



George Gascón
District Attorney

Theresa Sparks
Executive Director
Human Rights Commission
25 Van Ness Avenue
San Francisco, CA

March 30, 2013

Re: Use of condoms as evidence in prostitution cases

Dear Ms. Sparks,

We have spent the past 180 days evaluating the use of condoms as evidence in criminal prosecutions for prostitution. During this time, we put a temporary ban on the use of condoms as evidence to see whether it would have a negative impact on public safety. My office is faced with balancing two very important interests. We agreed from the outset that there were negative public health consequences to using condoms in criminal prosecutions. However, we wanted to evaluate whether a ban on their use would have substantial negative impacts on public safety and the quality of life of residents of San Francisco.

Concerns raised during our two meetings have persuaded me that police seizure and trial prosecutions that use condoms as evidence make it less likely that a sex worker will carry and use condoms to protect themselves. The competing challenges we face in law enforcement is the impact street level prostitution activity has on the neighborhoods where it takes place, and the dangers that befall many sex workers.

After six months of evaluating the arrests made by the SFPD and the outcome of the cases we charged, I feel confident that the public safety concerns can be addressed without jeopardizing the health of sex workers. We are pleased that we can meet both of these important goals and excited to improve our policy to achieve greater public health and public safety.

Therefore, we will no longer introduce physical evidence of condoms in our criminal prostitution cases. The Public Defender's Office has agreed to a joint stipulation that will be entered into in all prostitution cases. This stipulation will eliminate any discussion concerning the presence or absence of condoms as evidence in convicting or acquitting an individual of a prostitution related crime (see attached).

In San Francisco, where we have been on the front line of the fight against AIDS, we must continue to protect the public health of our entire community. I appreciate the health and sex worker community for helping us understand this important public health issue and our opportunity to help provide some protections to sex workers who are already so vulnerable.

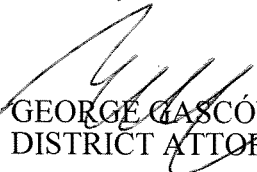
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I look forward to continued dialogue and collaboration with the Human Rights Commission and all the partners around this important issue.

Sincerely,



GEORGE GASCON
DISTRICT ATTORNEY

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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.