



[Formerly known as SSPAN - Sexual Service Providers' Advocacy Network, QLD]

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20th February 2009

Attention: Dr Regine Ip
Senior Research Officer
CMC Review of Police Move-on Powers
GPO Box 3123
Brisbane Qld 4001

Dear Dr Ip

Thank you for the opportunity to provide input into the CMC review of the Police Powers and Responsibilities Act.

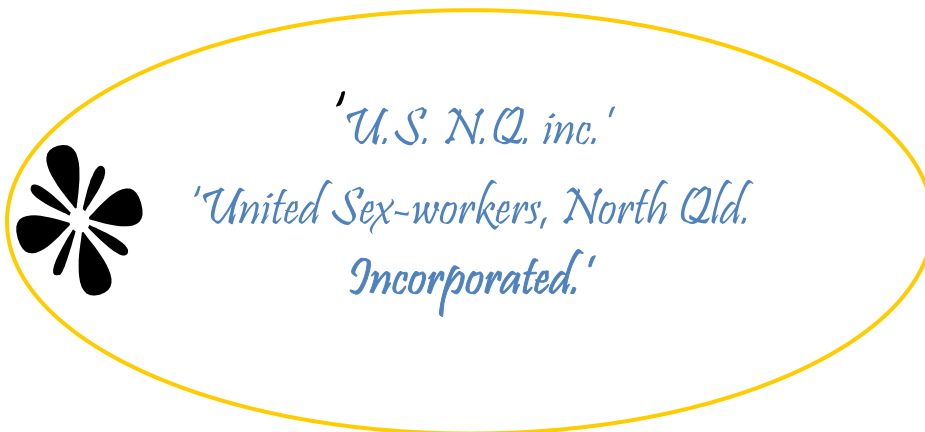
As outlined in our submission we have been limited in the amount of anecdotal evidence that we could provide for the use of these powers against sex workers due to the fact that we have not been resourced to provide direct outreach to street workers in the last 2 years.

Nonetheless we have presented our position on the legislation which we conclude is discriminatory and excessive.

We attach our submission and supporting letters from Scarlet Alliance (Australian Sex Workers Association) and USNQ (United Sex Workers, North Queensland).

Yours faithfully,

Candi Forrest
Spokesperson,
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CMC Review of Police Move-on Powers
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Reference: Review of Police Move on Powers

To Whom It May Concern,

US, NQ is a not for profit community organisation that has been established since September 2007 with support from our membership, current or past Sex Workers in North Queensland. We work in association and collaboration with Crimson Coalition and both organisations are working with Queensland Health to establish a service that will replace the health service which closed in early 2007.

We have read Crimson Coalition's submission to this review and are in full support with their recommendations. Although north Queensland sex workers are not normally targeted by this legislation we do foresee the abuse of power that it could create if the grounds for moving a person on is only on an individual's perception of behaviour which could be perceived as soliciting for the purposes of prostitution.

As CC has established, there appears to be discrimination as there is no need for there to be a complainant with this ground which is in contrast from the other grounds which are designed to be a response to an aggrieved person who may be unduly inconvenienced by a person's presence. We also agree that the use of this legislation in conjunction with the current prostitution sanctions outlined in the Criminal Code and the Prostitution Act are over-policing.

We also strongly agree that a direct result of this ground within the legislation and lack of evidence that is needed to implement this Act it is to the detriment of sex workers' civil rights.

Yours truly,

Jenny King
Treasurer



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23rd February, 2009

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SUBMISSION TO THE
QUEENSLAND CRIME AND MISCONDUCT COMMISSION REVIEW OF
QUEENSLAND'S POLICE MOVE ON POWERS
as directed by section 49 of the Police Powers and Responsibilities Act 2000 (PPRA)

Dear Sir/Madam,

Scarlet Alliance, Australian Sex Workers Association, is the national peak sex worker organisation with a membership of individual sex workers, state and territory funded sex worker projects and groups and unfunded sex worker networks. Our Queensland membership includes two sex worker groups Crimson Coalition and United Sex Workers North Queensland.

We thank you for the opportunity for our organisation and our membership to provide comment on this review. We are pleased to present the attached submission compiled by Crimson Coalition based in Southern Queensland and submitted jointly by our organisations. Scarlet Alliance endorses the content of the submission and recognises Crimson Coalition as one of the two sex worker groups in Queensland and therefore best placed to comment.

It is the Scarlet Alliance belief that Queensland Police move-on powers unfairly target the most marginalised within our communities and are unacceptably open to discretionary use.

Scarlet Alliance believes that it is a Government responsibility to ensure that opportunities for police corruption are minimised – in the interests of police and the community. It is our belief that legislation which creates discretionary powers over marginalised communities increases opportunity for corrupt use and increases distrust between marginalised communities and police.

As street based sex work in Queensland is illegal, street based sex workers already experience reduced access to police support as it is left to individual police officers to struggle to balance their dual role of prosecutor and protector. Street based sex work is an illegal activity and the activity is heavily policed whilst street based sex workers require (like any member of the community) support from police in response to violence, robbery, harassment etc. It is our belief that move-on notices, along with any powers that allow for discretionary use, only increase the likelihood that street based sex workers will not feel able to report crime and may, because of the public nature of their work, experience higher levels of targeting by these powers or have their access to public spaces limited for other purposes (entertainment, access to amenities or services, socialising) for fear they will be targeted or their intention for being in the space misinterpreted as soliciting.

Again we thank you for the opportunity and should you require further information or a meeting to discuss these matters please contact us.

Yours faithfully,

Janelle Fawkes, Chief Executive Officer

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QUEENSLAND CRIME AND MISCONDUCT COMMISSION REVIEW OF
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Introduction

Crimson Coalition is an unfunded network of Queensland sex workers from all sectors of the industry. Since forming as SSPAN (Sexual Service Providers' Advocacy Network) in June 2004 we have consulted with a range of government and non-government organisations including the Queensland Crime and Misconduct Commission, Prostitution Licensing Authority, Queensland Police Service and Police Minister's office, SQWISI (Self-Health for Queensland Workers in the Sex Industry), Queensland Health, the LHMU (Liquor Hospitality and Miscellaneous workers' Union) and media on issues relevant to sex workers.

We provide information and advocacy services to our members and other sex workers who want to know how to operate legally, safely and without discrimination.

We offer below our submission to the review of the Police Powers Act (Section 5) by the Crime and Misconduct Commission.

Unfortunately this submission is limited due to the resources and information available to us at present. Currently Crimson Coalition is working with USNQ (United Sex Workers, North Queensland) to obtain funding from Queensland Health to provide outreach to Queensland sex workers. While we already provide some voluntary outreach and information, there have been no direct outreach services to Queensland street workers over the last 2 years. Therefore during the time, since 2006, in which the move-on powers have been implemented we have not been in regular contact with street based sex workers.

Examples of use of move on powers

We are aware that street workers continue to operate in Brisbane and the Gold Coast as well as at truck stops in regional areas throughout the state. Prior to 2006 it had already been noted that intensive policing strategies (including the use of move on powers) had 'impacted' on the level of street work (CMC 2004:81) although it is argued that this does little to improve conditions for the sex workers so affected by this policing (Sullivan 2008:37-38).

We are aware that police are using move on directions not just to move on sex workers but also to move on anyone who may be interested in the welfare of sex workers. In 2007 a concerned member of the community (a professional person) who lives in Kent Street New Farm was “aggressively” told to ‘move on’ by two police officers who appeared to be “harassing” two sex workers. She did as police instructed.

Opposition to the legislation

Crimson Coalition is very concerned about the way in which the current legislation is framed. We wonder why **sex workers are singled out for mention in a separate clause of the legislation (s46[5])**, above all other categories of persons in society who may be subjected to a move-on order.

46(5) This part also applies to a person in a regulated place if a police officer reasonably suspects that, because of the person’s behaviour, the person is soliciting for prostitution.

This is this extremely discriminatory and transgresses the civil rights of sex workers. By including section 46(5) the police minister has created a mechanism by which street based sex workers may be controlled without the police having to prove that prostitution is occurring. All that is needed is for police to reasonably suspect ‘*because of the person’s behaviour*’ that the person is soliciting. There is no detail or example to define what sort of behaviour may be included or whether it needs to be behaviour occurring at the time. We fear that police would interpret this to include situations in which persons known to the police (because of previous contact with police for prostitution offences, other offences, or due to conversations with informants etc.) are moved on because of assumptions that the police may make about what they are doing in the area.

Street based sex workers were already subject to policing under the Prostitution Act (s73, s76) which clearly sets out that it is an offence to ‘solicit’ in a public place. The definition of ‘solicit’ is set out in section 73(4) **solicit** includes the following—(a) offer to provide prostitution; (b) accept an offer to provide prostitution. In order to charge a person with ‘soliciting’ as a sex worker, then, the police officer would be expected to show that an offer to provide prostitution has occurred.

Now with the advent of the Police Powers and Responsibilities Act (s46[5]) street based sex workers may be policed under either this or the Prostitution Act (s73, s76), or both. We believe that section 46(5) is in effect a ‘street worker sweep’ law which allows police officers to direct any and all persons that they believe to be sex workers to leave the area and not

return for 24 hours. If the directed person then returns the police can charge them with 'disobey a move on order'; far easier than possibly having to prove that an 'offer to provide prostitution' has occurred in order to charge under the Prostitution Act.

It is interesting to compare the numbers of charges for the offences 'Public soliciting' and 'Disobey move on direction' from 2005/2006 to 2007/2008 (see Table 1). In the first year both offence numbers jumped significantly but overall while the "Public soliciting" offence has decreased, the 'Disobey move on direction' offence continues to climb. This might suggest that police are using the move-on direction laws to police street workers, rather than attempting to charge people with the public soliciting offence which would require more evidence.

Table 1 Prostitution versus Good Order offences 2005-2008 (from Queensland Police Service Statistical Reviews 2005/2006, 2006/2007, 2007/2008).

| | 2007/2008 | 2007/2006 | 2006/2005 |
|---------------------------|-----------|-----------|-----------|
| Public soliciting | 216 | 374 | 293 |
| Disobey move on direction | 1714 | 1588 | 942 |
| Resist, hinder etc | 19860 | 16849 | 15158 |

Furthermore, prior to 2006 the offence 'Disobey a move on direction' did not exist. According to QPS, "Previously, this figure was included in the total for "Resist, Hinder, etc." (QPS Statistical Review 2006/2007 page 15). One would assume therefore that after 2006 there would be a decrease or at least a flattening of the figures under the offence category "Resist, hinder etc." to account for this change. However the figures from 2005-2008 show a steady increase in both categories which may indicate that police are charging for both offences, not one over another.

Further, section 76 of the Prostitution Act provides for offences related to 'nuisances connected with prostitution' but this is also policed under the Police Powers and Responsibilities Act (s46).

It is interesting to note that, under this section, sex workers (or persons the police suspect are soliciting) are the only persons who can be moved on without the requirement that the behaviour be considered offensive to a complainant. For all other move on directions the police need to be acting under the reasonable suspicion that the persons' behaviour would be:

- (a) causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances; or
- (b) interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place; or
- (c) disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place; or
- (d) disrupting the peaceable and orderly conduct of any event, entertainment or gathering at the place.

Summary

In summary then

- We are aware that police are using the new move on powers to direct persons that they believe to be sex workers. They are also using this law to repel people who demonstrate concern for the welfare of sex workers in their interactions with police.
- A fuller assessment of the extent to which sex workers are subject to the new move on powers, and the impacts that this is having on them, can not be made until direct outreach services to sex workers are resumed
- We oppose the the Police Powers and Responsibilities Act, section 46 (5), as an easy policing option; a “streetwalker sweep law” which allows police to move on persons who have been labelled as sex workers with no accounting for evidence that actual soliciting has occurred. This transgresses the civil rights of sex workers.
- We challenge the legislative overkill of prostitution offences that this legislation, in association with the already existing Prostitution Act, represents. This too transgresses the civil rights of sex workers and is a discriminatory.

REFERENCES

Sullivan, Barbara

2008 Working in the sex industry. The re-organization of sex work in Queensland, Australia, in the wake of law reform In **Labour and Industry 18(3)**

Crime and Misconduct Commission Queensland

2004 Regulating prostitution: An evaluation of the Prostitution Act 1999 (Qld). December 2004.