Wait, What? Police Can Arrest You Simply for Having Condoms in Your Pocket?

April 1, 2015 By Chelsea Miller

The tragic deaths of Mike Brown and Eric Garner captured headlines around the world and ignited a movement against aggressive and discriminatory policing practices. In New York City, people are often illegally stopped, frisked, and arrested on suspicion of prostitution charges for merely possessing condoms. The New York Police Department (NYPD) employs a “condoms as evidence” policy that disproportionately affects youth who are lesbian, gay, bisexual and transgender (LGBT), especially youth of color, and who are living with or at high risk for HIV and AIDS.

In fact, New York City (NYC) spends more than $1 million a year to distribute free condoms, while the NYPD concurrently criminalizes and confiscates them. The condoms as evidence policy jeopardizes the use of the most basic and effective tool to prevent HIV infection. It also not only threatens New York Governor Andrew Cuomo’s Plan to End AIDS by 2020, but also the National HIV/AIDS Strategy.

Policies at the intersection of racism, criminal justice, and HIV, including condoms as evidence, further endanger the health of black men. Black men who have sex with men (MSM), particularly youth ages 13 to 29, have the highest rates of new HIV infections in the United States. A growing body of research shows that stop and frisk disproportionately targets communities of color. For example, in NYC black and Latino residents comprised up to 90 percent of people stopped by the NYPD from 2002 to 2011.

Chelsea Miller, Community Coordinator, GMHC

How are police able to identify condom carriers in the first place? In New York and throughout the country, law enforcement unconstitutionally “stop and frisk” “suspicious persons.” Law enforcement should only “stop” a person when they reasonably suspect that a person has committed or is about to commit a crime. A person can only be frisked, or “patted down,” when

officers reasonably fear for their safety. On March 2, New York Police Commissioner Bill Bratton circulated a memo to Police Command ordering federal court mandated changes to its unconstitutional stop and frisk policies. Nationwide, Human Rights Watch found that these aggressive policing practices in four major U.S. cities, including NYC, actually fuel the HIV and AIDS epidemic based on how the NYPD inhibits outreach workers who distribute condoms by charging them with prostitution-related offenses.

Condoms are one of the most reliable, accessible, and inexpensive HIV-prevention tools. People who need them most shouldn't leave their latex behind to avoid being prosecuted under false pretense for prostitution-related offenses. Marc Antonio is a member of the Action Center at Gay Men's Health Crisis (GMHC) in NYC, a program that helps people living with HIV and AIDS raise awareness and advocate for improved quality of life for themselves and their communities. He identifies as a black MSM directly affected by this issue:

> You know, when white citizens or white New Yorkers see the police, they feel at ease. But for men of color, like myself, we're always questioning, "Am I going to be singled out? Am I going to be suspected of something or falsely accused?" It's always on my mind. I do carry lots of condoms on me, not only for personal use, but also to give out to friends. I shouldn't be accused of being a prostitute just because I have condoms.

In 2014, the NYPD revised its policies of confiscating condoms in some prostitution-related cases. This is a small victory, but it does not go far enough. This policy has a chilling effect that ultimately harms those most at risk for HIV — black MSM. The ultimate solution is legislation that completely eliminates the use of condoms as evidence. Carrying condoms should never result in harassment, arrest, or even criminal charges. The only evidence that having condoms in your pocket should provide is that you're doing the right thing to protect your own, and the public's, health.

From the April/May issue of SeroZero by GMHC. To read the issue as a PDF, click here.

© 2026 Smart + Strong All Rights Reserved.
http://beta.docker.poz.com/article/sero-zero-condoms-as-evidence-27039-5827