relying on it.

This manual was created for use by sex worker community members and allies, by service providers who work with the sex worker community, and by attorneys and legal workers who provide advocacy and legal services to members of the sex worker community. For purposes of this manual, the word “sex worker” is used as an umbrella term for individuals who exchange sexual services for money or gifts, an act that is criminalized in most of the United States. This includes people who work as prostitutes, rent boys, escorts, street-based workers, and sensual massage workers. Occasionally, the text will refer to individuals as “he or she” or “his or her.” This reference does not indicate that a statement applies exclusively to persons who identify as male or female, but instead is used for legibility and accessibility.

The information in this manual does not constitute legal advice; instead, it is meant to serve as a resource to help understand the landscape of law in a particular area, and to help connect readers with the current information needed to verify law or navigate a particular situation. Although we hope that this manual assists service providers and community members in locating information and resources, it is important to note that only licensed attorneys are authorized to give legal advice. If you have a question of law that is outside of the scope of information provided in this manual, you may wish to consult or refer your client to an attorney or, if you are a client, to contact one of the legal support agencies listed in the resource guide in the back. Many of the organizations listed in the resource guide provide referrals to attorneys who are familiar with transgender law and working with the transgender community.

For questions, comments, corrections, and suggestions, please contact [kmdolgin@gmail.com](mailto:kmdolgin@gmail.com).

## USING THIS MANUAL

This manual was created to be a first-stop reference for lawyers, service providers, and community members who need legal information about a sex worker-specific issue or question of law. For ease of use, the content has been divided by common problems or needs. Case law, statutes, print and web resources, and other service organizations can be found embedded throughout the manual, referenced in the footnotes, and listed in the directory at the back of this manual.

This resource was created by and for people in the San Francisco Bay Area, and therefore much of the information is specific to California and San Francisco Bay Area resources and law. We hope that this manual will be a helpful resource to readers outside of California as well because it includes information that is nationally relevant. However, it is important that non-California readers pay close attention to what information appears to be specific to California or the Bay Area, and not presume that the local information contained in this manual will transfer to other cities and states. Non-California readers are encouraged to use the national resources listed in the directory at the back to locate up-to-date information about the laws and precedent in their state or city.

It is important to note that, although the researchers who assembled this information did our best to be accurate on points of both black letter law and how the law tends to play out in the real world, there may be inaccuracies and nothing in this manual should be relied on as legal advice. Legal advice can only come from a lawyer. This manual is, however, a good starting place to understand the law and how it affects sex workers and communities in California and the Bay Area specifically.

## FINDING THE LAW FOR FREE

Legal documents, such as cases and statutes, are actually public documents. This means that everyone (members of the public) has the right to research and read these documents. The problem is that sometimes these documents can be hard to find or access.

If a case is cited in this document and a person wants to find and read the actual case, we can find it by following a series of steps. The first step is to avoid getting flustered by the complicated series of numbers, letters, and punctuation that follows the name of the case. The next step is to simply go to <http://scholar.google.com/>, click the “Legal opinions and journals” button and type in the volume number, the journal name, and the page number from the case citation. For example, to find the case of *State v. Jordan*, 742 N.W.2d 149 (Minn. 2007). We would ignore the name of the case (*State v. Jordan*), and copy the volume number (742), then journal name (N.W.2d), followed by the page number (149). Those three things are all that’s needed to find the case on Google scholar. Sometimes the journal name will be different, but as long as the right information is copied into the search bar, Google Scholar should be able to pull it up.

Again, the information in this manual is not legal advice. We hope that sex workers and their allies will use this manual as a first step for beginning to understand applicable law, and identify when legal help is needed.

Many sex workers report barriers to accessing legal services for a number of reasons. The cost of hiring a lawyer is a major issue for many, along with fears that lawyers will not be respectful of sex worker clients, will not know enough about how laws specifically affect sex workers, and that the court system is prejudiced against sex workers. While all of these fears are justified, attorneys, activists, and advocates across the country are making huge strides in increasing legal services and resources for sex workers and transgender people. Many states have lesbian, gay, bisexual, and transgender (LGBT) bar associations that can be helpful in locating legal information or finding lawyers who are knowledgeable about

transgender law and sensitive to the specific concerns of transgender clients. Many of the organizations listed in the resource section at the end of this manual are happy to assist individuals in finding legal services. Although legal services often seem too expensive, there are a lot of organizations and individual attorneys committed to making justice more accessible. You may be eligible for pro bono (free of charge) representation or fee structures that work for you (such as contingency fees, where you only pay if you win your case). Additionally, many attorneys are happy to meet with potential clients for free to assess your case. This can be a good way to learn more about your options and whether it's worth it to you to pursue legal action.

## A NOTE TO LEGAL PROFESSIONALS

This manual was designed to be a resource to clients, but it is our hope that service providers and legal professionals will also find it useful. Attorneys may find this manual to be a helpful starting point for legal research and a useful tool for locating additional resources. All manuals in this series contain footnotes to case law, law review articles, and statutes that we hope will assist you. As with any compilation of research, attorneys are urged to check all cited law before relying on it to make sure there haven't been substantive changes and that it will apply to your client's particular case. Many of the organizations listed in the resource section of this document provide assistance to attorneys representing clients, and can be excellent sources for information and insight. When advocating for transgender clients, attorneys can advocate for the use of appropriate name and pronoun for their client in court and other proceedings.

## BASIC RIGHTS

Both citizens and non-citizens alike have rights under the United States Constitution. The Fifth Amendment gives every person the right to remain silent – that is, to not answer questions asked by a police officer or government agent. The Fourth Amendment restricts the government's power to enter and search a person's home or workplace, although there are many exceptions and new laws have expanded the government's power to conduct surveillance, as well as the authority for the police to search a person or belongings. The First Amendment protects a person's right to speak freely and to advocate for social change. These Constitutional rights are absolute, and cannot be suspended – even during wartime.<sup>1</sup>

## OVERVIEW

The sex industry has been in existence throughout known history and prostitution is often referred to as “the world’s oldest profession.” Sex workers vary widely by gender, sexual orientation, race, class, and motivation. Some work indoors, others on the street; some work independently while others have managers, support staff, or work in groups. Anti-sex work laws are not enforced consistently against any sex workers except for the most visible, those

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<sup>1</sup> Know Your Rights!: What to Do if Questioned by Police, FBI, Customs Agents or Immigration Officers, August 2004  
California: National Lawyers Guild San Francisco Bay Area Chapter, American Civil Liberties Union of Northern California, and the American Arab Anti-Discrimination Committee, <http://www.nlgsf.org/resources/>, Last visited May 22, 2014.

working on the street, and those most marginalized and vulnerable, including women of color, transgender women, and immigrant women.<sup>2</sup>

## INTERACTIONS WITH POLICE OFFICERS

Prostitution laws criminalize anyone who “engages in or agrees or offers to engage in sexual conduct with another person for a fee.” Generally, these laws are enforced through undercover operations, in which police officers pose as clients and then arrest sex workers. More often, police use vaguely worded “quality of life” regulations prohibiting loitering, loitering with intent to solicit, obstructing vehicular traffic, public lewdness or nuisance, and disorderly conduct, among many other things, to harass, detain, and arrest people believed to be involved in sex work.<sup>3</sup>

Sex workers, as well as those perceived to be sex workers based on gender non-conformity, experience high levels of violence from police officers. This violence includes rape, sexual assault, and physical abuse.<sup>4</sup> Additionally, reporting instances of sexual assault or domestic violence against a sex worker often results in the arrest of the victim, not the abuser, leading many sex workers to avoid interactions with police at all costs.

When dealing with the police, there are basic things one can do to stay safe, or at least make a stressful situation safer. People are less threatening to an officer if they keep their hands in view, don't make sudden movements, never touch the officers or their equipment, and remain respectful at all times. Anything that detainees might do to give an officer reason to argue that they are dangerous will work against them. Such behavior could even lead to an aggressive reaction on the part of the police, and a charge of assault against the detainee.

### Undercover Police Officers

Sex workers are often arrested during sting operations involving undercover police officers posing as clients. Most liberal legal advocates would consider this entrapment, an illegal police tactic that's use could act as a defense to prostitution charges. Many courts have found that these types of stings are legal because they define entrapment as police encouraging an individual to do something they ordinarily would not have done. These courts consider a defendant's willingness to engage with a client, which is the officer, constitutes a manifestation of their pre-existing intent or willingness to engage in prostitution.<sup>5</sup>

There is no reliable way to identify undercover officers or informants. Police officers are legally allowed to lie about being police officers. Undercover officers are allowed to engage in criminal activity in the course of their job, including buying, selling, and doing drugs,

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<sup>2</sup> The San Francisco Task Force on Prostitution: Final Report, The San Francisco Task Force on Prostitution, <http://www.bayswan.org/1TF.html>, Last visited June 13, 2014.

<sup>3</sup> Policing Sex Work, INCITE!, [http://mail.incite-national.org/sites/default/files/incite\\_files/resource\\_docs/4668\\_toolkitrev-sexwork.pdf](http://mail.incite-national.org/sites/default/files/incite_files/resource_docs/4668_toolkitrev-sexwork.pdf), Last visited June 13, 2014.

<sup>4</sup> *Id.*

<sup>5</sup> How Do the Police Avoid Entrapment when Conducting a Sting Operation?, Cramm Law Firm, <http://www.crammlawfirm.com/how-do-the-police-avoid-entrapment-when-conducting-a-sting-operation/>, Last visited June 18, 2014.

getting naked and receiving massages from sex workers.<sup>6</sup> Hawaii undercover officers are even allowed to have sex with sex workers.<sup>7</sup>

### Stops and Searches on the Street

Much of what could potentially transpire between a police officer and someone on the street is governed by the Fourth Amendment of the United States Constitution, including when an officer may stop someone and what that officer has the authority to do after stopping someone. Even if it appears that a person has been stopped by an officer for no reason, this is often hard to prove, as the officer only needs to meet a relatively low standard of proof in order to stop an individual.

An officer is prohibited from stopping someone solely based on gender presentation. An investigative stop of any individual must be justified by some objective manifestation of fact that the person stopped is, or is about to be, engaged in criminal activity.<sup>8</sup> This “reasonable suspicion” test, however, is easy to satisfy. A court will examine the circumstances surrounding the stop, and officers can cite to things such as being in a “prostitution free zone,” the time of day, type of clothing worn, and their own expertise to support their findings of “reasonable suspicion.”<sup>9</sup> The San Francisco Police Commission has adopted resolutions explicitly prohibiting officers from using gender presentation as a factor to meet this “reasonable suspicion” requirement.<sup>10</sup>

Just after someone has been stopped by an officer, it is a good idea to ask the officer if he or she is free to go. If the answer is yes, that person may walk away. If the police say an individual is not under arrest, but is not free to go, that person is being detained. Though being detained is not the same as being arrested, an arrest could follow.

An officer is required to have an explanation for such detention. You can ask the officer for an explanation of why you are being detained, though they may not answer your question. If the detention is later challenged, the officer will be required to provide the court with an explanation for the detainment. The person being detained does not have to answer any questions (though outside of California you may be required to identify yourself). Even though people who are being detained often feel that they are not being treated with respect, and may be stressed out or upset, maintaining a respectful and polite tone with the officer can go a long way toward staying safe. Especially if you are refusing to answer questions or identify yourself, use your own best judgment about how to speak to police officers.

Under the U.S. Constitution’s Fourth Amendment and California law, the police need a reasonable suspicion that a person is armed and dangerous in order to search their person.<sup>11</sup> This type of search is referred to as a “frisk,” or a “pat down.” The purpose of a

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<sup>6</sup> Undercover Officers, Just Cause Law Collective, <http://www.lawcollective.org/article.php?id=59>, Last visited June 18, 2014.

<sup>7</sup> Hawaii Law Lets Undercover Cops Have Sex with Prostitutes, CBS News, <http://www.cbsnews.com/news/hawaii-law-lets-police-have-sex-with-prostitutes/>, Last visited June 18, 2014.

<sup>8</sup> United States v. Cortez, 449 U.S. 411, 417 (1981).

<sup>9</sup> People v. Souza, 9 Cal. 4th 224, 229, 237 (1994).

<sup>10</sup> San Francisco Police Department, General Order 5.17(II)(A)(2)(a)

<sup>11</sup> Cal. Pen. Code, § 833.

frisk is for the officer's safety and therefore can only be done in search of weapons, and not in search of drugs. An officer may pat down a person's clothing, which may include patting the area over or near the chest, buttocks, or genitals. Grabbing at or near genitalia, however, simply to establish a person's "true sex" is inappropriate and potentially unlawful, depending on the jurisdiction. Even if the police have no other grounds for suspicion, hostility or aggressive behavior may be enough for them to justify a search. However, consenting to a search is not required; consent may enable the police to conduct a much broader search than would otherwise be allowed by law.<sup>12</sup> It is important that the person being stopped calmly assert that they do not consent to the search; this helps ensure that any evidence found will be inadmissible in court if the officer's search is later ruled to have been illegal.

Note that if you are stopped while in a vehicle, the constitutional reasonableness of traffic stops does not depend on the actual motivations of the individual officers involved.<sup>13</sup> Furthermore, police officers making traffic stops may order passengers to get out of the vehicle pending the completion of a search.<sup>14</sup>

In a study conducted by Human Rights Watch, transgender persons reported being frequently stopped and searched by police officers due to profiling based on their gender presentation.<sup>15</sup> In San Francisco, detaining an individual solely based on gender presentation violates police policy.<sup>16</sup> However, a law banning "loitering with intent to commit prostitution" is frequently used to stop or arrest suspected sex workers, with at least 168 arrests occurring in San Francisco between May and August of 2011.<sup>17</sup> Disturbingly, prior to October 2012, the possession of condoms was commonly used as evidence in the prosecution of suspected sex workers. In April 2013, the San Francisco District Attorney announced that a ban on this practice would be permanent.<sup>18</sup>

The California law banning intent to commit prostitution defines "intent" in an exceptionally broad manner, and conduct that may be used as evidence of intent includes having conversations with passersby or hailing the drivers of cars.<sup>19</sup> It has been unsuccessfully challenged for being overly broad and vague.<sup>20</sup>

## Treatment and Pronouns

Disrespectful and unsafe treatment by police officers is particularly prevalent with transgender community members. Acknowledging this reality, it can be difficult for detainees to know how to increase their chances of being treated safely and respectfully, especially in regards to pronoun use for transgender detainees. In San Francisco<sup>21</sup> and in other

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<sup>12</sup> *People v. Jenkins*, 22 Cal. 4th 900, 974 (2000).

<sup>13</sup> *Whren v. United States*, 517 U.S. 806, 813 (1996).

<sup>14</sup> *Maryland v. Wilson*, 519 U.S. 408 (1997).

<sup>15</sup> Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities, Human Rights Watch, July 19, 2012. <http://www.hrw.org/reports/2012/07/19/sex-workers-risk>, Last visited May 22, 2014.

<sup>16</sup> Investigative Detentions, San Francisco Police Department, General Order 5.03. <http://www.sf-police.org/modules/ShowDocument.aspx?documentid=14788>, Last visited May 22, 2014.

<sup>17</sup> Sex Workers at Risk at <http://www.hrw.org/node/108771/section/5>, Last visited May 22, 2014.

<sup>18</sup> Seth Hemmelgarn, Breaking: DA Agrees to new Condoms Policy, Bay Area Reporter, Apr. 11, 2013. <http://ebar.com/news/article.php?sec=news&article=68698>, Last visited May 22, 2014.

<sup>19</sup> Cal. Pen. Code, § 653.22

<sup>20</sup> *People v. Pulliam*, 62 Cal. App. 4th 1430 (1998).

<sup>21</sup> General Rules of Conduct, SFPD San Francisco Police Department, General Order 2.01, #14; SFPD San Francisco Police Department, Department Bulletin, 03-243.

municipalities, police officers are required to avoid harsh, profane or uncivil language as well as address a person with respect to their self-identified gender.

In San Francisco for instance, officers are instructed to respectfully ask individuals for clarification if uncertain of what pronoun to use; “e.g. ‘do you prefer to be referred to as ‘she’ or ‘he’?’” This means that a person arrested in San Francisco is entitled to be treated in accordance with a self-identified gender, regardless of anatomy, legal name, or gender marker. Other jurisdictions may or may not have such police protocols in place, but it is always a good idea to check just in case. If interacting with a police officer that is using the wrong pronoun, the detained person can correct this by saying to the officer, “I prefer to be referred to by female/male pronouns.” In other municipalities, it should be argued that such treatment is necessary to maintain the rights and dignity of the detainee. The law does not necessarily protect people against improper pronoun usage when the mistake is inadvertent. A persistent refusal to address a detainee in accordance with his or her gender identity, however, could be an actionable offense in a municipality such as San Francisco with a policy regarding pronoun use in place.

### Identification

After making a stop, an officer might ask the person for identification. In California, the refusal or failure of a person to submit identification upon request cannot be the sole cause for arrest or detention, except where the driver of a motor vehicle refuses to produce a driver’s license upon request.<sup>22</sup> In other words, unless an individual is pulled over while driving, it is legal to refuse to produce identification in California; and, in San Francisco at least, an officer may not threaten arrest in order to make a person comply.<sup>23</sup> Individuals can also refuse to provide other personal information, such as address or immigration status. If arrested, an individual is not obligated to provide identification, but may be released more quickly if a name is provided, unless the individual is driving a vehicle, in which case refusing to provide identification can result in charges.

In some states, including New Mexico and Nevada, refusing to give a name can be cause for being detained or arrested under state law.<sup>24</sup> Regardless of the laws in a particular state, police do not always follow the law, and refusing to provide a name may make an officer suspicious and lead to a person being arrested anyway. If an individual fears that providing a legal name would lead to arrest or harassment, such as having a legal name that is obviously not congruent with gender presentation for instance, that person can claim the right to remain silent and, if arrested, this fact can be helpful later. Individuals should not give any name that is not a legal name, as providing a false name can be considered a crime. Even if the name given is the only name that person uses, it could still potentially be considered a false name for purposes of charging the individual with a misdemeanor.<sup>25</sup>

### Questioning

Questioning can occur on the street or in an interrogation room and they can take the form of seemingly innocuous and simple questions to manipulate and intense drilling. Everyone

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<sup>22</sup> Cal. Veh. Code, § 40302.

<sup>23</sup> Investigative Detentions, San Francisco Police Department, General Order 5.03.

<sup>24</sup> *Hibel v. Sixth Jud. Dist. Ct.*, 542 U.S. 177 (2004).

<sup>25</sup> Cal. Pen. Code §148.9.

has the right to talk to a lawyer before deciding whether to answer questions.<sup>26</sup> If a person does agree to be interviewed, that individual has the right to have an attorney present. The lawyer's job is to protect a person's rights. Once a detainee requests a lawyer, the officer must stop questioning the detainee, and the individual should make any further contact only through the lawyer.<sup>27</sup> If the person does not have a lawyer, the individual can still request to speak with one before answering questions. A detainee or arrestee should remember to get the name, agency, and telephone number of any investigator who visits, and give that information to the lawyer. The government must provide a free lawyer<sup>28</sup> if the person is charged with a crime. The National Lawyers Guild or another organization may be able to help find a lawyer for free (pro bono) or at a reduced rate.

Some people might worry that insisting on remaining silent, requesting a lawyer, or refusing a search will make an officer more suspicious. This is not necessarily the case. Silence can demonstrate to officers an awareness of rights, thus providing additional incentive for the officers to follow procedural rules to avoid accusations of misconduct. As the *Miranda* warning states, "anything you say can be used against you in a court of law."<sup>29</sup> Generally speaking, law enforcement officials are supposed to read people their *Miranda* rights before questioning them.<sup>30</sup> However, the National Lawyers Guild strongly cautions individuals that come into contact with officers to remain silent and assume that anything they say will be used against them in court.<sup>31</sup> In June 2013, the Supreme Court ruled that a defendant must invoke his or her Fifth Amendment right to remain silent in order to restrict the use of that silence as evidence at trial.<sup>32</sup> If you are questioned by police officers, it is a good idea to explicitly invoke your Fifth Amendment right to remain silent with the officer by stating "I am going to remain silent. I want to see a lawyer."

Arrestees often believe that offering explanations will help resolve the problem, but it is impossible to know how statements made in front of an officer will be interpreted later. Often statements will result in causing more harm than good. The safest approach is for detainees or arrestees to calmly repeat that they wish to remain silent and do not consent to a search of their person or of their vehicle.<sup>33</sup>

### Searches of the Home<sup>34</sup>

The Supreme Court has ruled that a person's home is entitled to maximum search protection. For a search to be legal, the 4th Amendment requires an officer to have probable cause to believe that illegal activity is occurring inside the home and a signed search warrant from a judge. Consent to enter is a major exception to the warrant requirement. If

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<sup>26</sup> *Miranda v. Arizona*, 384 U.S. 436, 470 (1966).

<sup>27</sup> *Id.* at 474.

<sup>28</sup> *Gideon v. Wainwright*, 372 U.S. 335, 344-45 (1963).

<sup>29</sup> *Miranda*, 384 U.S. at 479.

<sup>30</sup> U.S.C.A. Const. Amend. 5.

<sup>31</sup> You Have the Right to Remain Silent: A Know Your Rights Guide for Law Enforcement Encounters, National Lawyers Guild, <http://www.nlgsf.org/sites/default/files/resources/KYRpamphletSF.pdf>, Last visited May 22, 2014.

<sup>32</sup> *Salinas v. Texas*, No. 12-246, 2013 BL 158572, \*8 (May 22, 2014).

<sup>33</sup> Know Your Rights: Dealing with Police, Midnight Special Law Collective, <http://www.midnightspecial.net/materials/dealingwithpolice.html>, Last visited May 22, 2014.

<sup>34</sup> Surveillance Self-Defense: Search Warrants, Electronic Frontier Foundation, <https://ssd.eff.org/your-computer/govt/warrants>, Last visited June 17, 2014.

consent to enter has been given, any items in “plain view” may be seized as evidence of illegal activity.

If police say they have a search warrant ask them to give it to you. Read it to see that it is signed, has the correct address, and a reasonably recent date. If you point out a flaw in a warrant, officers may ask you to let them in anyways. Clearly and formally state that you do not consent to a search. If officers insist on entering after you have refused to give consent, stand aside and allow them to enter while continuing to remind them you do not consent. Physical resistance to officers will likely result in you getting hurt and charged with resisting arrest or assault in an officer.

Do not answer any questions during their search. Take notes during the officer’s search, noting: officer names and badge numbers, names and contact information of any witnesses, and everything you see them search or seize, to the best of your ability. Police typically provide an inventory of what has been seized at the conclusion of a search. If not, request a copy but do not sign any statements.

### Vehicle Searches

The law allows greater authority to officers stopping people in cars. In this context, there are certain actions a person can take to increase the chances of a safe and less confrontational encounter with an officer. People being stopped should keep their hands where the police can see them. If stopped while driving a vehicle, the driver is required to show license and registration.<sup>35</sup> A stop of a motor vehicle is considered by law to create limited exceptions to the warrant requirement. This means that officers can conduct a search without a warrant if they have probable cause to believe there is contraband in the vehicle, or if they believe someone in the vehicle is armed or poses a threat to officer safety.<sup>36</sup> If officers begin to search the vehicle, it is best for a person to state clearly and calmly that he or she does not consent to a search.

Often, police will request consent to a search because they do not have probable cause to search without asking. After all, if they had probable cause, there would be no need for consent, other than to broaden the scope of the legal search. An officer may not conduct a full search of a vehicle without probable cause merely because he or she is issuing a citation.<sup>37</sup> If an officer wishes to search a vehicle to find vehicle registration or identification documents, the officer may only conduct a limited search of locations where he or she reasonably believes they may be found.<sup>38</sup> Officers may separate passengers and drivers from each other to question them, but both drivers and passengers retain the right to remain silent. It is best to always state clearly that you do not consent to a search. The police may search anyway, but an illegal search may lead to suppression of the evidence in court.

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<sup>35</sup> Cal. Veh. Code §4462.

<sup>36</sup> Knowles v. Iowa, 525 U.S. 113, 116. (1998).

<sup>37</sup> Id. at 116-17.

<sup>38</sup> In re Arturo D., 27 Cal. 4<sup>th</sup> 60, 86. (2002).

## Searches Upon Arrest<sup>39</sup>

Upon arrest an officer may conduct a warrantless search of the arrestee and the area and objects in close proximity at about the same time as the arrest according to the Search Incident to Arrest (SITA) doctrine. The purpose is to protect the officer by seizing any weapons and to prevent the destruction of evidence on the person.

If police come to the door of your home or place of business with an arrest warrant, step outside and lock the door, as they will be able to search any room you enter. If you are arrested in a car, police are allowed to search the inside of the car, including containers, but not the trunk. However, a car trunk can later be searched during impound inventory.

Few cases address whether the SITA doctrine authorizes warrantless searches of cellphones and computers carried by or near the arrestee. In California, a court held that a cellphone search conducted by an officer was illegal because it was conducted for investigatory purposes rather than for officer safety or for the preservation of evidence. A Kansas case, however, ruled contrarily, allowing an arresting officer to download the memory of an arrestee's cellphone without an additional warrant.

Password-protect electronic devices to prevent potentially unconstitutional privacy invasion. For stronger protection, consider using file and disk encryption software.

## Transporting Arrestees<sup>40</sup>

In San Francisco, after being arrested the arrestee is often transported to a different destination than where the arrest took place. Transport is a stage of the process where sex workers and transgender people are particularly vulnerable to police misconduct. The San Francisco Police Department has enacted a policy to mitigate harm to women and transgender people during transport. This policy, General Order 2.01, Rule 36, "Transporting of Females and/or Transgender Individuals," applies to women and "any transgender person or individual whose gender identity is indeterminate to the [officer] and not clearly articulated by the individual." San Francisco police orders state that when officers transport a female or transgender person, they must notify the Communications Division of the Department of the vehicle's starting mileage, the location from which they are leaving, and the destination. When the officer reaches the destination, that officer must immediately notify the Communications Division with the vehicle's ending mileage.

If a female or transgender detainee is being transported and this rule is not being followed, the detainee can self-identify to the officer, thereby making the officer aware that Rule 36 applies. An officer who does not follow this procedure could attempt to escape liability by stating that he or she was unaware that the detainee was female or transgender at the time of transportation because the detainee did not self-identify. Ultimately, it is the arrestee's decision to disclose or not; arrestees may feel that disclosing prior to or during transportation may create more risk than it will prevent, but others may feel that disclosing prior to transportation will increase the chances that rules will be followed and documented, making any possible misconduct easier to prove.

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<sup>39</sup> Surveillance Self-Defense: Search Incident to Lawful Arrest, Electronic Frontier Foundation, <https://ssd.eff.org/your-computer/govt/sita>, Last visited June 17, 2014.

<sup>40</sup> San Francisco Police Department, General Order 2.01, #36.

It is important to remember that even when there are rules in place, these rules are not always followed. Ultimately, individuals should rely on their best judgment in a particular situation. Some arrestees would prefer to cooperate even when not required to in order to de-escalate a situation if they fear retaliation by an officer, particularly if there is no one around to witness or if the officer seems particularly aggravated. Document any suspected violation of rules and consult your attorney or consider filing a misconduct report if you believe your rights, as provided by these rules, have been violated. Again, individuals outside of San Francisco should check for the rules and policies in their jurisdiction to see what, if any, protections are offered.

### Booking<sup>41</sup>

Booking, which is the process of being admitted into detention after being arrested, can be complicated and stressful for sex workers and transgender people. If a transgender arrestee has not already disclosed his or her transgender status or identity, the booking process is where disclosure might occur regardless of the arrestee's wishes. The booking process involves paperwork where the sex on a person's driver license or state ID is recorded, and where a person's legal name is demanded.

When an arrestee is brought to the detention center, an officer will review the individual's legal documents to see if that person meets the admission requirements of the facility. The general booking process has several steps where transgender or intersex status might be disclosed whether or not the individual wants this information known. One general step is recording of information, or the booking form. The booking form will ask for either male or female gender as well as driver license information. Similar to a job application, the form will request your address, work or school information, and emergency contact. The name on the driver license is the name that an individual will be booked under. However, if the name on your driver license is not the name that you prefer to be called, you can let the officer know when the form is being filled out, as policy requires the police to use your preferred name. It is possible that the officer will disregard your request, but if you feel safe and are comfortable with voicing your preferred name, do so.

After the intake form, arrestees will usually have their mug shot taken and property collected. The next step is often fingerprinting, which will likely connect your fingerprint to the gender/sex indicated on the booking form. A nurse may screen the arrestee for potential vulnerability to sexual assault and if that person has tendencies to act out with sexually aggressive behavior. If either of these are present, the nurse will notify the Associate Warden of Operations. Being a transgender individual is often considered within the scope of vulnerability to sexual assault.

However, as always, be mindful of who is making the assessment and your safety during that process. Individuals may feel that disclosing to the examining nurse is a safer choice than disclosing to the booking officer. Although it often feels like there is no safe time to disclose transgender status or identity while detained, individuals may choose to disclose

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<sup>41</sup> San Francisco Police Department, Department Bulletin 03-246, 2003. [https://archive.org/stream/minutes2003sanf\\_7/minutes2003sanf\\_7\\_djvu.txt](https://archive.org/stream/minutes2003sanf_7/minutes2003sanf_7_djvu.txt), Last visited June 5, 2014 and Booking and Detention Manual, July 2004.

during the booking process before an unclothed body search if he or she believes that this search will be uncomfortable or unsafe. Prisoners may wish to request strip search staff that makes them feel more comfortable during the process (for example, female staff strip searching a male-to-female inmate), but a refusal to accommodate such requests does not necessarily mean a prisoner's rights have been violated by prison officials.<sup>42</sup> However, searches are required to be reasonable, and may violate the Fourth Amendment if they are conducted in an excessive, vindictive, or harassing manner.<sup>43</sup>

### Getting out of Jail<sup>44</sup>

There are several procedures through which you can get out of police custody after an arrest. Instead of bringing you to jail, officers may issue a citation, much like a traffic ticket promising to appear in court, and release you. Sometimes people are released on their own recognizance, "O.R.," in which case they simply promise to appear in court for scheduled hearings without paying to pay bail. A defendant usually requests to be released O.R. at the first court hearing. If a judge denies the request, a request for low bail is then made. Usually you will only be released OR if you can prove you are not a danger to the community and are not a flight risk. Factors that may convince a judge to grant O.R. include:

- Having family members living in the community
- Having lived in the community for a long time (current and old records of lease, rent receipts, utility bills, phone bills to show length of time)
- Having a job (employment contracts, pay stubs, records of volunteer work)
- School enrollment (school records, school ID)
- Membership in community organizations or churches
- Having little or no past criminal records, or any previous criminal problems are minor and old

Assembling a packet of documents to show the judge that you have long-term ties to the community is helpful. You will need the originals in addition to copies to give to the court. General character reference letters with phone numbers from landlords, roommates, clergy, and employers and doctors outlining any medical conditions or appointments necessitating release are also valuable.

The most common way to get out of jail is by posting bail. Bail is cash, bond, or property you give to a court to ensure that you will appear for court appearances. If you don't show up, the court keeps the bail and issues a warrant for your arrest. A judge sets bail amount and jails usually have standard bail schedules for the most common crimes. The bail schedule for San Francisco county can be found here:

<http://www.sfsuperiorcourt.org/sites/default/files/pdfs/2012%20revised%20March2013%201st%20bail%20schedule.pdf>

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<sup>42</sup> Konitzer v. Frank, 711 F. Supp. 2d 874 (E.D. Wis. 2010) (not "deliberately indifferent" to medical needs of male-to-female transgender person by denying her request to be strip searched by female prison staff, no evidence male staff would harm prisoner); see also Meriwether v. Faulkner, 821 F.2d 408, 410-11 (7th Cir. 1987) (transgender inmate claimed she was harassed by officers and forced to strip in front of officers and other inmates).

<sup>43</sup> Michenfelder v. Sumner, 860 F.2d 328 (9th Cir. 1988).

<sup>44</sup> NOLO, Bail: Getting Out of Jail After an Arrest, <http://www.nolo.com/legal-encyclopedia/bail-getting-out-of-jail-30225.html>, Last visited June 23, 2014.

Bail can be cash, check, or property worth the full amount, which will be returned (minus an administrative fee) when the case is over and all court appearances have been made. Bail can also be a bond, a guaranteed payment of the amount, purchased through a bonds dealer. Bond sellers generally charge 10% of the total bail amount and often require collateral, a financial interest in your property, which they can cash in on if you fail to appear for a court appearance.

### **Immigration Consequences<sup>45</sup>**

If you are not a US citizen, a criminal conviction can have serious immigration consequences. The extent of these consequences is dependent upon your present immigration status, the outcome of the case, and the types of crime(s) you were charged with. Generally, the more serious the crime and the more temporary/illegal your immigration status is, the more likely you will be deported.

It is incredibly important for non-US citizens to immediately seek help from an immigration attorney in addition to a criminal defense attorney if arrested. While a criminal defense attorney may give excellent advice in helping navigate the criminal justice system, their advice may lead to a result way worse for you.

The federal Immigration and Nationality Act states any non-citizen living in US can be deported (regardless of how long you've been in the country, whether you have a dependent child who is a US citizen, whether you are a legal or illegal immigrant) if they are convicted of certain criminal offenses.<sup>46</sup> In California, "deportable crimes" include:

- Crimes of moral turpitude, which can include anything a court finds to be "antisocial behavior that harms others"
- Aggravated felonies, which includes crimes related to the operation of prostitution business or pimping

Additionally, you can be deemed inadmissible (not deportable) if you came to the US to engage in prostitution, engaged in prostitution within 10 years of application for a visa or admission, or acted as a pimp.<sup>47</sup> For these, you do not need to have been convicted in order to become inadmissible.

When plea-bargaining be particularly careful about submitting a guilty or no contest plea. These count as convictions, which can have major immigration consequences. Accepting a diversion program (or other procedural equivalent including "deferred prosecution or "dispositional continuance") in lieu of jail time usually counts as a conviction for immigration purposes as well. Again, it is imperative you contact an immigration attorney to work with your criminal defense attorney in preparing for your legal defense. A list of organizations specializing in immigration law can be found in the resources section of this manual.

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<sup>45</sup>Shouse Law Group <http://www.shouselaw.com/immigration.html#sdendnote42anc>, Last visited June 23, 2014

<sup>46</sup> INA 245, 8 U.S.C. § 1255, endnote 1

<sup>47</sup> INA 212(a)(2)(D)

## Criminal Records

In the San Francisco Bay Area, you may be eligible to have your criminal record improved through an initiative called the Clean Slate Program. Governmental agencies and nonprofit organizations across California and throughout the country have begun offering similar criminal record improvement programs and initiatives. Individuals interested in improving their criminal record should research if such programs are offered through their local courts, county public defender's office, or through nonprofit legal aid groups. People who have been arrested, convicted of a crime, or been found delinquent in Juvenile Court could be eligible to have their criminal record "cleansed" by a simple process. Some records, such as marijuana possession and juvenile offenses, can be totally destroyed. Other records can be changed from felony to misdemeanor status.<sup>48</sup> Information about the San Francisco Clean Slate Program can be found here: [http://sfpublicdefender.org/wp-content/uploads/2013/02/Application.Packet.Feb\\_.2013.pdf](http://sfpublicdefender.org/wp-content/uploads/2013/02/Application.Packet.Feb_.2013.pdf).

Through initiatives modeled after the Clean Slate Program, some cities, counties, hospitals, and nonprofit groups now also offer free or low cost tattoo removal services for individuals seeking employment who are facing the stigma associated with visible tattoo markings.

## TAKING ACTION: POLICE MISCONDUCT

If a person feels his or her rights have been violated by a police officer, it is important to document as many of the following as possible:

- Date, time, and location of the incident;
- The officer's name, badge number, and squad car number;
- A physical description of the officer;
- The officer's precinct number or division (possibly found on the brass insignia on the officer's shirt collar); and
- Any witnesses present at the time (get names and phone numbers if possible).

Use of excessive force, inappropriate sexual behavior, or violation of constitutional rights by a police officer can also give rise to a lawsuit against the police officer, the police department and the city under the state and federal constitutions.<sup>49</sup>

Document any injuries right away. If a person is injured, they should get medical care as soon as possible. Be sure to tell the caregiver that the injuries were caused by police and be certain it is noted in the medical record. Get a copy of the medical record when leaving the clinic or hospital. Have injuries photographed immediately, using good quality color film or a high-resolution digital camera with a time and date stamp. If a healthcare facility offers to take photographs, have them use your camera or take copies of the photographs when you leave. Sit down right away and write down every detail about the incident. Ask any witnesses to do the same.

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<sup>48</sup> California State Resources, Papillon Foundation, <http://www.papillonfoundation.org/statespecificinfo/california.html>, Last visited May 27, 2014

<sup>49</sup> Bivens v. Six Unknown Narcotics Agents, 403 U.S. 388 (1971).

Below are several ways to report police misconduct. **Please note that the National Lawyers Guild does not encourage individuals to report police misconduct directly to police departments or city offices because of a historically high incidence of retaliation and non-response.**

Making complaints to city agencies can be highly ineffective and discipline is historically and statistically unlikely. Frequently, there is very little action taken on reports of police misconduct. Of 164 allegations of police misconduct made to the Oakland Citizens' Police Review Board between January and June of 2011, only 6 (4%) were sustained.<sup>50</sup> However, benefits of reporting to the city agencies include that there is a possibility (though unlikely) of officer discipline, a report that is substantiated may bolster any civil lawsuit that might be brought against the officer(s), reports can be used in class action lawsuits brought by non-profits on behalf of a group, and each individual report affects statistics and other information that is used to influence attempts to bring about changes in police policies and tactics.

For issues with the San Francisco Police Department, the most effective way to file a complaint of misconduct is to go to the **Office of Citizen Complaints (OCC)**, located at 25 Van Ness Avenue, Suite 700, San Francisco, CA 94102. This will allow investigators to personally interview the person and to do a thorough job of completing the initial, and one of the most important, phases of the investigation of a complaint.<sup>51</sup> For more information, visit <http://sfgov.org/occ/> or call (415) 241-7711.

For issues with the Oakland Police Department, a person can either call the 24-hour complaint hotline at (866) 214-8834 or the **Citizens' Police Review Board Office** at (510) 238-3159. Both of these offices have challenges that cause barriers to access and effectiveness. The OCC has inadequate funding, a small staff, and long delays in charging offending officers. Between 1996 and 2004, the OCC received more than 10,000 complaints and sustained only ten percent.<sup>52</sup> The Oakland office no longer has public hearings, which indicates less accountability to the public. Individuals who experience police harassment or misconduct in Oakland can contact **People United for a Better Life in Oakland (PUEBLO)** for assistance making a report at (510) 535-2525 or visit their website at [www.peopleunited.org](http://www.peopleunited.org).

People who experience police harassment or misconduct in San Francisco or greater Bay Area can contact **Community United Against Violence (CUAV)** for support resources, assistance filing police misconduct reports, and courtroom advocacy. CUAV can be reached online at [www.cuav.org](http://www.cuav.org), or via their multi-lingual hotline at (415) 333-4357.

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<sup>50</sup> City of Oakland Citizens' Police Review Board 2011 Semi-Annual Report, Office of the City Administrator, Oct. 13, 2011. <http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/report/oak032709.pdf>, Last Visited May 22, 2014.

<sup>51</sup> Complaints, City & County of San Francisco's Office of Citizen Complaints, <http://www.sfgov3.org/index.aspx?page=434>, Last visited May 22, 2014.

<sup>52</sup> Fernandez, Sward, and Wallace, The Use of Force / Disciplines obstacles / Few complaints against police upheld – even fewer bring serious discipline, San Francisco Chronicle (Feb. 8, 2006) p. A1, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/02/08/MNUFDISCIPLINE.DTL>, Last visited May 22, 2014.

Individuals anywhere in the country can visit the National Lawyers Guild's **National Police Accountability Project** (NPAP) website at [www.nlg-npap.org](http://www.nlg-npap.org) to locate attorneys and organizations that work with police misconduct issues across the country.

### Sample Questioning Scenarios<sup>53</sup>

It's unlawful for the police to beat you into confessing; however, it's perfectly legal for them to sucker you into it. That's why interrogation doesn't usually involve bright lights and rubber hoses—more often than not, the officer sounds sympathetic or at least business-like. And that can leave you even more vulnerable to manipulation, because when you feel relieved that the officer isn't being really scary, you tend to let your guard down. Besides, it's truly difficult to overcome the natural urge to talk one's way out of trouble. That's why it makes so much sense to train yourself to say, "I'm going to remain silent. I would like to see a lawyer," under any circumstances. It's got to become a reflex you can rely on, the same way you know that you'd automatically start swimming if you fell into deep water, even if you were scared and disoriented.

### Common Interrogation Lines

*You're not a suspect. We're simply investigating here. Just help us understand what happened and then you can go.*

If you answer questions, you're likely to become a suspect, if you aren't really one already.

*What are you afraid of? If you haven't done anything wrong, then you shouldn't have any problem answering my questions.*

What you should be afraid of is being lured into answering questions. You don't have anything to prove. Remember, in court you're "innocent until proven guilty"—and the thing most likely to prove guilt is an unplanned statement made when you're arrested. If the police are thinking of arresting you, answering their questions will make them more determined to do it, not less so.

*Look, if you don't answer my questions, I won't have any choice but to take you to jail. This is your chance to tell your side of the story.*

This is the most common trick of all! The police consistently pretend that they're considering letting you go, when they've already made up their minds to take you to jail. Remember, the time to tell your side of the story is when you're in court and have your lawyer helping you—not when you're alone with a cop who's busy building a case against you.

*Your friends have all cooperated and we let them go home. You're the only one left. Do you want to stay in jail?*

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<sup>53</sup> Adapted from Katya Komisaruk, Just Cause Law Collective 2007, <http://www.lawcollective.org/article.php?id=55> and <http://www.lawcollective.org/article.php?id=54>, Last visited June 18, 2014.

The police can lie about where your friends are and what they've said. Don't trust information given to you by the cops. Make sure to verify your facts through a lawyer or your friends and family.

*I'm tired of screwing around. If you don't answer my questions, you're going to be charged with obstruction.*

Well, you know this is garbage, because the Constitution guarantees you the right to remain silent—so refusing to answer questions can't be against the law. But some cops will still threaten you with “resisting an officer” or “obstruction of justice,” just to see whether you'll fall for it.

*Come on, I'm not asking you to sign anything. We're just talking. And you can stop any time you want to.*

Remember, anything you say can be used against you in a court of law. You don't have to sign anything to make it a real confession—the police will just quote you (and they may be taping you, too). The time to stop is before you ever begin—even a little time spent answering questions can completely screw up your case.

*Look, we've got all the evidence we need to convict you, so you might as well confess.*

If the police really had all the evidence they needed, they wouldn't waste time talking to you. The only reason they're questioning you is because they don't have enough proof, and they're hoping you'll be kind enough to give it to them.

*Basically, the case against you is really strong. It's not a question of whether you're going to jail—it's a question of what you're going to jail for. This is your last chance to get the right information to the DA before he decides on the charges.*

This is not the time to give more information to the DA (the prosecutor). You can do that later, once you've got a lawyer helping you. After all, the DA can change the charges any time up to trial, and usually does—reducing or dismissing them as part of a plea-bargain. But your lawyer can get you a better deal if you don't give away all your bargaining power by confessing to the arresting officers.

*You got a choice here. Either you answer my questions, or you're going to jail. And I'd hate to see a nice white girl like you get punked by a bunch of gangsters.*

– or –

*You can talk to me now, or you can go to jail. And let me tell you something, there's men in that jail who haven't been outside in months, men who haven't been with a women for a real long time. How'd you like to be raped by a bunch of gays?*

Cops use this kind of race-baiting and queer-bashing pretty frequently to scare

people who haven't been to jail before. And the cops aren't particularly subtle about it. Don't let some bigot with a badge put his trash into your head.

TV and movies make rape-in-jail scenarios look more frequent than they really are. Most people in jail are there for drug or property crimes, not crimes of violence (much less sexual violence). If you behave reasonably, other prisoners really aren't likely to give you a hard time. This is not the time to launch into a political discussion of how the legal system is malfunctioning and can't be trusted to protect the innocent. Don't let yourself be drawn into any kind of conversation at all.

### **General Interrogation Techniques**

You know the police are really trying to manipulate you when they offer a legal defense or moral justification for what you're accused of doing, or imply that what happened was due to an accident or to circumstances beyond your control. In applying this tactic, the interrogator frequently offers the suspect two choices, for example: a believable explanation or an unbelievable one; an honorable excuse or a dishonorable one. Of course, both choices are still damaging admissions—it's just that one sounds better than the other. Imagine the following lines said by a sympathetic, understanding police officer in a warm, reassuring tone of voice:

#### **Legal Defense**

- I understand what you're saying...he threatened you, and essentially you were acting in self-defense.
- Okay, we've got you for possession of marijuana. But what isn't clear to me is: were you just out to get stoned, or were you maybe using it for medical purposes?

#### **Moral Justification**

- What I'm wondering is whether you needed that money so you could take care of your kids and get them decent food and clothes and all—or did you just do it because you wanted drugs or new Nikes or whatever?
- Well, that's a perfectly normal reaction. When a man finds out that his wife is sleeping with another guy, he's going to want to go out and do something about it.

#### **Accident or Circumstances Beyond Control**

- Now, I wasn't there, so I don't know. Only you know what really happened. But I'm thinking that when two people get into it, when there's an argument, stuff can happen that nobody ever intended. I mean, you could've just been shoving each other around, and he could've fallen and hit his head by accident—just plain bad luck.
- Obviously there's a difference between being an active participant and being a bystander. It's one thing to be actually involved in selling sex, and it's another thing to just be in the house when some other girl is. But the way things look you could be

either one. And the only way we're going to be able to figure out what your real role was is if you talk to us.

- Another common tactic is minimization/maximization, contrasting the worst-case scenario with the best possible outcome:
- You know, there's a lot of different ways this case could be charged. Anywhere from human trafficker—that gets you 15 years in prison—all the way down to nuisance, for which people typically get a slap on the wrist. What we're doing right now is trying to understand what really happened, so we can make a decision which way to go...

Often the police will even say, "Look, I'm not making any promises..." and then imply that confessing will result in a better outcome in court: lesser charges, a more favorable sentence, etc. This is a lie. The police are not authorized to offer leniency in exchange for a confession. Only the prosecutor or judge can make a plea-bargain.

All law enforcement officers are trained to question suspects. Very few civilians have any practice in spotting or withstanding the interrogation techniques police use against them.

It's initially surprising that the Good Cop/Bad Cop routine works so well, since it's generally so obvious. You've seen it in hundreds of TV shows and movies, and most people consider it a cliché. Yet law enforcement officers use it in every city, every day...because it works nearly every time. And a big reason it works so well is that when you've just been arrested, you're extremely vulnerable. You're thinking of all the horrible things that are likely to happen: going to jail, disappointing your loved ones, being publicly disgraced, losing your job, failing school, etc.

On top of that, if you've been in custody all day or all night, you'll be suffering from fatigue and hunger, and perhaps other physical stresses. So, psychologically, you're a sitting duck. And even though you know, intellectually, that the good cop is just trying to manipulate you, you cannot help having hope and trust in the one person in this awful situation who seems to be on your side. It's a tough problem, but there is a solution. The answer is to train your mind, so that you say I'm going to remain silent. I would like to see a lawyer, no matter how upset you're feeling or how kind the officer seems.

If you're arrested with friends, make an agreement that no one will make statements to the police until everyone's been able to talk to a lawyer and decide calmly what to do. Be aware of the paranoia that tends to set in after people have been separated.

**Warning:** Do not have a strategy discussion in the backseat of a police car!

If you've been arrested with someone else, and the cops lock the two of you in their car and walk away, you can bet dollars to donuts that they're recording your conversation. So if you're in this situation, just remind the other person that the smart thing to do is to say: I'm going to remain silent. I would like to see a lawyer. And leave any further discussion until later.

When you're in jail, don't talk to your cellmates about what happened to you or who was with you—because you really don't want them testifying at your trial or sentencing hearing. Don't even talk about mutual acquaintances. Stick to safe topics such as movies, music, sports, etc. You'll make it a lot harder for anyone to snitch on you, if you don't snitch on yourself.

## RESOURCES

Below is a brief list of resources that may be especially helpful. This collection is only a small representation of sex worker-welcoming services in California and the United States. Searching online for additional resources may yield more specific information or assistance. Resources are divided by California-specific organizations, national organizations, and general resources. For ease of use, we have specified whether organizations provide direct or support services, and to what extent they serve sex worker communities and to what extent they serve transgender communities. National Lawyers Guild Interns spoke with representatives of almost all of these organizations to ensure that our description of their services is correct and up-to-date, and that they are explicitly welcoming of transgender community members.

### California Resources

#### **Community United Against Violence, [www.cuav.org](http://www.cuav.org)**

427 South Van Ness Avenue

San Francisco, CA 94103

Phone: (415) 777-5500 ext. 301

Safety Line: (415) 333-HELP (4357)

Email: [info@cuav.org](mailto:info@cuav.org)

Founded in 1979, Community United Against Violence (CUAV) works to build the power of LGBTQQ (lesbian, gay, bisexual, transgender, queer, and questioning) communities to transform violence and oppression. We support the healing and leadership of those impacted by abuse and mobilize our broader communities to replace cycles of trauma with cycles of safety and liberation. As part of the larger social justice movement, CUAV works to create truly safe communities where everyone can thrive.

#### **El/La para TransLatinas, [www.ellaparatranslatinas.yolasite.com](http://www.ellaparatranslatinas.yolasite.com)**

Phone: (415) 864-7278

Fax: (415) 575-1645

El/La is an organization for transgender Latinas (TransLatinas) that works to build collective vision and action to promote our survival and improve our quality of life in the San Francisco Bay Area. Because we exist in a world that fears and hates transgender people, women and immigrants, we fight for justice. We respond to those who see us as shameful, disposable or less than human. We are here to reflect the style and grace of our survival, and to make new paths for ourselves.

#### **St. James Infirmary, [www.stjamesinfirmary.org](http://www.stjamesinfirmary.org)**

1372 Market Street

San Francisco, CA 94103

Phone: (415) 554-8484

Fax: (415) 554-9634

The Mission of the St. James Infirmary is to provide free, compassionate and nonjudgmental healthcare and social services for sex workers (current or former) of all genders and sexual orientations while preventing occupational illnesses and injuries through a comprehensive continuum of services.

**Sex Workers Outreach Project – Bay Area, [www.swopbay.org](http://www.swopbay.org)**

SWOP Bay Area is part of national social justice network dedicated to the fundamental human rights of sex workers and their communities, focusing on ending violence and stigma through education and advocacy.

**Transgender, Gender Variant, and Intersex Justice Project, [www.tgijp.org](http://www.tgijp.org)**

1230 Market Street #705

San Francisco, CA 94102

Email: [info@tgijp.org](mailto:info@tgijp.org)

The Transgender, Gender Variant, and Intersex (TGI) Justice Project is a group of transgender people—inside and outside of prison—creating a united family in the struggle for survival and freedom. They work in collaboration with others to forge a culture of resistance and resilience to strengthen them for the fight against imprisonment, police violence, racism, poverty, and societal pressures. They seek to create a world rooted in self-determination, freedom of expression, and gender justice.

**Transgender Law Center, [www.transgenderlawcenter.org](http://www.transgenderlawcenter.org)**

1629 Telegraph Avenue, Suite 400

Oakland, CA 94612

Phone: (415) 865-0176

Email: [info@transgenderlawcenter.org](mailto:info@transgenderlawcenter.org)

The Transgender Law Center (TLC) is a civil rights organization advocating for transgender communities. TLC provides direct legal services, engages in public policy advocacy and education and works to change laws and systems that fail to incorporate the needs and experiences of transgender people.

## Nationwide Resources

**Center for Constitutional Rights, [www.ccrjustice.org](http://www.ccrjustice.org)**

666 Broadway, 7th Floor

New York, NY 10012

Phone: (212) 614-6464

The Center for Constitutional Rights (CCR) is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change.

**National Center for Lesbian Rights, [www.nclrights.org](http://www.nclrights.org)**

870 Market Street, Suite 370

San Francisco, CA 94102

Legal Helpline: (415) 392-6257 (9 am to 5 pm PST)

Toll Free Helpline: (800) 528-6257 (9 am to 5 pm PST)

Legal Helpline request forms: <http://www.nclrights.org/legal-help-resources/>

The National Center for Lesbian Rights (NCLR) helps LGBT individuals and families nationwide through litigation, public policy advocacy, and public education. NCLR offers a legal helpline during regular business hours, and the best way to request assistance is by filling out an online help form on NCLR's website. NCLR provides referrals, assistance locating LGBT-aware attorneys, and offers limited direct services.

**National Center for Transgender Equality, [www.transequality.org](http://www.transequality.org)**

1325 Massachusetts Avenue NW, Suite 700

Washington, DC 20005

Phone: (202) 903-0112

Fax: (202) 393-2241

The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people.

**National Lawyers Guild National Police Accountability Project, [www.nlg-npap.org](http://www.nlg-npap.org)**

499 7<sup>th</sup> Avenue, Suite 12N

New York, NY 10018

Phone: (212) 630-9939

Fax: (212) 659-0695

Email: [npap@nlg.org](mailto:npap@nlg.org)

The National Police Accountability Project (NPAP), a project of the National Lawyers Guild, is a non-profit organization of plaintiff's lawyers, law students and legal workers. NPAP is dedicated to ending police abuse of authority through coordinated legal action, public education, and support for grassroots and victims' organizations combating police misconduct.

**Sex Workers Project, Urban Justice Center, [www.sexworkersproject.org](http://www.sexworkersproject.org)**

123 Williams Street, 16<sup>th</sup> Floor

New York, NY 10038

Phone: (646) 602-5617

Fax: (212) 533-4598

Email: [swp@urbanjustice.org](mailto:swp@urbanjustice.org)

The Sex Workers Project provides client-centered legal and social services to individuals who engage in sex work, regardless of whether they do so by choice, circumstance, or coercion. One of the first programs in the nation to assist survivors of human trafficking, the Sex Workers Project has pioneered an approach to service grounded in human rights, harm reduction and in the real life experiences of our clients. Our professional service providers are multi-lingual, non-judgmental and bring more than ten years of experience.

**Sylvia Rivera Law Project, [www.srlp.org](http://www.srlp.org)**

147 West 24<sup>th</sup> Street, 5<sup>th</sup> Floor

New York, NY 10011

Phone/Legal Helpline: (212) 337-8550

SRLP provides free legal services to transgender, intersex and gender nonconforming low-income people and people of color in the New York area. SRLP provides advice and referral

for a wide variety of legal issues. Sometimes, they can also provide more help, such as advocacy, help with a case you are bringing on your own, or, more rarely, representation in a legal action.

**Transformative Justice Law Project of Illinois, [www.tjlp.org](http://www.tjlp.org)**

4707 N. Broadway, Suite 307

Chicago, IL 60640

Phone: (773) 272-1822

Email: [info@tjlp.org](mailto:info@tjlp.org)

Transformative Justice Law Project of Illinois provides free, zealous, life-affirming, and gender-affirming holistic criminal legal services to low-income and street based transgender and gender non-conforming people targeted by the criminal legal system in Illinois.