



IN BRIEF

According to the US Center for Disease Control and Prevention, HIV continues to pose a major public health threat in the United States, particularly within communities of color where 46% of people living with HIV are African American and 64% of new infections are among blacks or Latinos. Addressing the epidemic requires understanding the risk environment among vulnerable populations. Sex workers share many factors that increase their risk of acquiring and spreading HIV. Public policy should reflect the public health goal of ending HIV transmission.

THE ISSUE

The core of every HIV prevention education campaign is to use a condom as the most effective means by which to prevent transmission of HIV. This message has been strenuously directed at persons in the sex trades, in large part because there exists the potential for transmission of HIV among sex workers and their customers and into the general public.

However, in direct contradiction to this urgent public health message, law enforcement in several major US cities use the possession of condoms by a person suspected of prostitution as evidence that the person is engaged in prostitution. As a result, many sex workers will no longer carry any condoms or a sufficient number of condoms, thereby creating multiple opportunities for transmission of HIV to and from the sex worker.

THE SOLUTION

AB 336 states that possession of one or more condoms shall not be used as evidence of soliciting or engaging in prostitution.

BACKGROUND

Human Rights Watch (HRW), in a report released in July 2012 titled “*Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities*”, reviewed research literature on sex workers in Los Angeles and San Francisco and conducted its own interviews with persons either in sex trades or in organizations that provide health

and social services to that population. In addition to specific cases in which possession of condoms was used as evidence of prostitution, HRW found that the threats of harassment of sex workers about possessing condoms had resulted in a prevalent belief that one is risking arrest and prosecution as a prostitute by having any condoms in one’s possession when approached by law enforcement.

As a result, many sex workers will no longer carry any condoms or a sufficient number of condoms, thereby creating multiple opportunities for transmission of HOV to and from the sex worker.

In San Francisco, a 1995 decision by the District Attorney and police generally ended the practice of using condoms as evidence of prostitution. However, in the ensuing nearly two decades, that practice reasserted itself in direct contradiction to city and county policy. As a result, the police were forced again to declare that they would no longer use condoms as evidence of prostitution. However, what San Francisco’s history demonstrates is that in the absence of a statutory prohibition, the practice will emerge again once attention is directed elsewhere.

In Los Angeles, sex workers report that it is common knowledge that carrying more than 2 or 3 condoms could get you arrested for prostitution. As a result, many do not use condoms.

In clear demonstration of the impact of state law, after California enacted laws allowing the limited possession and exchange of syringes used for intravenous drug use, both Los Angeles and San Francisco law enforcement adopted policies and practices that generally ended the possession of syringes as evidence of illegal drug use.

SUPPORT

AIDS Healthcare Foundation, Co-sponsor
LA Gay & Lesbian Center, Co-sponsor

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