

No Condoms as Evidence

A SEX-WORKER CAMPAIGN IN NEW YORK

Audacia Ray and Sarah Elspeth Patterson

Sex workers and allies have known for years that in places where prostitution is a crime, police will take condoms from sex workers to use them as evidence, particularly against street workers. In the state of New York, a bill is currently being considered by the state legislature that would make it illegal for police to use condoms this way. Since 2009, a coalition of sex workers and allies in HIV prevention and harm reduction have been campaigning to gain support for a bill known as *No Condoms as Evidence*. The PROS Network (Providers and Resources Offering Services to sex workers) includes organisers, service providers, advocates and media makers, as well as sex workers. We are both members of this network, Sarah as Community Organiser for the Sex Workers Outreach Project New York City and Audacia as Director of the Red Umbrella Project.

Though the bill has not yet passed, we have had success in gaining the support of the general public, the media, public-health institutions and elected officials. To document the use of condoms as evidence in New York state, the PROS Network released the report *Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City* in April 2012. Human Rights Watch and the Open Society Foundation have also published reports on places around the world where this same problem is known.

In 2010, PROS collaborated with the New York City Department of Health to survey 63 sex workers about the impact on public health of the use of condoms as evidence. The Department of Health initially refused to release the study publicly, perhaps because the results cast a very negative light on health officials and the police. Human Rights Watch filed a request to see the report under the Freedom of Information Law, and in 2012 an edited version was finally released to us. But after the failed collaboration with the Department of Health, PROS had launched our own study in 2011. We surveyed 65 people, including sex workers, people using harm-reduction services and outreach workers.

We found that the threat that condoms can be used as evidence discourages their use by people in New

York City who are most vulnerable to HIV and other sexually-transmitted infections. The Department of Health distributes 37.2 million free condoms a year. However, the PROS study found that the New York City Police Department confiscates many condoms, especially from people who spend a lot of time in public spaces, from people of colour and from transgender women.

Our study found

- Approximately half of respondents involved in the sex trade reported that police had taken, damaged or destroyed their condoms.
- 67% of respondents reported that police destroyed condoms to harass sex workers, even if they did not make an arrest.
- Nearly half of respondents involved in the sex trade reported that they had at least once not carried condoms for fear of the police.
- This fear was strongest among transgender women and gender-non-conforming people, 75% of whom said that fear of police had caused them not to carry condoms.

Despite the small sample size of 65 people, our study showed that we were serious about presenting evidence-based arguments. Several newspapers, including the *New York Times* and *El Diario*, published editorials saying the state legislature should pass our bill.

Although allied organisations had supported us before 2011, we increased our success during the 2011–2012 legislative session because we reached out beyond the sex-worker community. We collaborated with LGBTQ youth groups concerned about the police trend to stop and search them for drugs or weapons, with HIV service providers concerned about the criminalisation of HIV and with harm-reduction groups opposing the use by police of syringes as evidence of drug use. Instead of trying to tell these groups how we wanted to present our messages, we learned from their activist perspectives.

We also built capacity through advocacy trainings conducted by PROS Network member Red Umbrella Project, a sex worker-led organisation that does media, storytelling and trainings. These trainings gave sex workers and allies a

chance to learn about how city and state governments work, to prepare for their meetings with legislators and to practice telling their stories.

At our lobbying day in Albany, we divided the advocates into teams, with at least one sex worker in each group. After previously scheduling meetings, the teams met with legislators and assembly people to gain support for the bill. We also hosted a press conference at the state capitol. Since this was the first time sex workers led a lobby day for our issues in New York state, it was a historic event for our community.

The bill did not reach the voting stage during the 2011–2012 session, but we learned a great deal from the process of advocating for it. We saw that our emphasis on larger issues of public health made it possible for the general public and legislators to understand our lives. Some legislators told us they might vote for the bill in future but would not advocate for it publicly for fear of appearing to support prostitution. To get the bill passed, we might have to compromise on the text. For example, several legislators recommended that condoms be permitted as evidence in cases against sex traffickers.

Our coalition has begun to discuss advocacy strategies for the next legislative session in January 2013, when there will be a new draft of the bill. We look forward to creating new strategies to move the bill forward, strengthening our coalition and looking for new allies.

About the authors

Learn more about the work of Audacia, Sarah and the rest of the PROS Network at www.nocondomsasevidence.org
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Other reports on condoms as evidence

Sex Workers at Risk, from Human Rights Watch at www.hrw.org/reports/2012/07/19/sex-workers-risk
Criminalizing Condoms, from Open Society Foundations at www.soros.org/reports/criminalizing-condoms



禁止把安全套作为证据

纽约的性工作运动

Audacia Ray 和 Sarah Elspeth Patterson

多年来，性工作者及其盟友都很清楚地知道，在卖淫是非法的地方，警察会把安全套作为卖淫的证据，特别是针对街头性工作者。在纽约州，立法机关正在讨论一项法案。如果该法案获得通过，警察把安全套作为卖淫的证据将是违法的。2009年以来，一个联盟一直在为这项名为《禁止把安全套作为证据》的法案争取支持。这个联盟由性工作者及其在艾滋病防治和减低伤害领域的同盟组成。Pros联盟（全称为“为性工作者提供服务和资源”）包括提供服务的组织、活动家、媒体工作者，以及性工作者。我们都是这个网络的成员，其中Sarah是纽约市性工作者外展项目的社区组织者，Audacia是红雨伞项目的主任。

虽然这项法案尚未获得通过，但我们已经成功获得了公众、媒体、公共卫生机构和民选官员的支持。为了记录纽约市把安全套作为证据的情况，Pros联盟2012年4月发布了报告《公共卫生危机：纽约市把安全套作为卖淫证据的影响》。人权观察和开放社会基金会也相继发布报告，介绍了世界上其他城市的情况。

2010年，Pros联盟和纽约市卫生署合作，研究安全套作为证据对公共卫生领域所产生的影响。我们采访了63名性工作者。可能是由于研究结果对卫生官员和警察不利，卫生署最初拒绝公开发布这份报

告。人权观察根据《信息公开法》提出申请，要求公开这份报告。2012年，报告的修改版本最终发布了。与卫生署这次失败的合作之后，Pros联盟在2011年开始了我们自己的研究。我们调查了65个人，包括性工作者、获得减低伤害服务的人，以及外展人员。

我们发现，纽约市把安全套作为证据，降低了一部分人使用安全套的意愿。而这部分人则是最容易受艾滋病和性传播疾病影响的人群。卫生署每年免费发放37200个安全套。但Pros联盟的研究发现，纽约市警察署没收了很多安全套，特别是在公共场所，针对有色人种和跨性别人士。

我们的研究发现：

- 大约有一半接受采访的性工作者称曾被警察没收、损坏或撕毁安全套。
- 即使警察没有逮捕性工作者，67%的受访者称警察通过损坏安全套来骚扰性工作者。
- 几乎有一半的受访者称他们至少有一次因为害怕警察而没有携带安全套。
- 75%接受采访的跨性别女性以及未确定性别者称，因为害怕警察而不敢携带安全套。这部分人群对警察的恐惧非常强烈。

尽管我们的样本量很少，只有65人，但我们所有的论点都是以证据为基础的。包括《纽约时报》和《每日新闻报》在内的一些媒体，发表社论对我们表示支持，称议会应当通过我们的法案。

尽管在2011年之前我们就获得了很多联盟组织的支持，但在2011—2012年的立法会议中我们更为成功，因为我们争取到了性工作者社区之外的支持。我们与关注同性恋、双性恋和跨

性别人士的青年团体合作，因为警察会在大街上对他们喊停，进行搜身查找毒品或者武器；我们和提供艾滋病服务的组织合作，因为艾滋病的刑事化会影响他们工作的开展；我们也和减低伤害组织合作，他们反对把针具作为毒品使用的证据。我们并不是把我们的观点强加给这些组织，而是从他们的运动中学习他们的经验。

我们也通Pros联盟的成员组织红雨伞项目开展倡导培训，提高我们的能力。红雨伞项目是一个由性工作者领导的机构，其工作主要是培训性工作者如何应对媒体和讲述自己的故事。这些培训让性工作者及其同盟有机会学习州政府和市政府的运作模式，帮助他们准备和立法会议员的会面，清晰地表达自己的观点。

在奥尔巴尼的游说日，我们将活动家们划分成几个小组，每个小组至少有一名性工作者。每个小组和立法者及有关人员会面，争取他们对法案的支持。我们还在州议会大厦举办了一个新闻发布会。在纽约州，这是第一次由性工作者来主导游说日，是我们社区一个历史性的事件。

该法案在2011—2012年的会议期间并没有进入投票阶段，但我们从《禁止把安全套作为证据》这一法案的倡导运动中学到了很多。我们看到，在倡导过程中强调对一个更大议题的影响，如公共卫生，能够让一般公众和立法者理解我们的生活。一些立法者告诉我们，他们未来可能会对该法案进行投票支持，但不会公开帮助我们游说，因为他们担心被理解成支持卖淫。为了使该法案获得支持，我们可能还需要进行妥协。例如，几名立法会议员建议，在一些情况下允许安全套作为证据，如性拐卖。

我们的联盟已经开始讨论2013年1月立法会的倡导战略，到时会有一个新的法案草稿出来。我们期待着制定新策略来推动法案的通过，加强我们的联盟并寻找新的盟友。

关于作者

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关于该议题的其他报告

人权观察，《处于危险当中的性工作者》：
www.hrw.org/reports/2012/07/19/sex-workers-risk
开放社会研究所，《安全套刑事化》：
www.soros.org/reports/criminalizing-condoms



Two advocates prepare their talking points for a meeting with legislators in Albany. Photo Audacia Ray

美国奥尔巴尼，两名活动家在准备与立法会议员的会面。