



Stopping Police and DAs from Using Condoms to Convict Sex Workers

by Crystal DeBoise

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Last winter, "Sheila," a sex worker in her early 20s, had just finished her counseling session with me at the Sex Workers Project, and was heading out the door. Sheila was seeking counseling from the Sex Workers Project to help her make a career change, but had no financial support and was still working in the sex industry. I gestured towards our colorful shoebox of condoms, lube and pamphlets about safe sex and reminded her to take whatever she needed. She looked at me as if I were suggesting she walk into the January snow barefoot and said, "Are you crazy? I'm not carrying those things around! You want me to get arrested or something?"

Sheila was referring to a situation in New York that permits the use of condoms as evidence of prostitution, resulting in their collection and confiscation from women who are detained by the police. This practice is an outright slap in the face to the decades of hard work that public health advocates have undertaken to increase safe sex, decrease HIV and create a positive shift in the cultural acceptance of condom use. This policy discourages a stigmatized and marginalized group of sexually active people from carrying the tools they need to be healthy and safe. And this occurs despite the fact that the New York City itself runs a **free condom distribution** program because *"Using a condom every time you have anal, oral or vaginal sex protects you and your partners from getting HIV and other sexually transmitted diseases ... and prevents unplanned pregnancies."*

Staff at the Sex Workers Project had been seeing police reports of arrested sex workers that listed the possession of condoms as evidence of prostitution for some time. Many of the arrests were not of even sex workers, but, rather, incidents of profiling transgender individuals as sex workers -- their personal

condoms were confiscated and used as "evidence" of prostitution.

Sentiments like the one Sheila shared have become more prevalent among sex workers, and for good reason. Prostitution convictions have an extremely negative impact on the lives of sex workers.

Arrests themselves are often abusive and traumatic, as well as costly. A criminal record is a major hurdle to joining the mainstream job force. Many jobs require disclosure of crimes or out-and-out disqualify people who have such records. When hired despite their records, those with prostitution-related crimes on their record often face discrimination on the job; others encounter sexual harassment when arrests for prostitution are disclosed. If carrying condoms increases the chance that a sex worker will have to experience these consequences, there's a difficult decision to be made.

New York State Bill A1008/S323, cosponsored by more than a dozen state senators, would stop police and prosecutors from using possession of condoms as evidence of prostitution in specified criminal or civil proceedings. According to the summary of the bill, it "provides that possession of a condom may not be received in evidence in any trial, hearing or proceeding as evidence of prostitution, patronizing a prostitute, promoting prostitution, permitting prostitution, maintaining a premises for prostitution, lewdness or assignation, or maintaining a bawdy house."

The explanation for the bill says, "It does not promote public health and welfare if the law discourages prostitutes from carrying condoms. If anything, their use by prostitutes should be encouraged by public policy" As of fall 2011, the bill was sitting in Judiciary Committee of the NY State Senate and the Codes Committee of the NY Assembly.

The Sex Workers Project is participating in an **active campaign** to support the passage of the bill this legislative session. Our online **public service announcement** explains its importance, and we have an ongoing petition with over 5,600 signatures at **change.org**. Thirteen organizations have signed statements in support of the bill, and our staff holds legislative advocacy sessions for sex workers and allies where supporters can join our "pink postcard" campaign to send a message to state senators and assembly members.

Our activism is needed to make sure that this simple health and safety measure is put into place. If the bill passes, sex workers and the general public will be able to feel confident that the condoms they have in their pockets will not be used to assist law enforcement in accusing them of committing crimes.