

FRISKING, PATTING DOWN OR SEARCHING YOU

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This content is taken from *Read Between the Lines* and is based on sex workers' knowledge and wisdom, notably 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.

THE GENERAL RULE IS THAT POLICE CANNOT FRISK OR SEARCH YOU WITHOUT A WARRANT.

But there are limited legal EXCEPTIONS to this rule:

- IF YOU HAVE BEEN ARRESTED
- IF YOU ARE TEMPORARILY DETAINED
- IF YOU CONSENT



Police often abuse their power and illegally search people. Knowing when it is not legal for police to search you may inform how you respond to the situation, including what you say to them.

REMEMBER: ANY TIME YOU SPEAK TO POLICE YOU ARE MAKING A STATEMENT.

- No matter where you are or who you are with, anything you say is a statement.
- This statement is evidence that can be used to charge and prosecute you or other people (e.g., partner/friend, dealer/seller, client).
- It could be used in someone's trial, or to influence someone to plead guilty or provide information.
- If you do not want to make a statement, try to not react to their words/behaviors. Try to maintain control over yourself, avoid conflict and remain silent.



Your silence cannot incriminate you, but your statement might.

IF YOU HAVE BEEN ARRESTED

If you are ARRESTED for a criminal offence, the police can legally FRISK YOU AND SEARCH your pockets and belongings if they:

- Have reason to think you
 - ~ have a "dangerous" item on you AND
 - ~ pose a "serious and immediate threat to someone's safety," OR
- Are preserving or discovering evidence related to the crime you are arrested for.



The extent of the search depends on: the offence, type of evidence, context of the arrest, etc. For example, if they have reason to arrest you for drug charges, they may search you for drugs.

IF YOU ARE BEING TEMPORARILY DETAINED (meaning you have not been arrested, but you do not think you are free to walk away)

If you are DETAINED, the police can legally FRISK YOU OR PAT YOU DOWN if they:

- Have reason to think you
 - ~ have a "dangerous" item on you AND
 - ~ pose a "serious and immediate threat to someone's safety."

For info on when the police can detain you, see *Identifying Yourself to Police.*

Trying to be verbally and physically calm may be strategic, so that police can't use anything you do or say as an excuse to claim that they "feared that you were armed and dangerous."

THE "DANGEROUS" ITEM EXCEPTION is often misused as an excuse to search or frisk people, because police can consider **common objects to be possible "weapons"** (e.g. syringe, nail file, scissors). You may warn them if you have anything sharp on you before they find it.



THE "THREAT TO SAFETY" EXCEPTION is also often misused as an excuse to search or frisk people. If the police claim this is the reason for the pat down or search, they:

- Are **ONLY** authorized to look for a dangerous item ("weapon").
- Are **NOT** authorized to search for **OTHER** things (e.g. drugs, tattoos, money).
- Are **NOT** authorized to search **THROUGH** your things (e.g. cell phones, notebooks).



IF YOU CONSENT

IF YOU GIVE POLICE PERMISSION to search you, your bag, etc., the SEARCH IS LEGAL in any context.

If you do **NOT** consent to the search, **SAY THIS CLEARLY AND LOUDLY** so they cannot claim that you agreed to the search or that they did not hear/understand you:

"I do not consent to being searched." or
"I do not consent to the search."

In Québec officers may only speak French so **LEARN TO SAY IT IN FRENCH** and to project your voice:

«Je ne consens pas à une fouille.» – JEH NEH
KON-SEHN PAH AH OON FOO-YEH.

THE RIGHT TO SILENCE

- ➔ **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.
- ➔ See *Identifying Yourself to Police* to know when you are legally required to identify yourself.
- ➔ **People face different risks** when interacting with police (e.g., to health, safety and life, legal and financial). See *Questions to Ask Yourself: Dealing With Police*.



2065 Parthenais Street, Suite 404
Montreal (QC) H2K 3T1
Frontenac Metro
www.chezstella.org

Phone: (514) 285 – 8889

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

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