

August 28, 2013

Hon. Kevin de León, Chair  
Senate Appropriations Committee  
Members, Senate Appropriations Committee  
State Capitol Building, Room 2206  
Sacramento, CA 95814

**RE: AB 999 (Bonta) – HIV PREVENTION (condoms in prison) -- SUPPORT**

Dear Senator de León and Members of the Senate Appropriations Committee,

On behalf of Lambda Legal, we urge you to support AB 999 (Bonta), which would require the California Department of Corrections and Rehabilitation (CDCR) to develop a five-year plan to make condoms available in all California prisons. Lambda Legal is the nation's oldest and largest legal advocate serving lesbian, gay, bisexual, and transgender (LGBT) people and those living with HIV through impact litigation, policy advocacy, and public education. From our Western Regional Office in Los Angeles, Lambda Legal has worked to secure safe, nondiscriminatory conditions for LGBT Californians – and to improve legal and public health treatment of those affected by HIV – for nearly twenty-five years. Because AB 999 will bolster HIV prevention efforts, improve inmate and public health without compromising prison security, and result in an overall savings for California taxpayers, we strongly recommend that this bill be taken up and passed through Committee and by the Legislature as a whole.

There are over 130,000 inmates in California prisons.<sup>1</sup> According to the Centers for Disease Control and Prevention (CDC), inmates are disproportionately affected by HIV/AIDS and other sexually transmitted infections (STIs) and approximately one in every seven people living with HIV/AIDS passes through prison or jail each year.<sup>2</sup> Although it is unclear how many people contract HIV while incarcerated, it is well documented that inmates engage in sexual behaviors that may lead to the transmission of HIV.<sup>3</sup> Condoms are one of the most effective methods of preventing sexual transmission of HIV and other STIs, yet they are currently prohibited in California prisons.<sup>4</sup> Significantly, studies have demonstrated

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<sup>1</sup> California Department of Corrections and Rehabilitation. (2013). *Weekly Report of Population as of Midnight August 7, 2013*. Retrieved from [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/WeeklyWed/TPOP1A/TPOP1Ad130807.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad130807.pdf).

<sup>2</sup> Centers for Disease Control and Prevention. (2012) *HIV in correctional settings*. Retrieved from <http://www.cdc.gov/hiv/topics/correctional/>

<sup>3</sup> Saum, C. A., Surratt, H. L., Inciardi, J. A., & Bennett, R. E. (1995). Sex in prison: exploring the myths and realities. *The Prison Journal*, 75(4), 413-430.

<sup>4</sup> Centers for Disease Control and Prevention. (2013). *Condoms and STDs: Fact Sheet for Public Health Personnel*. Retrieved from <http://www.cdc.gov/condomeffectiveness/latex.htm>.

that providing condoms to inmates reduces the risk of transmission without increasing consensual or non-consensual sexual activity.<sup>5</sup> Additionally, a CDCR pilot study in Solano State Prison found **“no evidence that the availability of condoms created an increased risk of breaches of safety or security or resulted in injury to staff or inmates.”**<sup>6</sup> Providing inmates with access to condoms thus is an important, tested step toward reducing transmission of HIV and other STIs in California prisons.

Providing inmates with access to condoms is also a matter of broader public health. At least 95% of all California state prisoners will at some point be released from prison and researchers have found that men with a history of incarceration engage in relatively high levels of unprotected sex both prior to and following incarceration.<sup>7,8</sup> Many prisoners lack formal education and incarceration often is their first significant opportunity to receive risk-reduction information.<sup>9</sup> Jails and prisons represent an ideal setting for inmates to receive educational information regarding sexual health and the prevention of transmission of HIV and other sexually-transmitted infections. Providing condoms to sexually active persons is an integral part of prevention efforts outside prisons, and prisoners are far less likely to use condoms after they are released if they are prohibited from using condoms while incarcerated. Providing prisoners with access to condoms will promote or solidify safer sex habits and greatly help prevent the spread of HIV and other STIs in the communities into which these individuals are released.

Numerous expert organizations recommend that condoms be made available to prisoners including the World Health Organization (WHO) and the United Nations Programs on HIV/AIDS (UNAIDS). Additionally, condoms are already provided for inmates in over 80 percent of European Union prison systems, the Correctional Service of Canada, and prisons in Australia, South Africa, Brazil, Indonesia, and Iran. In the United States, condom distribution programs exist in the Los Angeles, San Francisco, New York City, Philadelphia, and Washington, D.C. county jails – some of our nation’s largest jail systems – and in the Mississippi and Vermont state prison systems.<sup>10</sup> These programs work well, yielding results consistent with the CDCR’s pilot study conducted in the Solano State Prison.

Furthermore, AB 999 is likely to result in significant savings for California taxpayers. According to the CDCR pilot study report, “Just 2.7 to 5.4 HIV infections would need to be averted to cover the costs of

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<sup>5</sup> Butler, T., Richters, J., Yap, L., & Donovan, B. (2013). Condoms for prisoners: no evidence that they increase sex in prison, but they increase safe sex. *Sexually Transmitted Infections*, 89(5): 377-379.

<sup>6</sup> Lucas, K. D., Miller, J. L., Eckert, V., Goldsby, S., Henry, M. C., Samuel, M. C., Mohle-Boetani, J. C. (2011). *Evaluation of a Prisoner Condom Access Pilot Program Conducted in One California State Prison Facility*. Retrieved from [http://www.cdph.ca.gov/programs/std/Documents/SBD%20Pilot\\_Final%20Report\\_122210-CDPH-CCHCS\\_September2011.pdf](http://www.cdph.ca.gov/programs/std/Documents/SBD%20Pilot_Final%20Report_122210-CDPH-CCHCS_September2011.pdf).

<sup>7</sup> Bureau of Justice Statistics. (2013). *Reentry Trends in the U.S.* Retrieved from <http://www.bjs.gov/content/reentry/releases.cfm#number>.

<sup>8</sup> Morrow, K. M., & The Project START Study Group 1. (2009). HIV, STD, and hepatitis risk behaviors of young men before and after incarceration. *AIDS Care*, 21(2), 235-243.

<sup>9</sup> Gaiter, J., & Doll, L. S. (1996). Improving HIV/AIDS prevention in prisons is good public health policy. *American Journal of Public Health*, 86(9), 1201-1203.

<sup>10</sup> Lucas, *et al.*, *supra* note 6.



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condom distribution using dispensing machines... It is reasonable to assume that HIV transmission occurs frequently enough among CDCR prisoners to avert the 2.7 to 5.4 infections per year for a cost-neutral or cost-savings program if condoms were made available.”<sup>11</sup> Additionally, the bill requires all nonadministrative costs of the program, including the dispensers and condoms, to be paid for through donations. Given these cost savings for California taxpayers, we hope that the executive branch actually will consider implementing the program more quickly than is required under the timetable set by this bill.

**We urge you to support passage of AB 999.** By doing so, you will address an urgent public health crisis by helping to reduce the spread of HIV and other STIs among prisoners and in the communities into which they are released. Thank you in advance for giving your most serious consideration to this important legislation.

Most respectfully yours,

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cc: Governor Jerry Brown  
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<sup>11</sup> Lucas, K. D., Miller, J. L., Eckert, V., Goldsby, S., Henry, M. C., Samuel, M. C., Mohle-Boetani, J. C. (2011). *Evaluation of a Prisoner Condom Access Pilot Program Conducted in One California State Prison Facility*. Retrieved from [http://www.cdph.ca.gov/programs/std/Documents/SBD%20Pilot\\_Final%20Report\\_122210-CDPH-CCHCS\\_September2011.pdf](http://www.cdph.ca.gov/programs/std/Documents/SBD%20Pilot_Final%20Report_122210-CDPH-CCHCS_September2011.pdf).