



George Gascón
District Attorney

October 31, 2012

Theresa Sparks
Executive Director
San Francisco Human Rights Commission
25 Van Ness Avenue, Room 800
San Francisco, CA 94102-6033

2012 NOV -6 AM 2:20
SAN FRANCISCO HUMAN RIGHTS
COMMISSION

Re: Use of condoms as evidence in prostitution cases

Dear Ms. Sparks,

Thank you for the convening to discuss the use of condoms as evidence in criminal prosecutions. It was helpful to hear the concerns of advocates as we consider how to handle this subject. As you know, the San Francisco District Attorney's Office is always concerned about the health and well being of all San Franciscans. We realize there is great value in protecting people engaged in sex work. We know that condoms help prevent the spread of sexually transmitted diseases as well as preventing unwanted pregnancy.

The competing challenge we face in law enforcement is the illegal nature of prostitution, the impact it has on the neighborhoods where it takes place, and the dangers that befall sex workers. While we charge relatively few prostitution cases, and direct nearly all of these cases to diversion services through SAGE, it is still important for law enforcement to respond to the criminal activity. We receive frequent complaints from neighborhoods around the city that are impacted by street level prostitution.

With all this in mind, we are willing to explore appropriate harm reduction policies that also sustain our commitments to preserve public safety and quality of life for all our residents. We will implement a 90 day program to evaluate the impact of excluding condoms as evidence in our criminal prostitution cases. During those 90 days the District Attorney's Office will not consider condoms as evidence in a case and will not charge a case unless it can be proved using other evidence.

The Public Defender's Office has agreed to a joint stipulation that will be entered into in all prostitution cases. This stipulation will eliminate the discussion concerning the presence or absence of condoms as evidence in convicting or acquitting an individual of a prostitution related crime (see attached).

At the end of the 90 days we will look to see what impact this policy change has on our success at responding to street level prostitution as well as the outcomes of the cases presented to us for charging. Based on the outcomes we will determine the appropriate next steps.

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I look forward to continued dialogue and collaboration with the Human Rights Commission and others around this important issue.

Sincerely,



GEORGE GASCON
DISTRICT ATTORNEY

GENERAL STIPULATION:

For the period of 90 days between October 1, 2012 and December 31, 2012, it is stipulated between the Office of the District Attorney and the Office of the Public Defender that in misdemeanor cases involving charges of prostitution no argument will be made regarding the presence or absence of condoms.

INDIVIDUAL CASE STIPULATION:

It is stipulated between the parties that no questions regarding condoms or the absence of condoms will be propounded to witnesses, that witnesses will not testify about the presence or absence of any condoms, and that neither party will discuss the presence or absence of condoms.