



NEW YORK STATE SENATOR

Velmanette Montgomery

Public Health Experts, Human Rights Advocates Join Senator Montgomery in Calling for Law Barring Use of Condoms as Evidence of Prostitution

VELMANETTE MONTGOMERY April 19, 2012

| ISSUE: **FAMILIES, HEALTH, CHILDREN, HEALTH CARE, WOMEN'S HEALTH**



Albany, NY: Public health experts, human rights activists and advocates for sex workers and the LGBT community, joined with NYS Senator Velmanette Montgomery (D-Brooklyn) in calling for the passage of the Senator's legislation (S.323/A.1008) that would barr the use of condoms as evidence of prostitution. "When it comes to condom possession and use, New York's health and criminal procedure policies are at odds," said Senator Montgomery. "For decades, city and state agencies have promoted safe sex practices as a public health priority and NYC, in particular, has taken this health campaign to the streets of the five boroughs, distributing millions of free condoms as a way to help combat sexually transmitted diseases and

infections.

“The unfortunate reality is that some individuals and groups of people –and especially those who are typically profiled by the police as possible sex workers – are becoming increasingly afraid of carrying and thus consistently using condoms because they know the possession of even one condom can be used to justify arrest. The passage of this bill makes good public health sense and is necessary to help save lives.”

Advocates also released a report detailing the public health crisis caused by the NYPD’s confiscation of condoms. The report, “Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City,” is authored by the PROS Network (Providers and Resources Offering Services to Sex Workers) and The Sex Workers Project at the Urban Justice Center . It reveals findings from two separate surveys of NYC sex workers, including a survey conducted in 2010 by the Department of Health and Mental Hygiene (DOMH) that was FOILED by Human Rights Watch and is only now being released.

Both studies found that police routinely confiscate condoms from sex workers; that sex workers often do not carry condoms for fear of police repercussions; and that some sex workers engage in sex work without condoms following police confiscation.

- *In the 2010 study conducted by DOMH, 57% of the sex workers interviewed said that they had had condoms taken away from them by a NYC police officer. In the 2011 study, which surveyed a smaller sample, 42.8% of sex workers interviewed had had condoms taken away*

- from them by a NYC police officer.*

- *In the 2010 study conducted by DOMH, 71% of sex workers interviewed did not carry condoms at some point for fear of police repercussions. In the 2011 study, 45.7% of sex workers interviewed did not carry condoms at some point for fear of police repercussions.*

- *In the 2011 study, 50% of sex workers who had condoms taken away or destroyed by police engaged in sex work afterwards without a condom.*

- *The 2011 study includes examples of court transcripts and supporting depositions showing this practice is widespread.*

Senator Montgomery said, “I am not endorsing prostitution,” pointing out that public health research has identified the failure to use condoms as a preeminent factor in the transmission of HIV as well as an array of other STDs.

“Confiscation of condoms for use as evidence of prostitution-related offenses is widespread in New York City and has serious public health consequences for sex workers and members of their communities,” said Katherine Todrys, a consultant for Human Rights Watch, which has interviewed over 125 sex workers, advocates, and law enforcement officers in New York City for another forthcoming report.

MORE ABOUT THE *NO CONDOMS AS EVIDENCE* BILL

New York State Bill A1008/S323 would stop police and prosecutors from using possession of condoms as evidence of prostitution. Currently, police and courts can use the fact that a person has or is carrying condoms to prove that they are engaging in criminal activity. Sex workers report that they are more likely to be arrested if they carry condoms. Police officers regularly confiscate condoms from people they allege are engaged in prostitution to use as evidence against them at trial. As a result people are hesitant to carry condoms to protect themselves and others, for fear that it will lead to arrest or be held against them in court. Sound public health policy would encourage condom use by eliminating the fear that carrying a condom will be used against you by police or in a court of law.

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