



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 41.35

TITLE: INTERACTING WITH SEX WORKERS OR VICTIMS OF SEX TRAFFICKING

EFFECTIVE: 11/26/2023

REVISED: New Chapter

PURPOSE

This Chapter governs interactions with members of the community who engage in sex work, and outlines the processes and procedures to be followed by members in addition to the guidelines of **Chapter 41.3 – Bias Free Policing, Chapter 41.13.1 – Interactions with Lesbian, Gay, Bisexual, Transgender, and Questioning Persons, Chapter 42.2 – Sexual Assault, and Chapter 1.9 – Arrests.**

POLICY

1. Sex workers and victims of sex trafficking face a constant risk of abuse, including discrimination, violence, sexual assault and harassment. Sex workers and victims of sex trafficking often face barriers in reporting violent crimes to law enforcement, including a fear of harassment by law enforcement or arrest.
2. Sex workers and victims of sex trafficking are disproportionately likely to be people of color or members of the LGBTQ community, and discrimination against sex workers therefore tends to overlap with and amplify other forms of discrimination.
3. NOPD prioritizes public safety, including the safety of sex workers. This policy is intended to create a climate where sex workers, victims and witnesses have equal access to reporting violent crimes, and to remind officers that all people are entitled to be treated with value, dignity, and respect and to be protected by law enforcement. The rights of sex workers shall be protected to the same extent as any other victim.
4. Officers are reminded that any form of officer misconduct against sex workers, including retaliation, coercion, or coercive intimate acts, will not be tolerated and is subject to disciplinary and/or criminal action. See **Chapter 52.1.1 – Misconduct Complaint Intake and Investigation.**

DEFINITIONS:

Definitions relevant to this Chapter include:

Sex Work - Sex work involves a voluntary exchange of sexual services for money, goods or

services. Sex work encompasses both varying levels of direct physical contact between buyers and sellers, as well as indirect sexual stimulation. Sex work can involve, for example: street prostitution, indoor prostitution (e.g., escort services, brothel work, massage parlor-related prostitution, bar, or casino prostitution), phone sex operation, exotic dancing, lap dancing, webcam modeling, and pornographic film performing.

Sex Worker – A person who willingly engages in sex work.

Human Trafficking - the illegal trade of human beings, through abduction, the use of threats of force, deception, fraud, or “sale” for the purposes of sexual exploitation or forced labor. Under US law, anyone under 18 who is in prostitution is considered a trafficking victim, regardless of force, fraud, or coercion. (See: La. R.S. 14:46.2 – Human Trafficking).

Self-Defense—The use of force or violence in defense when it is:

- a) Apparently necessary to prevent a forcible offense against the person or a forcible offense or trespass against property in that person’s lawful possession; and
- b) Reasonable and apparently necessary to prevent such offense (La. R.S. 14:19).

GENERALLY

5. Officers shall treat ALL persons with courtesy, professionalism, and respect, regardless of a person’s involvement in sex work or related industries.
6. Officers are prohibited from using demeaning, harassing, intimidating, or derogatory language regarding sex workers or trafficking victims. Officers should note the term “prostitute,” while still in use in criminal law, is not a favorable term when referring to sex workers, and is considered by some to stigmatize/stereotype people involved in sex work.
7. Officers shall not fail to respond to a call for service or complaint based on the caller’s or complainant’s actual or perceived involvement in sex work.

INVESTIGATING OFFICER’S RESPONSIBILITIES

8. Sex workers may feel angry or fearful, even if a victim or witness, when dealing with police officers. When interacting with sex workers who are victims or witnesses to a crime during a call for service, stop, or investigation, officers must:
 - a. Treat the person with empathy and respect.
 - b. Remain patient and calm, even if the person is upset.
 - c. Reassure the person that they can continue to call law enforcement if necessary. This is especially true for victims who seem hostile or angry.
 - d. Reassure the victim that they do not deserve violence and that they did the right thing by calling law enforcement.
 - e. Provide the victim with privacy and dignity, including, for example, by shielding them from on-lookers.
9. When a sex worker is a victim of a crime, officers shall take the following actions to provide victim assistance:
 - a. Remain at the scene until the likelihood of further imminent violence has passed.
 - b. When possible, obtain a phone number of someone who will always know how to reach the victim. Check with the victim to make sure the number is safe to include in the report.
 - c. Provide the victim with the report’s item number and work contact information for the responding officer.
 - d. Provide victim with The Rights of Crime Victims and Witnesses brochure (Refer

- to **Chapter 55.1 - Victim and Witness Assistance** for general guidelines on providing victim assistance.)
- e. Provide victim with The Louisiana Victim Notice and Registration (LAVNS) form.
 - f. Provide victim with referrals to community-based support.
 - g. Arrange or provide transportation for the victim to a safe location if the victim expresses a concern for their safety or if otherwise appropriate under **Chapter 10.1 – Public Safety Rides**.
 - h. Assist the victim in obtaining medical treatment, including summoning emergency medical assistance if needed.
 - i. Notify the victim of their right to apply for a protective order and that assistance with this process can be obtained through the New Orleans Family Justice Center or other qualified legal services organizations.
 - j. If the person is a victim of domestic violence or sexual assault, refer them to the New Orleans Family Justice Center.
10. Any investigations of incidents involving sexual assault or possible sex work or human trafficking involving a minor shall be redirected to Child Abuse in accordance with NOPD **Chapter 42.19 – Child Abuse**.
 11. Any investigations involving adult victims of sexual assault shall be redirected to NOPD's Sex Crimes Unit in accordance with NOPD **Chapter 42.2 – Sexual Assault**.
 12. Members are advised that confiscating, citing, and invoicing condoms as evidence for any prostitution-related offenses may compromise public health by creating a disincentive to carry, distribute, share, receive, or keep condoms in order to engage in safer sex practices. Officers are advised that mere possession of a condom or condoms does not establish reasonable suspicion or probable cause of a sex work offense. Accordingly:
 - a. Officers shall not cite or rely on the mere presence or possession of condoms to any degree as the sole basis for reasonable suspicion or probable cause to believe that an individual has engaged or intends to engage in any prostitution-related offense.
 - b. Members shall not seize or confiscate unused condoms except where the items are evidence in a criminal investigation.
 13. When officers arrest or charge someone with a prostitution-related offense, officers shall not use **RS 14:89.2 – Crime Against Nature by Solicitation** unless another prostitution-related offense does not cover the act, and unless they receive specific approval of an on-scene supervisor. This approval shall be documented in the accompanying EPR and BWC and shall contain specific evidence as to compensation.

ARRESTING OR CHARGING SEX WORKERS WHO ARE VICTIMS/WITNESSES

14. Officers shall not arrest or charge a sex worker victim/witness for any crime when the officer has determined they have an affirmative defense or have acted in self-defense for that crime.
15. In an effort to reduce reporting barriers for victims or witnesses to violent crimes, officers shall not arrest or cite alleged sex workers for engaging in sex work or for sex-work related offenses or for any non-violent misdemeanor (including drug offenses) officers learn of while investigating another serious offense, such as: sexual assault, human trafficking, stalking, robbery, assault, kidnapping, extortion, burglary, or other violent crime.
16. Officers shall seize and submit evidence to Central Evidence and Property, in accordance with **Chapter 84.1 – Evidence and Property**. Officers shall document the non-violent

misdemeanor in the investigative report.

17. Arrests of victims/witnesses reporting violent crimes are generally discouraged, and should only be done with approval of a supervisor.
18. If the officer determines probable cause exists to believe that the sex worker victim/witness committed a violent misdemeanor resulting in bodily harm on the suspect, an arrest of the sex worker is permitted only if:
 - a. The victim/witness still poses an impending threat to others.
 - b. The officer obtains supervisor approval in advance.
 - c. The officer documents the basis for believing the victim/witness still poses a threat in the investigative report.
19. If the officer determines probable cause exists to believe that the sex worker victim/witness committed a felony, the following factors should be considered to determine whether an arrest is appropriate:
 - a. The public safety benefits of encouraging reporting of violent crime by making victims and witnesses feel safe coming forward;
 - b. The importance to the investigation of victims and witnesses providing candid and complete information and not withholding information relevant to the investigation out of fear of prosecution;
 - c. The potential chilling effect that charging the victim or witness will have on future reporting;
 - d. The impact a victim's or witness's conviction would have on the defendant;
 - e. Whether the victim was chosen, groomed or extorted in order to trap the victim into a vulnerable position where if the victim reported a violent crime, he/she would be charged with a prostitution-related crime (see also defense affirmative determination, below);
 - f. The nature and severity of the victim's or witness's offense;
 - g. The harm caused by the victim's or witness's offense; and
 - h. The risk to the public of not charging the victim or witness with the offense
20. Officers must obtain supervisor approval before making an arrest of the victim/witness for the felony. The supervisory review and approval of the arrest decision must be documented in the investigative report.
21. If the officer and supervisor determine a victim/witness and the perpetrator of a violent crime both committed a violent misdemeanor or felony that requires arrest of the victim/witness, the officer and supervisor shall ensure the perpetrator is also arrested for their role in that crime, not solely the victim/witness. If only one of the parties is arrested for the additional criminal act, the officer shall document the decision to arrest that person and the justification for the decision not to arrest the other person. In any instance where only one of the parties is arrested, an officer must obtain supervisory approval for the arrest decision, and document the approval in the investigative report.

SUPERVISOR'S RESPONSIBILITIES

22. Supervisors are responsible for approving or disapproving an officer's decision to make an arrest of a victim/witness consistent with this chapter.
23. The supervisor shall review recordings (BWC and ICC) of arrests involving sex work related incidents, and review and approve all required reports (EPR), FIC and paperwork within the mandated time periods for each.

TRAINING

24. The NOPD Municipal Training Academy will ensure officers receive training on sex work and crimes against sex workers to ensure that this Chapter is implemented in a manner that furthers the goals of the reporting of violent crimes and building trust and rapport with this community.