

# IDENTIFYING YOURSELF TO POLICE

SEPTEMBER, 2023



Much of this content is taken from *Read Between the Lines* and is based on sex workers' knowledge and wisdom, notably that of workers facing multiple forms of criminalization and state violence. For the complete document, and for info on sex work offences, go to [Stella's website](#) or contact us.

This document does not provide any legal advice. It is offered to sex workers, to people who use drugs, and to members of our communities who wish to improve their living and working conditions. This information is not intended to influence anyone to commit illegal acts.

Many organisations produce documents on the right to silence and the right to not identify yourself to police, but the information presented is not always the same.

Most documents are produced from the legal perspective of a person who IS NOT criminalized, whereas Stella produces legal information and knowledge from the perspective of a person who IS criminalized.

- When a person's activities and communities are criminalized—meaning criminal law makes their activities illegal and/or they are targeted by law enforcement—many of their rights are affected.
- Criminalization can affect our right to not identify ourselves to police, and also our rights within immigration law, housing law, municipal law, occupational health and safety law, etc.

As a result, the rights of people from criminalized communities are not protected and upheld in the same way as the rights of people who are not criminalized. This does NOT mean that we don't have rights, but we may have to constantly fight for them.

We may want to be careful about legal information that is produced from the perspective of non-criminalized persons or activities, as it is often incomplete and inaccurate when applied to a criminalized context.

Police powers made by criminal law are the same across Canada. However, police guidelines and policies may depend on municipal or regional authorities and enforcement of laws can vary from one city or region to the next. This document was produced in Montreal, Quebec.

## TABLE OF CONTENTS

Speaking to Police = Making a Statement.....	2
The Right to Silence .....	2
Protecting Yourself.....	2
Police Tactics to Make You Talk.....	3
<b>WHEN YOU ARE LEGALLY REQUIRED TO IDENTIFY YOURSELF .....</b>	<b>4</b>
Name and Address.....	5
Identity Documents.....	5
<b>CRIMINALIZED CONTEXTS .....</b>	<b>6</b>
"Investigative Detention" .....	6
The Threat of Arrest.....	7
<b>FIGURING OUT IF YOU ARE BEING DETAINED, ARRESTED, OR STOPPED WITHOUT A LEGAL BASIS.....</b>	<b>8</b>
Document What Happened.....	12

## SPEAKING TO POLICE = MAKING A STATEMENT

No matter the context—where you are, your personal situation, what legal exceptions apply, etc.—any time you speak to police you are making a STATEMENT.

- A statement is EVIDENCE that can be used to investigate, charge and prosecute you or other people (e.g., people you live with, dealer/seller, client, partner, members of community or family).
- Statements that you or others make can be used in your trial, in someone else's trial, or to influence someone to plead guilty or to provide information.
- Once you make a statement to the police you become a witness. Witnesses may be ordered to testify in court against the people police arrest in relation to their statement.

## THE RIGHT TO SILENCE

The right to silence does NOT necessarily mean you have the right to not identify yourself to police.

This right to silence means:

- ➔ You have no legal obligation to identify yourself to police UNLESS one of the contexts listed on p. 4 applies.
- ➔ But other than identifying yourself (legal name, address, birthdate) in those contexts, you are NEVER under any obligation to answer any other questions or say anything else to police.
- ➔ There is no legal obligation to cooperate with a police criminal investigation (other than identifying yourself in the contexts listed on p. 4).



## PROTECTING YOURSELF

Ideally, the best thing to do when facing police is to stay silent. Your silence cannot incriminate you, but your statement might.

But laws are not neutral and officers racially and socially profile and treat people differently in many ways.

- People face different degrees of risks when interacting with law enforcement (e.g., risks to their health, safety and life, legal and financial risks).
- Interactions with police often depend on your legal, social and personal situation, including factors such as: where you are, if the activities you are involved in are criminalized, if you are targeted due to your racial, social and/or gender identity, and if you are known to police or have a criminal record, etc.
- Police may become aggressive and antagonistic if you do not obey them and if you assert your rights.

**\*IMPORTANT\***  
This document deals with some police powers based in criminal law. But keep in mind that many other types of laws authorise police and other types of law enforcement officers to identify and detain people in some circumstances. See page 4.

### \*REMEMBER\*

- ➔ Just because police ask you a question, this does not mean you have a legal obligation to answer.
- ➔ Even if the questions appear harmless, your answers may have devastating consequences. If the police are asking you questions, it is because they are looking for evidence.
- ➔ How we respond often depends on the risks we face. It is up to you to decide what is the safest or strategic way to respond to a situation.
- ➔ Thinking in advance about how you may respond to police in various situations may help you protect yourself. It might help you stay in greater control of your words and actions and prevent you from making any incriminating statements if you are forced to engage with police, if only to protect yourself.

For more, see:

- [Questions to Ask Yourself: Dealing With Police](#)
- [Locations: Police Powers Depend on Context](#)

# POLICE TACTICS TO MAKE YOU TALK

Police will try to make you talk. They are trained to provoke us and to make us talk.

- They are legally allowed to lie to you to get you to talk.
- They use tactics developed by experts to take advantage of the stress, panic and vulnerability that many people feel when dealing with police.
- They will try to convince you that it is your obligation and in your best interests to speak to them. For example, they may try to manipulate you into thinking that:
  - ~ keeping silent and not answering their questions “makes you look guilty.”
  - ~ it will help protect you if you give “your side of the story.”
  - ~ you have an obligation to provide them with information, especially if you previously contacted them for help.

## \*REMEMBER\*



- ➔ Other than identifying yourself in certain contexts (see p. 4), you have the right to not answer any other questions or say anything else to police!
- Some officers think it's OK to force someone to speak to them or to go somewhere to “help” them (e.g. shelter, treatment). BUT “making sure you are alright” is never a legally valid reason to detain you, question you, force you to identify yourself, or otherwise violate your rights, UNLESS they are forcing you to go to a hospital for a psychiatric hospitalization based on provincial laws.
- If police try to pressure, harass or guilt you into cooperating with them, contact a community organization, outreach worker, or community member that you trust for support.

Even if you prepare, the pressure and risks of interacting with police can catch you off guard. Remember:

- You have no legal obligation to cooperate with a police criminal investigation.
- If you do not want to make a statement, try to not react to their questions, comments, or behaviors.
- Try to maintain control over yourself, avoid conflict, and remain silent.

# WHEN YOU ARE LEGALLY REQUIRED TO IDENTIFY YOURSELF TO POLICE

You have a legal obligation to identify yourself (legal name, address, and birthdate) if police:

- ➔ Tell you that you are being **ARRESTED for a criminal offence** (e.g. drug possession, breach of court ordered condition). See p. 10.
- ➔ Tell you that you are being **DETAINED for “INVESTIGATIVE PURPOSES”** (i.e. police have a legitimate reason to suspect that you are implicated in a *recent on ongoing* criminal offence). See p.6-7.
- ➔ Tell you that you are being **DETAINED in order to TICKET you** for breaking a regulatory law, such as a municipal bylaw (e.g. being in a park at night), a metro bylaw (e.g. not paying the fare), or a highway safety code (e.g. jaywalking).
- ➔ Stop you while you are **DRIVING a car** (passengers are not obliged to identify themselves unless one of the situations above apply).

**IF YOU REFUSE to identify yourself in these contexts, police CAN DETAIN you until they are able to verify your identity.**

**OTHER THAN IDENTIFYING YOURSELF, YOU HAVE NO LEGAL OBLIGATION TO ANSWER ANY OTHER QUESTIONS.**

**Remember: if you speak to police, it become a statement.**

You may also be required to identify yourself in the context of a **REGULATED ACTIVITY**. For example, regulations like municipal or provincial bylaws may authorize inspections and verifications of licences (e.g. massage parlours, bars, spas, commercial trucking). **If you do not provide identification in this context, you could be ticketed, which will require you to identify yourself.**

## **\*IMPORTANT\***

This document touches on police powers based in criminal law. Many other types of laws authorise police and other types of law enforcement officers to identify and detain people in some circumstances.

For example, some regulations related to immigration, youth protection and mental health crises, authorise police and other types of law enforcement officers to identify and detain people in some circumstances.

Depending on your situation, law enforcement officers like those from the Canadian Border Security Agency (CBSA) and from Youth Protection (DPJ in Quebec) may have the power to ask you to identify yourself and to detain you.

Contact Stella, a community organisation you trust, or talk to people in your community to get informed about laws that may apply and impact your specific situation.

## IF YOU ARE NOT SURE if you have a legal obligation to identify yourself to police:

- ➔ You could ask them if you have a legal obligation to do so. Legally police must respond truthfully, but they might be unclear or lie.
- ➔ If they say you have to identify yourself, you could ask on what legal basis (e.g., are you being detained, arrested? If so, what for?). See p. 4.
- ➔ Keep in mind that lying to police (e.g. giving a false identity) is a criminal offence (e.g. “obstructing” police work).
- Police may become aggressive and antagonistic if you do not obey them and if you assert your rights. But some may let you walk away.
- When you are not legally required to identify yourself, police may still threaten you if you refuse to (e.g. threaten to shut down your workplace, revoke your liquor license, arrest you for “obstructing” police work).
- It is up to you to decide what is the safest or most strategic way to respond to a situation. If you can’t get out of the situation and are forced to engage to protect yourself, remember not to make any incriminating statements!

## NAME

- ➔ **Remember: Police could arrest you for “obstructing” police work if you lie about your legal name.**
- Still, some people provide a fake name if they consider the risk of being identified greater than the risk of being charged for obstruction (e.g. there is a warrant for their arrest for a criminal charge or their removal from Canada).
- **If your legal documents do not match your identity** (e.g., your chosen name, gender, appearance at the time), you may be further detained and questioned. If your identity and documents don’t match, you may decide to offer some explanation (e.g. “My legal name is \_\_\_ but everybody calls me \_\_\_.”)

## ADDRESS

- One reason police ask for your address is **to send you court documents by mail.**
- **Some people provide an alternative address** (e.g. where they receive mail, community organization, shelter).
- If you don’t know if police charged or ticketed you, and you can’t receive mail at the address you gave, you can ask a community organisation for support to access this information.

## ID (IDENTITY DOCUMENTS)

- ➔ **In general, you have no legal obligation to carry ID on you or to give your ID to police, except for certain situations** (e.g. you are driving a car).
- Even if you identify yourself to police, they may still ask to see your ID.
- When asked to show ID, some people say they don’t have ID with them. Different factors may influence whether people provide ID (e.g. precarious immigration status, being at a workplace related to the sex industry).
- **If you don’t have ID with you:** Unless you are driving a car you should be able to just provide your info (legal name, address, and birthdate).
- ➔ If you are under arrest or detained, and they have reason to believe that you are lying about your identity, they can detain you until they confirm your identity.



# CRIMINALIZED CONTEXTS

When things we do are criminalized—like sex work and drugs—it means we may be at constant risk of unwanted contact with police and feel like we must always be on alert. This is a heavy burden to carry and has harmful consequences on us beyond getting arrested or being directly targeted by police.

**When our activities and communities are criminalized, WE MAY OFTEN FALL INTO THE CONTEXTS WHERE WE ARE LEGALLY REQUIRED TO IDENTIFY OURSELVES TO POLICE** (listed on p.4).

For example, we are at greater risk of:

- being **ARRESTED** or **THREATENED** to be arrested for committing a criminal offence (e.g. possession, traffic, breach of conditions). See p. 7, 10.
- being **DETAINED** for “investigative purposes”. See p.6-7, 9.

## “INVESTIGATIVE DETENTION/PURPOSES”

→ Police can temporarily detain you for “investigative purposes” when they “have a legitimate reason to suspect that you are INVOLVED in a recent or ongoing criminal offence.”

### THIS MEANS THAT:

- They have a legitimate reason to suspect that **YOU ARE CURRENTLY COMMITTING OR RECENTLY COMMITTED** a criminal offence. For example:
  - ~ you fit a *detailed* description of someone who just committed an offence in the area (color of your hat and jacket, your height, assumed gender, etc.).
  - ~ you are using illegal drugs (i.e. possession)
- They have a legitimate reason to suspect that **YOU ARE INVOLVED** in an *ongoing or recent* criminal offence they are investigating, **AS A WITNESS AND/OR VICTIM**. For example:
  - ~ police show up while you are doing sex work, and they have reason to suspect that you are involved (e.g. purchasing sexual services, material benefit).
  - ~ police show up at a club where someone was recently shot, and they have reason to suspect that you are involved (e.g. you were at the same table as the victim).

When our work or daily activities are criminalized, it can be unclear whether police show up in the context of an investigation (i.e. “with legitimate reason to suspect that we are implicated in a recent or ongoing criminal offence”).

**Although police powers are very broad, they cannot simply claim they are investigating without having a legitimate reason.** For example:

- If you are in a place that is known to be associated with sex work or drugs
- If the police assume or “have a hunch” that you are a sex worker, client or third party
- If the police assume or “have a hunch” that you are a person who uses, shares or sells drugs

**This kind of general information or assumptions is NOT a legal basis for police to:**

- “reasonably suspect that you are involved in *recent or ongoing* criminal activity”
- stop and detain you for “investigative purposes”
- require you to identify yourself or answer any other questions

## If you are detained for legitimate “investigative purposes”:

- Legally, police must TELL YOU THE REASON WHY.
- You have a legal obligation to identify yourself.
- You have the right to not answer any other questions or say anything else.
- You have the right to ask to speak to a lawyer and to speak to one. Police have a legal obligation to inform you of this right.

Legally, the law does not consider every interaction with police as detention. For more information on knowing when you are detained, see p.9.

- Asking police to clarify whether you are being detained and the reason why, or asserting your right to speak with a lawyer, may discourage them from abusing their power.
- But many police may become aggressive and antagonistic if you do not obey them and if you assert your rights.

## THE THREAT OF ARREST

How we respond to police in different situations often depends on the particular risks we face.

Some people speak to police to try to avoid arrest and police abuse.

Some people decide that being arrested is potentially less risky and harmful than speaking with police.

- **For example:** When you have no legal obligation to identify yourself, yet police abuse their power and threaten to charge you with an offence (e.g. “obstructing” police work for refusing to identify yourself; “causing a disturbance” for being loud and/or intoxicated in public).
  - ~ Even if the charge does not stick, the process of being arrested leads to you being identified, as well as being detained (temporarily or in custody), possibly searched, having to deal with the criminal file, etc.
  - ~ Because of this, some people may decide to identify themselves, even when they have the right not to.
- **For example:** If you are known to police and they know you are in breach of a court ordered condition (e.g. inside a red zone/*quadrilatère*, hanging out with people you are ordered not to), they could arrest you for breach of conditions.
  - ~ Because of this, some may try to convince police to use their discretion not to arrest them (e.g. explain they are there to access an essential health or social service).

For more on arrest and detention see:

- [Arrest and Detention](#)
- [Read Between the Lines](#)

# FIGURING OUT IF YOU ARE DETAINED, ARRESTED, OR STOPPED WITHOUT A LEGAL BASIS

If the police stop you and ask you questions, it is important to know if you are being:

- detained (p.9)
- arrested (p.10)
- stopped without a legal basis (p.11)

For example, depending on which is happening:

- you have different legal rights and obligations.
- police may have the legal basis to physically restrain you and/or search you to make sure you do not have a weapon.

Understanding the legal context and your legal obligations may inform your capacity and strategy to deal with the situation. For example, whether you:

- refuse to answer questions
- stop or try to walk away

**\*REMEMBER\***  
Other than identifying yourself (legal name, address, birthdate) in certain contexts, you have the right to not answer any other questions or say anything else to police! And if you do, remember it becomes a statement.

**IF THE POLICE QUESTION YOU OR TELL YOU TO GO WITH THEM, ASK “AM I UNDER ARREST OR BEING DETAINED?”**

**If they say YES, you could:**

- Ask “What for?” (Legally the police must tell you the reason.)
- Identify yourself, remain silent and say nothing else.

**If they say NO, you could:**

- Stay calm and try to walk away.
- Say that you understand you’re free to leave and that you want to leave, and try to walk away.

**If they don’t clearly answer your question, you could:**

- Ask again “Am I being arrested or detained? Am I free to leave?”
- Say that you understand you’re free to leave and that you want to leave, and try to walk away.



# BEING DETAINED

As soon as you reasonably think you are no longer free to walk away from the situation or location because of the police, you are being detained.

You can be legally detained by:

- **PHYSICAL MEANS** (e.g. you are told not to leave or to move, you are hand cuffed or placed in the back of a car).
- **PSYCHOLOGICAL MEANS** (e.g. you are not explicitly told that you can't leave, but the circumstances and police behaviours lead you to believe that you are not free to leave and/or that you have to do as they say).

Police **CAN DETAIN** you:



- To **ARREST** you for a criminal offence or if there is a warrant issued for your arrest anywhere in Canada.
- To **give you a TICKET** for breaking a municipal or metro bylaw, or highway code (e.g. being in a park at night, jaywalking).
- For **INVESTIGATIVE PURPOSES** if they have reason to suspect you were involved in a *recent or ongoing* criminal offence. See p. 6-7.



If police detain you:

- Legally, they must **TELL YOU THE REASON WHY**.
  - ~ If you don't know whether you are being detained, you have the right to ask "Am I being detained?"
  - ~ If they don't tell you why, you have the right to ask: "Why am I being detained?"
- You must **identify yourself** (provide your name, address and birthdate).
  - ~ If you refuse or if they suspect you are lying about your identity, they can detain you until they are able to verify it.
  - ~ Other than identifying yourself, you have the right not to answer any other questions or say anything else.
- You have the right to ask to speak to a lawyer and to speak to one. Police have a legal obligation to inform you of this right.

Remember police may become aggressive when you ask questions and attempt to assert your rights.



# BEING ARRESTED

## If the police arrest you (with or without a warrant):

- ➔ Legally, they must tell you what criminal offence you are being arrested for.
  - ~ If they don't tell you what for, you have the right to ask "What am I being arrested for?"
- ➔ You must identify yourself (name, address and birthdate).
  - ~ If you refuse or if they suspect you are lying about your identity, they can detain you until they are able to verify it.
  - ~ Other than identifying yourself, you have the right not to answer any other questions or say anything else.
- ➔ You have the right to ask to speak to a lawyer and to speak to one.
  - ~ Police have a legal obligation to inform you of this right.
  - ~ Once you ask to speak to a lawyer, legally they must stop asking you questions until you do. Once you speak to a lawyer, they are allowed to continue to question you.
  - ~ They are legally allowed to lie to you and to keep asking you the same questions. But you still have the right to not say anything. See p.2-3.

## After they arrest you, they will either:

- ➔ Let you go, with a paper document outlining the charge(s), your next court date and maybe conditions to respect until then ("appearance notice" / "*citation à comparaître*"), OR
- ➔ Let you go, and tell you that you will receive a paper document in the mail that includes the charge(s) and next court date ("summons" / "*sommation*"), OR
- ➔ Take you into custody, and keep you detained in custody until you appear before a judge, which may be the next day or in a few days.

See *Arrest and Detention* and *Read Between the Lines* for info on:

- when police can take you into custody after arresting you without a warrant
- when and how police can search you if you are detained or after you are arrested
- conditions you are ordered to follow
  - stages and procedures after being arrested

## STOPPED WITHOUT A LEGAL BASIS

Police frequently stop and ask people to identify themselves when they have no legal basis to do so.

In Quebec, this discriminatory practice is called an “*interpellation policière*.” Various other terms are also used across Canada, including “carding,” “street check,” and “*contrôle de routine*.”

### QUEBEC: “*Interpellation policière*”

Both the SPVM (Service de Police de la Ville de Montréal) and the MSP (Ministère de la Sécurité Publique) admit that police ask people to identify themselves in contexts where they have no legal obligation to do so.

- You have the legal right to refuse to give them information.
- This practice is an abuse of power and a violation of our rights.
- There is NO law that authorises police to do this.

**\*REMEMBER \***  
Unless one of the contexts listed on p.4 apply: **You have the legal right to refuse to talk to police or identify yourself, and you have the right to walk away.**

But depending on your context, it may be difficult to know whether they have a legal basis to stop you or ask you for your identity.

If you are not sure whether you have the right to simply walk away, you can ask the officer:

- I have nothing to say. Am I free to leave?
- I would like to leave now. Can I go?
- Am I being arrested or detained? If so, what for?

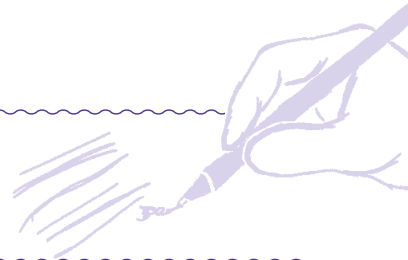
Although legally police have to respond truthfully, they might be unclear or lie. It is impossible to know if police are making up the reason for which they claim to stop you.

Keep in mind that many police may become aggressive and antagonistic if you do not obey them and if you assert your rights. But some may let you walk away.

- It is up to you to decide what is the safest or most strategic way to respond to a situation.
- Asking police to clarify whether you are being detained and the reason why, or asserting your right to speak with a lawyer, may discourage them from abusing their power.
- If you can't get out of the situation and are forced to engage to protect yourself, remember not to make any incriminating statements!

# DOCUMENT WHAT HAPPENED

Abusive interactions with police can be traumatic and you may try to block out or forget what happened. But remembering carefully what happened may be very important for your defense.



**Note:**

- ➔ Where and when did the event take place?
- ➔ Were you taken or held anywhere? If so, where? What were the conditions?
- ➔ Who were the officers (names, badge numbers, numbers on the car)? What did they say or do?
- ➔ What was searched? When/where/how did it occur?
- ➔ What did they take? Was anything damaged? If so, take photographs.
- ➔ Was any person searched? How were they searched and where? By who (e.g. type of officer, gender, badge number, name)?
- ➔ Was anyone injured? If so, take photographs.
- ➔ Was anyone detained? If so, and they don't speak the language of the officer(s), were they offered an interpreter?

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

Contact a community organisation or outreach worker if you want support and help documenting this information.

**Give this important information to your lawyer as soon as possible.**

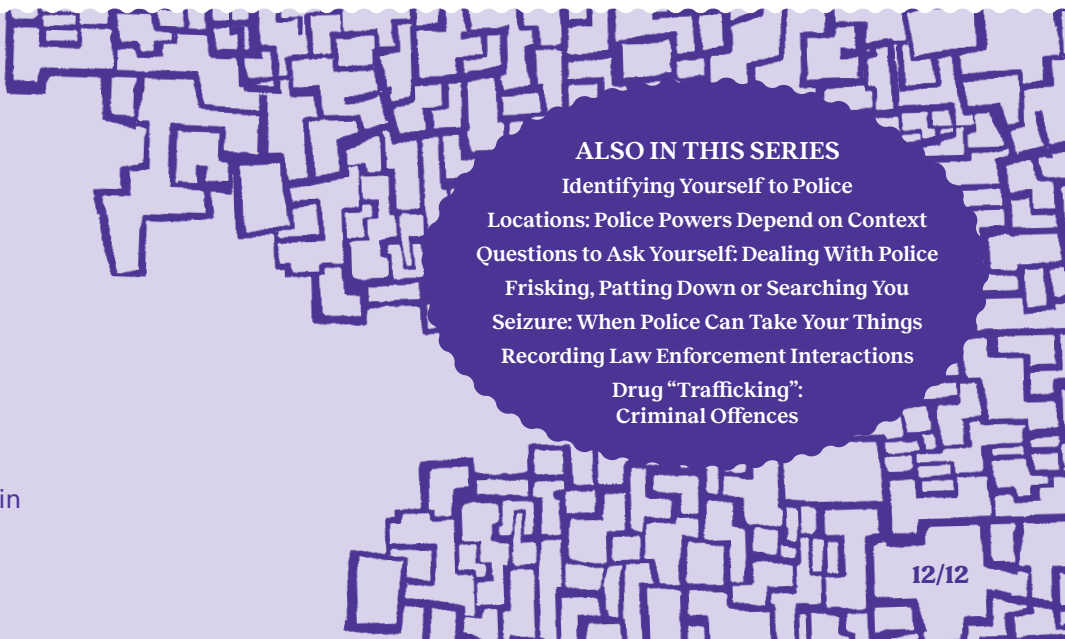
Author: Tara Santini | Produced by: Tara S and Céline C



2065 Parthenais Street, Suite 404  
Montreal (QC) H2K 3T1  
Frontenac Metro  
[www.cheststella.org](http://www.cheststella.org)

Phone: (514) 285 – 8889

For collect calls from women detained in the Montreal area: (514) 285 – 1145



**ALSO IN THIS SERIES**  
Identifying Yourself to Police  
Locations: Police Powers Depend on Context  
Questions to Ask Yourself: Dealing With Police  
Frisking, Patting Down or Searching You  
Seizure: When Police Can Take Your Things  
Recording Law Enforcement Interactions  
Drug “Trafficking”:  
Criminal Offences