

**EPISTEMIC INJUSTICE AND PUBLIC HEALTH POLICY:  
THE CASE OF OCCUPATIONAL HEALTH IN PORN PRODUCTION**

by

© Valerie Webber

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## Abstract

This dissertation examines occupational health protocols used to prevent the transmission of STIs and HIV in porn production, both those imposed by governmental health agencies and those developed by porn performers themselves. There is much disagreement over what protocols are best for the industry. Using critical interpretive medical anthropology from a sex worker rights perspective, this research asks what is at stake in these disputes over appropriate porn health practice. Qualitative data was collected through 40 interviews with 36 porn workers, in-person and digital fieldwork across several sites, textual analysis of relevant media and documents, and auto-ethnography as a porn performer. I trace how government and lobby groups have routinely discounted porn performers' testimony about what would make their working conditions safe and comfortable, and the many ways that the porn industry has responded. In doing so, I make three primary arguments: First, porn workers have been ignored in conversations around the management of their occupational health. This is an example of epistemic injustice—the state of being wronged in one's capacity to know and be known. Second, this marginalization puts pressure on the porn industry to focus on securing legitimacy among mainstream healthcare critics—what I call the *Responsibility Defense*. When pushed to focus on respectability, the occupational health solutions produced by the porn industry reinforce rather than challenge status quo sexual health practice, which can lead to exclusionary, discriminatory, and ableist occupational health protocols, like the exclusion of HIV+ performers. On the other hand, when porn performers manage health and safety on their own terms, they offer compelling alternatives that trouble and expand key concepts—like autonomy, community, and consent—that form the heart of public and occupational health praxis. Third, this demonstrates how important it is for public health and health policy makers to centre epistemically marginalized subjects—not just to

ensure that policies meet the needs of those they are meant to support, but also to ensure that we benefit from the rich and unique contributions of all social members.

**Keywords:** Pornography, porn studies, epistemic injustice, occupational health, public health, ethnography, sex worker rights, STIs/HIV

## General Summary

There are many different opinions about how to best prevent the transmission of STIs and HIV in porn production. In this dissertation, I use interviews with people who work in porn, fieldwork in the porn industry, and reflection on my own experiences as a porn performer to study these disputes. I document the history of government and lobby group involvement in creating porn health protocols, arguing that these groups have routinely discounted porn performers' testimony about what would make their working conditions safe and comfortable. I also document many of the ways that the porn industry regulates health and safety itself. I make three key arguments: First, that porn workers have been ignored in conversations around the management of their occupational health. This is a dismissal of their knowledge and expertise. Second, being excluded from these conversations puts pressure on the porn industry to design health protocols according to mainstream definitions of sexual health, so that critics will consider them respectable and responsible. The occupational health solutions that come out of that can reinforce discriminatory practices, like the exclusion of HIV+ performers. On the other hand, when porn performers are able to manage health and safety on their own terms, they come up with compelling alternatives that redefine what it means to live and work together safely. Third, this shows how important it is for health policy makers to prioritize the ideas of the people directly impacted by health policies, not just to ensure that policies meet their needs, but so we learn from their unique perspectives.

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Earlier iterations of parts of this dissertation are published in *Synoptique* (2021) and on the *Impact Ethics* blog (2019), and were presented at the Memorial University Centre for Bioethics Symposium (2019), the annual meeting of the American Anthropological Association (2018), and during guest lectures. I appreciate the publishers, platforms, and professors who gave me venues to try out these ideas, and the panelists, colleagues, and students who engaged with me after talks. In particular, I thank my colleagues in porn studies, a small field marked by quality over quantity. I am grateful to Christopher Baum, Chauntelle Tibbals, Maggie MacDonald, and the many people I have corresponded and collaborated with. Special thanks to Fillipa Fox, who introduced me to theories of epistemic injustice, which came to play so heavily in the framing of this research. Another special thanks to Heather Berg, who I am honoured to work with on PASS and whose generosity with her time and writing greatly benefited this research. She is an

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## List of Abbreviations

AB: Assembly Bill

Ag/Ab: Antigen/Antibody

AHF: AIDS Healthcare Foundation

AIDS: Acquired Immunodeficiency Syndrome

AIM: Adult Industry Medical

APAC: Adult Performer Advocacy Committee

APAG: Adult Performance Artists Guild

AVN: Adult Video News (an adult industry media outlet and trade show event of the same name)

BB: Bareback (anal sex without a condom)

BDSM: Bondage/Discipline, Domination/Submission, Sadism/Masochism

BJ: Blow Job (oral sex on a penis)

Cal/OSHA: California Occupational Safety and Health Administration

CDC: Centers for Disease Control

CEO: Chief Executive Officer

CET: Cutting Edge Testing

ED: Executive Director

EIA: Enzyme Immunoassay

ELISA: Enzyme-Linked Immunosorbent Assay

FDA: Food and Drug Administration

FOSTA-SESTA: Fighting Online Sex Trafficking Act/Stop Enabling Sex Trafficking Act

FSC: Free Speech Coalition

GGW: Girls Gone Wild®

HIV: Human Immunodeficiency Virus



HIV-: HIV negative

HIV+: HIV positive

HPV: Human Papilloma Virus

HSV: Herpes Simplex Virus

MF: Male/Female

MSM: Men who have Sex with Men

NHS: National Health Service

OHS: Occupational Health and Safety

PASS: Performer Availability Screening Services

PCR: Polymerase Chain Reaction

PEP: Post-Exposure Prophylaxis

PPE: Personal Protective Equipment

PrEP: Pre-Exposure Prophylaxis

RNA: Ribonucleic Acid

RPR: Rapid Plasma Reagin

SB: Senate Bill

SNAP: Support Network for Adult Professionals

STD: Sexually Transmitted Disease

STI: Sexually Transmitted Infection

TasP: Treatment as Prevention

TSA: Transportation Security Administration

TTS: Talent Testing Service

U=U: Undetectable equals Untransmittable

WHO: World Health Organization

## List of Key Organizations, Associations and Events:

**Adult Industry Medical (AIM):** A STI/HIV testing and treatment facility, organized by and for porn performers, that operated in California from 1998-2011.

<https://web.archive.org/web/20110518203142/http://www.aim-med.org/>

**AIDS Healthcare Foundation (AHF):** A global AIDS Service Organization founded by president Michael Weinstein and based in Los Angeles, California, founded in 1987.

<https://www.aidshealth.org/>

**Adult Performer Advocacy Committee (APAC):** A porn worker advocacy group, based in California and founded in 2012. <https://www.apac-usa.com/>

**Adult Performance Artists Guild (APAG):** A porn worker advocacy group, founded in 2016 as the Adult Performers Actors Guild, and based in California. <https://apagunion.com/>

**AVN:** AVN stands for Adult Video News, and refers to both an adult industry media outlet and a major trade show event and awards show. The trade show includes components of both ‘B2B’ (Business to Business, i.e. industry professionals selling products to and making deals with one another) and ‘B2C’ (Business to Consumer, i.e. industry professionals selling products and marketing to fans). <https://avn.com/>

**Cal/OSHA:** Technically DOSH, the Division of Occupational Safety and Health, but more commonly known as Cal/OSHA, this is the California government state department responsible for conducting research and enforcing regulations related to occupational health and safety.

**Cutting Edge Testing (CET):** A private clinic and lab network based in California with locations throughout the United States. CET was a part of the PASS network at the time of research and writing. <https://cuttingedgetesting.com/>

**Free Speech Coalition (FSC):** The adult industry trade association founded in 1991 and based in California. The Free Speech Coalition retains lobbyists, fights policy, pursues litigation, and develops industry resources. They operated PASS (Performer Availability Screening Services)—the program that provides sexual health testing guidelines for the adult industry—from its inception in 2011 until PASS was established as a separate organization in 2021.

<https://www.freespeechcoalition.com/>

**PASS:** Stands for Performer Availability Screening Services, and establishes sexual health and safety guidance to the adult industry. The program was created by the Free Speech Coalition in 2011 when Adult Industry Medical closed. In May 2021, PASS began operating as its own organization. <https://www.passcertified.org/>

**Pornhub/MindGeek:** Pornhub is a ‘tube’ site (streaming free content uploaded by users, with premium content subscription options) that was launched in 2007. It was bought by porn conglomerate MindGeek in 2010. It is MindGeek’s most popular site and one of the most visited websites on the internet.

**Porn Film Festival Berlin:** A popular independent film festival held in Berlin since 2006 that also includes workshops, panel discussions, and performances.

<https://pornfilmfestivalberlin.de/en/>

**Qwebec Expo:** A B2B adult industry trade show held in Montréal, Canada annually since 2004.

<https://qwebec.com/>

**Talent Testing Service (TTS):** A private clinic and lab network based in Florida with locations throughout the United States. TTS was a part of the PASS network at the time of research and writing. <https://www.talenttestingservice.com/>

**Toronto International Porn Festival:** Originally branded as the Feminist Porn Awards. An independent porn film festival produced by the sexuality shop Good For Her, launched in 2006.

<https://torontointernationalpornfestival.com/>

**XBIZ:** XBIZ is both an adult industry media outlet and a major B2B trade show event and awards show. <https://www.xbiz.com/>

## CHAPTER 1: INTRODUCTION

### 1.1 Porn Expertise

Porn performers are experts. Those of us who perform in and produce pornography are experts in sex, sexually transmitted infections (STIs), and sexual health management. We are experts in communicating about boundaries, bodies, and bacterium. We have an in-depth knowledge and experience of sex that gives us an approach to sexual health that is creative, informed, and justice-seeking<sup>1</sup>.

This dissertation explores what happens when porn performers are not treated as the experts they are. It examines occupational health protocols used to prevent the transmission of STIs and HIV in the porn industry, both those imposed by governmental health agencies and those developed by porn performers themselves. I trace how government and lobby groups have routinely discounted porn performers' testimony regarding how to make their working conditions safe and comfortable, and the many ways that the porn industry has responded. In doing so, I make three primary arguments: First, porn workers have been ignored in conversations around the management of their occupational health. This is an example of epistemic injustice (Fricker, 2008). Second, this marginalization puts pressure on the porn industry to focus on securing

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<sup>1</sup> As will become apparent throughout the dissertation, my claim here is not that *all* people who work in porn have traditional biomedical and public health training. Rather, my claim is that we have expertise in our own labour that, in combination with such disciplinary knowledge, is *indispensable* to the creation of appropriate occupational health protocols. As well, I will argue that doing sex work grants us valuable experiential insight into matters of sexual health by mixing sex with work, prompting us to consider issues like consent and autonomy in different ways than non-sex workers.

legitimacy among mainstream healthcare critics. When pushed to focus on respectability, the occupational health solutions produced by the porn industry reinforce rather than challenge status quo sexual health practice, which can lead to exclusionary, discriminatory, and ableist occupational health protocols. On the other hand, when porn performers manage health and safety on their own terms, they offer compelling alternatives that trouble and expand key concepts—like autonomy, community, and consent—that form the heart of public and occupational health praxis. Third, this demonstrates how important it is for public health and health policy makers to listen to epistemically marginalized subjects—not just to ensure that policies meet the needs of those they are meant to support, but also to ensure that we benefit from the rich and unique contributions of all social members.

## 1.2 Epistemic Injustice

A key concept framing this research is *epistemic injustice*: the state of being wronged in one's capacity to know and be known. Porn performers (and other sex workers<sup>2</sup>) suffer both forms of epistemic injustice, originally described by Miranda Fricker (2008) as *testimonial injustice* and *hermeneutical injustice*. Testimonial injustice refers to “when a speaker receives a deflated degree of credibility from a hearer owing to prejudice on the hearer's part” (Fricker, 2008, p. 69). Hermeneutical injustice occurs when the marginalization and “relative powerlessness” of certain

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<sup>2</sup> I consider porn work to be a subset of the larger category of sex work. Throughout the dissertation I move between these terms, using ‘porn work’ where I specifically refer to the labour of making porn, and using ‘sex work’ where I invoke the larger body of sex work literature and experience. Though different types of sex work entail different activities, health implications, and sociolegal repercussions, they also share a lot in terms of stigma, marginalization, and creative resilience. Furthermore, as will be discussed, many porn workers also engage in other types of sex work. The broader body of sex work literature and activism informs my approach to porn studies.

groups leaves a “gap in collective understanding” that impedes others from making sense of their issues and realities (Fricker, 2008, p. 69). In this case, even if the hearer tries earnestly, she “cannot understand because she lacks sufficiently shared concepts with the speaker” (Fricker, 2017, p. 54). An earnest attempt to understand does not overcome this hermeneutical injustice because “the cause of the injustice is structural—the background hermeneutical marginalization—and so the injustice will tend to persist regardless of individual efforts” (Fricker, 2017, p. 54). Whatever the good intentions of the listener, conditions for intelligibility must be present in the wider collective consciousness for the speaker to truly be heard. Both testimonial and hermeneutical injustice are considered wrongs because the former wrongs a subject as a potential “giver of knowledge (an unjust deficit of credibility)” while the latter wrongs a subject “in their capacity for social understanding (an unjust deficit of intelligibility)” (Fricker, 2013, p. 1320).

Sex worker testimony is a textbook example of deflated credibility, whereby the speaker is not trusted as a legitimate authority on their own situation. While workers in other occupations may also find themselves subject to epistemic injustice, a central point throughout this dissertation is that the epistemic injustice suffered by sex workers in regard to their occupational health is the specific product of sex exceptionalism: the notion that sex is unlike any other human activity, and therefore sex work is uniquely exploitative compared to other kinds of labour. The prevailing assumption is that sex workers are incompetent, naïve, or coerced, and can not be trusted in their claims to be consenting to sex work and whatever risks it might entail. The notion of false consciousness<sup>3</sup> is constantly and unevenly applied to sex workers as a way to delegitimize what

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<sup>3</sup> False consciousness is a concept derived from Marxist theory to describe when a subordinated class unwittingly embodies the ideology of the ruling class due to a fundamental misunderstanding of power

they have to say about their own lives (Fawkes, 2005). The anti-sex work movement, typically positioned as a feminist cause, forsakes the key feminist principle of *believing* women and other marginalized groups, and of valuing knowledge that is generated outside of the colonial-patriarchal imaginary (Fawkes, 2005; Jaggar, 2008; Lincoln & Denzin, 2003). Instead, politicians, courts, lobbyists, and law-makers dismiss sex worker voices and advocate for policies that directly harm sex workers of all genders and in all fields; and in a cruel twist of irony, routinely adopt feminist rhetoric as justification for doing so (Agustín, 2007; Bernstein, 2010, 2017; Bruckert & Parent, 2018; Clamen & Gillies, 2018; Critical Resistance and Incite!, 2003; Doezema, 1998; Duggan & Hunter, 1995; Gira Grant, 2014; Jochelson & Kramar, 2011; Maynard, 2018).

Sex worker ostracization is also a textbook example of how marginalization in the public sphere leads to an often-insurmountable lack of shared understanding between sex workers and the wider public. Complex and challenging sex worker voices are silenced, while simplistic narratives of perfect exploitation or empowerment are selectively elevated (Doezema, 1998; Fawkes, 2005; Massey, 2018). As a result, the opportunity to grow a shared hermeneutical resource that more accurately captures sex worker realities is missed. The one-dimensional stories that remain better enable what Iris Marion Young (2004) refers to as “cultural imperialism” (p. 54), whereby the dominant experience is presented as universal and non-dominant groups “are marked by stereotypes and at the same time rendered invisible” (p. 55). This simultaneous stereotyping and silencing allows dominant forces to establish a monopoly

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and social relations (e.g. a labourer endorsing their own subordination under capitalism, a woman endorsing her own subordination under patriarchy).



over popular discourse, which supports the passage of public policy that fits mainstream perceptions of sex work at the expense of actual sex workers' wellbeing.

Sex workers, then, both as individuals and as a group, are “*structurally prejudiced*” by this lack of credibility (Fricker, 2008, p. 69, emphasis in original). In this sense, epistemic injustice is at base a form of discrimination (Fricker, 2017). However, the wider collective is also wronged, as sex workers are “prevented from making a full contribution to collective resources for social meaning” (Fricker, 2008, p. 70). By squashing sex worker voices, not only are sex workers' lives made more dangerous, but society at large fails to benefit from our expertise around issues like consent and boundaries, labour and capitalism, or sexuality and sexual health. Fricker calls this “‘situated hermeneutical inequality’—the lived experience of being unfairly disadvantaged in rendering one’s social experiences intelligible, to others and possibly even to oneself” (2008, p. 70). Such failure to embrace the contributions of marginalized subjects also represents a failure of democratic society (Medina, 2013). Benefitting from epistemic diversity through discussion, learning, and self-correction is foundational to the very idea of democracy. As José Medina (2013) writes,

in democratic societies given their commitment to free and equal epistemic participation, there is a *prima facie* interest and obligation to detect and correct the systematic disparities in the epistemic agency that different members of society can enjoy and the inequities associated with them. [...] Fostering adequate democratic sensibilities involves meeting some minimal requirements on expressibility as well as on receptivity and responsiveness. (p. 4 & 9)

To rectify hermeneutical injustice, the hearer must arrive at an understanding “that the speaker’s lack of intelligibility is not her fault—it is due to the unfairly impoverished interpretive resources she is working with” (Fricker, 2008, p. 70). The speaker must be given opportunities to speak, and listeners opportunities to listen, “because the more actively a hearer listens the more

the speaker’s hermeneutical marginalization is thereby eroded—they are thereby enabled to contribute more than before to the shared hermeneutical resource” (Fricker, 2017, p. 55).

There is a dearth of porn-centric interpretive resources currently available to would-be listeners. Indeed, most pornography research itself fails to centre those who perform it (Berg, 2021; Smith & Attwood, 2014; Sullivan & McKee, 2015). By centering porn performer voices, including my own, this dissertation works towards remedying this injustice by contributing to that pool of resources. However, I recognize that while epistemic justice is a precondition of social justice and liberation (Fricker, 2013), the mere existence of epistemic resources—such as a dissertation—cannot alone overturn relations of oppression and domination. As Fricker writes:

insofar as hermeneutical marginalisation is a product of social powerlessness (and is a form of it), the actual eradication of this kind of injustice will require significantly more than such slight interpersonal hermeneutical empowerments; it will require sufficient social equality in general, *to ensure that new areas of hermeneutical marginalization do not keep re-emerging with new patterns of unequal power.* (Fricker, 2017, p. 55, emphasis added)

Addressing epistemic injustice in both of its testimonial and hermeneutical forms requires more than individual or small-scale shifts in how sex worker voices are amplified and understood (Doan, 2018; Langton, 2010). It also requires more than the selective elevation of certain, palatable sex worker voices. Epistemic injustice is fueled by broader beliefs and social conditions that undermine sex worker credibility and intelligibility: deeply held beliefs about sex, gender, money, work, and value; conditions of misogyny, heterosexism, classism, racism, and colonialism. That is why it is not enough that the prototypical ‘empowered sex worker’—the liberal, white, middle/upper class, cisgendered<sup>4</sup> woman who frames sex work as an

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<sup>4</sup> Cisgendered means that an individual’s gender identity corresponds to gender norms associated with the sex that they were assigned at birth. A ciswoman is someone who was assigned female at birth and

entrepreneurial journey of self-expression—enjoys greater credibility now than in the past (Berg, 2014a). This shift does little to destabilize the deeper social stratifications driving epistemic injustice. The knowledge gained by elevating these particular sex worker voices makes little truly novel contribution to the collective epistemic resource, because it does not challenge deeper status quo beliefs. This is not to say that individual sex workers fitting all or parts of this description have nothing important to contribute. Rather, it is to say that sex workers are often only listened to, to the precise extent that they do not disrupt broader narratives. When workers share experiences or ideas that fall outside the stereotypical dichotomy of empowered or victimized, those elements are conveniently ignored or erased (Hester & Stardust, 2020; Massey, 2018).

Michael Doan (2018) appropriately critiques Fricker's focus on individual prejudice, noting there are also important structural factors that contribute to epistemic injustice. Doan suggests that Nancy Fraser's theory of recognition is a more appropriate way to conceptualize the harm of epistemic injustice—as institutional and relational rather than individual and psychological—wherein,

epistemic injustice occurs whenever 'institutions structure interactions according to cultural norms that impede parity of participation' (Fraser 2003, 29), preventing people from testifying and being heard, asking relevant questions, contesting claims and standards of evidence, and otherwise participating in everyday epistemic practices as peers [...] the withholding (and in some cases, the granting) of credibility as one of many distinctive means of subordination that, once institutionalized, serve to reproduce social hierarchies over time. (p. 13)

Doan further critiques the notion that only the prejudiced individual can remedy instances of epistemic injustice, rendering the recipients of this injustice passive victims. Instead, he employs

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identifies as a woman, and a cisman is someone assigned male at birth who identifies as a man (Dumaresque, 2019).

the work of Glen Coulthard to argue that action on the part of the subordinated party is required to transform the unjust relation, for “[w]ithout conflict and struggle, the terms of recognition tend to remain in the possession of those in power to bestow on their inferiors in ways they deem appropriate” (Coulthard, 2014, p. 39, c.f. Doan, 2018, p. 15). Without such confrontation, the dominant definitions of what *counts as credibility* will remain in effect, and only those subordinated voices that capitulate to these norms will have any hope of being elevated, leaving “a particular, largely unexamined norm of credibility” intact (Doan, 2018, p. 16). This is particularly relevant given that sex workers are often framed as uneducated, coerced, and criminal, with their knowledge routinely discounted as ill-informed, biased, or inappropriately vulgar. A transformative strategy not only aims to correct the epistemic injustice by granting credibility to those who merit it, but also aims to “create new terms, values, and conditions by which people are to recognize one another as thinkers, knowers, and collaborators” (Doan, 2018, p. 19). Justice requires more than acknowledging previously ignored sources of knowledge, but rather entirely dismantling and rebuilding what *constitutes* knowledge itself.

### 1.3 Research Approach: The Familiar and The Strange

This research responds to the pervasive epistemic injustice faced by porn performers and other sex workers by elevating and centering these marginalized voices. As such, it starts from a place of listening. Bringing together in-person and online fieldwork, in-depth, unstructured interviews, and autoethnography, this project adopts the ethnographic method developed in the field of anthropology. I take anthropology’s “basic critical strategy” of “defamiliarization”, that is, of “placing familiar subjects in unfamiliar, or even shocking, contexts [...] to make the reader

conscious of difference” (Marcus & Fischer, 1986, p. 137), and flip it. Instead of making the familiar strange, I seek to take the seemingly strange—porn work—and make it familiar. I aim to normalize porn work so that it can be seen and heard without evoking assumptions of shock and awe, since shock and awe contribute to the unintelligibility that is epistemic injustice. I understand the epistemic injustice experienced by porn performers as partially rooted in sex exceptionalism: the automatic, unquestioned sequestering of phenomena deemed ‘sexual’. Sex is routinely relegated to a universe of its own, treated differently than other human social activities (Jackson & Scott, 2010). Sex work, by extension, evokes for many a seemingly unbridgeable chasm of meaning and experience, and is consequently treated unlike any other form of work (or other forms of sex, for that matter; see also Abbott, 2010; Berg, 2014a, 2021). Indeed, the very notion of ‘sex work’ as a distinct field has contributed to this sex exceptionalism. While crucial to pooling resources towards activist efforts, and valuable for identifying the ways in which all types of sex workers are uniquely targeted due to the sexual nature of their work, ‘sex work’ also overemphasizes the similarities between wildly different kinds of sex work, and in the process, underplays what these different kinds of sex work have in common with non-sex work jobs.

While I aim to familiarize porn, I also seek to defamiliarize ‘health’. I embrace anthropology’s role “as a form of cultural critique” that “disrupts common sense and makes us reexamine our taken-for-granted assumptions” (Marcus & Fischer, 1986, p. 1). Medical anthropology in particular asserts that health practice is never neutral or value free, but rather shapes and is shaped by historical and sociocultural context (Lock & Scheper-Hughes, 1996; Scheper-Hughes & Lock, 1987). As such, the assumptions and rationales held by policy makers and public health institutions are deeply embedded in, shaped by, and in turn shape the legal and regulatory norms of a given society. More specifically, my approach is informed by the work of scholars such as

Richard Crawford (1980), Deborah Lupton (1993, 1995), and Alan Hunt (1999), who argue that ‘health’ has become “elevat[ed] to super value, a metaphor for all that is good in life” (Crawford, 1980, p. 365). As such, health is the language through which morality is spoken. The ostensibly ‘value-free’ language of health risk discourse is actually used to “express outrage at behavior deemed socially unacceptable” (Lupton, 1993, p. 425) and promote moral imperatives, particularly in pluralist, secular, liberal democracies where morality has been severed from any explicit religious framework (Hunt, 1999). A host of social, moral, and political imperatives are always at play in whatever is considered ‘healthy’.

Finally, then, this is a project fundamentally concerned with the establishment and destabilization of sexual norms. I examine how porn variously fits with or disrupts the basic premises of occupational and sexual health. As such, I situate this work within the fields of porn studies and queer studies. As fields that both take “that indeterminate site of power—sexuality—as their primary object of study” (Stadler, 2018, p. 170), porn studies and queer studies make ideal allies.

Porn studies emerged in the late 1980s and is most often traced to Linda Williams’ seminal *Hard Core: Power, Pleasure, and the ‘Frenzy of the Visible’* (1989), as this was the first text to treat pornography as a matter of scholarly interest rather than the focus of a binary polemical debate. What distinguishes the field from abolitionist critics is that it approaches pornography—its history, content, production, dissemination, and consumption—with a critical lens, but without assuming that pornography is a *problem* (Smith & Attwood, 2014). Instead, pornography is viewed as a topic like any other: a form of media, a type of labour, a technological driver, a capitalist or artistic enterprise, and a site of sexual practice. Porn studies is interested in how porn is made and consumed, as well as how it is discussed and framed in mainstream discourse.

Whatever the specific questions, the field aims to complicate reductionist assessments of pornography, acknowledging diversity by instead referring to *pornographies*, and always seeking nuance over simplicity. Porn studies treats pornography as no simpler than any other phenomena; it is neither ‘good’ nor ‘bad’, neither oppressive nor liberating.

Queer studies also emerged in the late 1980s/early 1990s, influenced in part by the post-modern wave that rocked English-speaking academia with the translation of Michel Foucault’s *History of Sexuality* (1990). In short, queer studies are interested in uncovering the regulatory function of sexual and gender identity categories, destabilizing the taken-for-granted linkages between identity, desire, and practice (Butler, 1990; Jagose, 1996). Queer studies are particularly interested, then, in liminal states, boundary blurring, and that which transgresses established categories of existence. So while queer studies often focus on norms in relation to sex and gender, it also examines how sex and gender norms play a key role in defining a host of other seemingly non-sexual areas of social and political subjectivity such as class, racialization, and citizenship. In this way, queer studies have expanded to question all presupposed categories, and is as much a critical method used to look at any topic as it is a specific position towards sex and gender identity categories specifically (Boellstorff, 2010).

These various scholarly influences—anthropology, queer studies, and porn studies, themselves each influenced by feminist and critical race theory—“teach us the importance of unmasking and undoing the process of social construction of our perspective, of interrupting the flow of familiarity and obviousness, making the familiar unfamiliar and the obvious bizarre” (Medina, 2013, p.19). And, as José Medina continues, this is the essence of how we confront epistemic injustice, for

this critical exercise should not be thought of simply as the quaint activity of some peculiar activists and intellectuals, but rather as a crucial part of the growth and development of critical subjects of knowledge, of subjects who learn how to resist their cognitive-affective limitations and to improve their sensibilities and capacities. We all have a prima facie obligation to undergo a process of *self-estrangement*, to cultivate openness to perplexity and to interrogate received attitudes and habits. If we fail this obligation, the failure of other epistemic responsibilities will ensue and possibilities of critique and resistance will be thwarted. (2013, p. 19, emphasis in original).

All good journeys require a road map. I now offer an outline of the chapters in this dissertation.

## 1.4 Outline

Having just traced some of the basic foundations of this project in the introduction, in Chapter 2 I expand upon my epistemological orientation as well as a detailed account of the methods used in this research and relevant ethical considerations. Epistemology, methods, and ethics are contained in a single chapter, as each is utterly implicated and intertwined with the others. In Chapter 3, I offer a sketch of the porn production landscape: the performer base, the various types of productions, the geography of production hubs referred to in this research, the different genres and markets, and a basic outline of occupational health protocols used in mainstream production. This sets a foundation of understanding for the chapters to follow. Chapter 4 traces the history of formal legislative attempts to regulate occupational health policy in the porn industry, namely, mandatory condom use. These included multiple bills and petitions proposed at various levels of government and through multiple avenues, some of which specifically capitalize upon public ignorance and disbelief of porn performers. I describe how porn workers were not only not consulted in the drafting of these laws, their oppositional testimony was actively discredited by regulators. In Chapter 5, I suggest that this epistemic injustice is fueled by several presumptions about sex work. These include the assumption that sex workers are best protected by paternalist



government policies; that this is especially true of young women sex workers, who are perceived as incompetent and victimized; the idea that sex work is categorically distinct from and inherently more exploitative than other forms of labour, otherwise known as *sex work exceptionalism*; and a belief that one cannot adequately consent to sex work. Chapter 6 then explores the implications of this discrediting. I detail the financial, aesthetic, practical, and health-based reasons most porn workers are opposed to mandated condom use. This illustrates how policy designed by external bodies fails to understand, meet, or respect the needs of porn workers, in part because it was created for the healthcare and not sex work context. Performers' alternative approach to harm reduction and risk assessment were unintelligible to policy-makers and their supporters, as it fell beyond status quo understandings of sexual health despite its effectiveness at preventing infections, which is how safer sex 'success' is typically measured. In Chapter 7, I lay out what I call the *Responsibility Defense*: the rhetoric used by the mainstream, straight, U.S.-based porn industry to defend its self-regulatory practices. I describe this defense as composed of three interlocking parts: an effort to present 'the' adult industry as a unified and cohesive entity, an effort to present porn performers and productions as safer sex role models, and an effort to present rigorous and standardized health protocols as a mark of legitimacy, respectability, and professionalism, both public-facing and internal to the industry. I show how this defense has proven relatively effective at convincing regulators to cease further policy-making and enforcement attempts, but at the cost of privileging a specific type of sexual health management that was designed for a particular segment of the porn industry in a particular time and place. Finally, Chapters 8, 9, and 10 detail who is left out by this type of sexual health management, as well as the alternative occupational health systems performers have developed to navigate and rectify those exclusions. In Chapter 8, I do this by pointing out three features of the straight porn industry, upon which its primary occupational health system was based and which,

in an evolving industry, can no longer be deemed characteristic of the bulk of production: Firstly, I note the increasing amount of porn produced outside of the major U.S. production hubs, where rapid, costly, privatized HIV and STI testing is not always available. Next, I discuss the dwindling distinctions between porn performance and full-service sex work, a differentiation that had previously animated assertions of porn's relative sexual healthiness. Then I look at the slippery lines between 'professional' and 'amateur' production, and by extension the lines between work sex and personal sex. In each section, I discuss the alternative ideological and practical solutions generated by sex workers. In Chapter 9, I address who it left out of the straight porn industry's sexual health management system by tackling the most significant (and most controversial) issue in porn health in recent years: the question of if and how to incorporate the evolving science of HIV transmission and biomedical prevention options, and by extension, how to address the differences between gay and straight porn productions' approaches to occupational health. This last issue offers the opportunity to identify several presuppositions about sexual and occupational health that are used to justify inappropriate and ableist policy applications. In the concluding Chapter 10, I demonstrate how many performers are creatively adapting their thinking and their working in an effort towards more just and ethical porn production practice. These are just some of the insights we lose out on when we ignore or discredit the epistemic contributions of sex workers: an acute awareness of the injustices inherent in how we think about sexual health; and dynamic, on-the-ground solutions for how to resist and rectify those injustices.

As Sophie Pezzutto and Lynn Comella (2020) write, pornography is “more than just arousing images”:

studying it can offer important insights about the larger political, economic, and social organization of a significant domain of cultural production and representation. Pornography is a place where political and social anxieties are played out [...] [F]ar from

being narrow in focus, research on pornography has a great deal to offer scholars working in gender and cultural studies, economics, labor studies, law, urban studies, and more. (p. 156)

This dissertation asserts that we have much to gain by studying the struggle over porn's occupational health protocols. This is a struggle over the very meaning of sexual health, responsibility, and consent. In order to build just and equitable public and occupational health policy, we must centre the perspectives of those whom such policy is intended to serve. Porn workers' voices have been routinely dismissed by policy-makers. At the same time, the solutions developed within the mainstream industry have excluded still other sex work voices. But, as I will show, porn workers have developed creative ways to push back against both these forms of injustice. We have much to learn from this nuanced approach to resistance.

## CHAPTER 2: METHODS AND ETHICS

### 2.1 Introduction

As discussed in the introduction, porn performers' experiences are often disregarded or maligned, contributing to an epistemic injustice with extensive consequences. The research approach and methods I have chosen aim to counteract that injustice. This project uses critical interpretive medical anthropology (Lock & Scheper-Hughes, 1996), adopting an ethnographic approach that combines critical textual analysis of news media, social media, printed materials, health policies, and legislation; participant observation on porn sets and at adult industry events<sup>5</sup>, including digital fieldwork and critical autoethnographic reflection; and in-depth unstructured interviews with pornography professionals. Further rationale for this approach, as well as a description of each method and the relevant ethical considerations, are outlined in detail below<sup>6</sup>.

### 2.2 Layer One: "The delicacy of distinctions"

In the broadest terms, I espouse a post-structuralist approach to knowledge production, in the tradition of postmodern, critical, feminist theorists, and science and technology studies (Bourdieu, 1977; Clifford & Marcus, 1986; Denzin, 2009; Fleck, 1979; Foucault, 1980, 1990;

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<sup>5</sup> In keeping with the language commonly used in the adult industry, I will use "adult entertainment", "adult industry", "adult performer" and "adult industry professional" interchangeably with "pornography industry", "porn performer", "porn worker", and "porn professional".

<sup>6</sup> This methods and ethics section may appear excessive to fellow anthropologists. Note that this dissertation was written in the context of a Faculty of Medicine, with an interdisciplinary committee and review team, and therefore offers more explanation and justification than might be typical within a pure anthropology department.

Haraway, 2008; Jaggar, 2008; Kuhn, 1970; Laqueur, 1990). Knowledge production is embedded in and reproduces relations of power, as dominant discourses become naturalized (Foucault, 1980, 1990), and this has allowed dominant narratives to overshadow marginalized voices (Ellis et al., 2011, Spivak, 1988; TallBear, 2013). Knowledge regimes (such as medical, legal, and academic bodies) define what can be meaningfully said on a subject, which in turn influences how we understand that subject as well as how we experience ourselves in relation to that subject. Which dominant truths become established and normalized, as well as the limits by which these truths can be resisted, are established within relations of power and tend to serve those who hold more social/political/economic capital (Bourdieu, 1977; Keesing, 1992). So while knowledge regimes and the social bodies they exist in tandem with are co-constituted, “power is held unevenly, such [that these] multidirectional influences do not happen *evenly*” (TallBear, 2013, p.11, emphasis added). Therefore, in examining dominant narratives, one must always ask: who is served by a given truth? And in examining counter narratives, one must equally ask: to what degree do these counter narratives actually destabilize the dominant narrative, and to what degree do they simply reinforce it?

That said, this project makes no claims to exhaustive, definitive, or even ‘representative’ knowledge: many different accounts could be told by other researchers talking to other porn professionals; indeed, many different accounts could be told by the same researcher with the exact same data. However, if the goal is to produce a meaty account, one that provides a certain degree of intricacy and depth, some means of producing knowledge are more effective and appropriate than others because they are more *involved*. Ethnographic methods entail a certain degree of enmeshment that many argue makes their yield especially meaningful and useful for understanding things complexly. As Emerson, Fretz, and Shaw write (2011), the ethnographer

“seeks a deeper *immersion* in others’ world in order to grasp what they experience as meaningful and important” (p. 3, emphasis in original). It involves “both being with other people to see how they respond to events as they happen and experiencing for oneself these events and the circumstances that give rise to them” (p. 3). The process is simultaneously experiential and observational (of self and others); its aim is to generate or cultivate a shared intuitive understanding through extended engagement and an intentional blurring of whatever distinction one might hold between ‘self’ and ‘subject of study’. The endeavour is what Geertz (1973), borrowing the term from Gilbert Ryle, popularized as a pursuit in “thick description” (p. 6): the ability to move beyond a superficial account of what people are doing to a more intimate understanding of actions as nuanced, multi-faceted, and embedded in context. For health research specifically, this enables moving past ‘what’ health actions are taking place to exploring ‘how’ and ‘why’ those actions are articulated, adapted, and contested in certain ways (Helman, 2001).

The ethnographic focus is “microscopic”, but, as Geertz continues:

This is not to say that there are no large-scale anthropological interpretations of whole societies, civilizations, world events, and so on [...] [but] the anthropologist characteristically approaches such broader interpretations and more abstract analyses from the direction of exceedingly extended acquaintances with extremely small matters. (1973, p. 21)

The logic behind doing so is that “social actions are comments on more than themselves; that where an interpretation comes from does not determine where it can be impelled to go. Small facts speak to larger issues [...] because they are made to” (1973, p. 23).

While ethnography is indeed defined by the local, the contextual, the “microscopic”; “what generality it contrives to achieve grows out of the delicacy of its distinctions, not the sweep of its abstractions” (Geertz, 1973, p. 25). In other words, the value and applicability of

anthropologically-derived knowledge is not that it can broadly Explain Other Things, but that it offers one deep explanation of the thing at hand, and further, its attentiveness to nuance can explain *how to* explain other things. The appeal of this form of knowledge production is that it conjures this “delicacy of distinction” in a way that other faster, broader, more systematic methods cannot. As such, there is no one singularly ideal ethnographic description of a given subject. Furthermore, a truly rich (and potentially politically transformative) ethnographic account should also incorporate institutional practices, material reality, and power/political structures, not just symbolic or interpretive experience (Clifford & Marcus, 1986; Madison, 2012; Smith, 1990). This is explored in the next section.

### 2.3 Materiality versus Interpretation

There is great variety in how given observations might be framed and understood, including empirical evidence such as that produced by the biological sciences (Fausto-Sterling, 2012; Martin, 1991; Oudshoorn, 2003; Pitts-Taylor, 2016). There is not, however, limitless variety in how evidence can be interpreted, and there is a relationship between materiality and interpretation (Marinucci, 2016; Mol, 2002). Regardless of the many meanings that may be arbitrarily laid upon, for example, pregnancy or HIV, what uninterrupted pregnancy or untreated HIV actually do to the body still matters; their effects cannot be changed through a different interpretation. But their effects can mean very different things, and be treated in very different ways by people and their social institutions, depending on which interpretation prevails. One requires what Victoria Pitts-Taylor (2016) would call an *onto-epistemological approach*, one that does not evacuate materiality or fail to recognize that biology matters, but which concedes that

*how it matters* is entangled in our efforts to know it, that these efforts have other material implications that require critical attention.

The development of a critical interpretive medical anthropology grew out of perceived gaps in anthropology's attention to the symbolic, the material, and the sociopolitical. In 1986, Marcus and Fischer saw critical anthropology as splitting into two major camps: on the one hand, an interpretive branch focused on highly contextual description while challenging the idea of 'authentically' representing 'culture', but lacking engagement with broader political and economic forces; on the other hand, a political economy-infused anthropology focused on "issues of power, economics, and historic context", but tending to omit the kind of detail and specificity that characterizes ethnography (Marcus & Fischer, 1986, p. 44). Each branch lacked what the other had. The following year, Scheper-Hughes and Lock (1987) published on what would come to be referred to as critical interpretive medical anthropology, an approach they continued to articulate in later writing. Critical interpretive medical anthropology engages explicitly with the body in context—the body as neither absent nor universalized (Lock & Scheper-Hughes, 1996, p. 41), and blends phenomenological, interpretive, and critical approaches to understanding experience, meaning, and politics. It takes knowledge, experience, and practice about health and wellness to be "constrained (but not determined) by the structure and functioning of the human body" (Lock & Scheper-Hughes, 1996, p. 44), and always in relation to broader sociopolitical conditions and interests. Critical interpretive medical anthropology thus approaches this body in a three-fold manner: the individual experience of *being* a body, and how the body is made meaningful on the personal level; social uses of the body as a *symbol* with which to think about broader notions of the collective, e.g. relations, society, nation; and the political *regulation* of



bodies through surveillance and punishment or praise and approval (Lock & Scheper-Hughes, 1996, p. 45).

My use of qualitative methods is not simply a means of data collection, but signifies and represents the broad epistemological convictions and “analytic potential” outlined above (Mykhalovskiy et al., 2018, p. 615). The ethnographic methods I have chosen reflect my research goals. They are inherently flexible, they do not require pre-determining the subject of inquiry too strictly. I had overarching interests and guiding questions, namely: how should porn’s occupational health protocol be determined, and who should enforce it? What protocols do performers use and who do they feel about them? What values and ideologies are at stake in disputes over appropriate porn health practice? Within these guide-posts, I allowed the research subject to take shape iteratively, constantly refining and refashioning my focus in response to the experiences and interpretations I accumulated over the years of research. This iterative process is explored more below, in the description of analysis. Here I wish to offer more detail on the three major methods I employed: critical textual analysis, participant observation, and interviewing. The rationale and background of each method is explored, followed by a description of how I employed it, including detailed subsections outlining the ethical considerations and protocols related to each.

## 2.4 Layer Two: Methods Deployed

### 2.4.1 Critical Textual Analysis

Much legal, health, and policy writing purports to be value neutral (Peterson & Lupton, 1996). Similarly, news often presents itself as objectively reporting facts and events, without judgement or interpretation (McCarthy & Dolfsma, 2014). But “our ways of talking do not neutrally reflect our world, identities and social relations but, rather, play an active role in creating and changing them” (Jørgensen & Phillips, 2002, p. 1). The written word—as in bills, laws, policies, and procedures—serves important administrative and regulatory functions; and written commentary—as in news media, blogging, press releases, and so on—constitutes a valuable record of discussions, debates, and the struggle for authority over the meaning of things. Texts, and the discourses they contribute to, are thus significant entry points for analyzing how power operates through knowledge production. I am inspired by both Foucauldian (Laclau & Mouffe, 1985) and discursive psychology (Potter & Wetherell, 1987) approaches to analyzing text, by which I mean that regimes of knowledge (medical, industrial, journalistic, etc.) produce insidious ‘rules’ about what can be intelligibly said about a subject. At the same time as these various discourses compete to shape the ‘truth’ of the social world, individual subjects, as both producers and products of discourse, create and negotiate their sense of self through the available discourses and through their attempts to contort them (Jørgensen & Phillips, 2002). Combined, I can make use of their different strengths, whereby:

discursive psychology is much more interested in people’s active and creative use of discourse as a resource for accomplishing social actions in specific contexts of interaction than Laclau and Mouffe’s discourse theory, which instead is interested in how discourses, more generally, limit our possibilities for action. (Jørgensen & Phillips, 2002, p. 21)

In Laclau and Mouffe's (1985) method, the starting point of analysis is to identify "nodal points". These are those foundational concepts (such as 'sex', 'health', or 'the public') that influence how other signs are defined and articulated. One then investigates how these points are defined differently across competing discourses vying to fix the meaning of a given phenomenon in place. This process reveals the underbelly of the main struggles taking place between competing discourses, and therefore the different issues each discourse producer believes to be at stake (Jørgensen & Phillips, 2002).

Complementarily, discursive psychology approaches aim to identify the various "interpretive repertoires" used by different subjects in social interaction. These repertoires consist of "broadly discernible clusters of terms, descriptions and figures of speech" that are used in somewhat consistent stylistic ways (Wetherell & Potter, 1992, p. 90, cf. Jørgensen & Phillips, 2002, p. 107). They are both "identifiable entities that represent distinct ways of giving meaning to the world *and* malleable forms that undergo transformations on being put to rhetorical use" (Jørgensen & Phillips, 2002, p. 107, emphasis in original). The aim is to identify how these repertoires of discursive formations are flexibly selected and utilized to construct certain subject positions and to further their social and political interests.

Importantly, then, I couch my understanding of texts within my fieldwork and interviews with participants. In line with Blommaert and Bulcaen (2000), I assert that "a more ethnographically informed stance [to the analysis of texts], in which linguistic practice is embedded in more general patterns of human meaningful action, could be highly productive" (p. 461). Texts are analyzed as both products of human action and as animated entities (actants) in their own right

(Felski, 2015; Latour, 1996). As such, I draw on those texts that are most imbricated in the lived realities of the people I spoke with and the sites I encountered. I expand on these sources below.

#### *2.4.1.1 Policy documents*

As I am interested in relations of power and how these determine dominant discourse as well as responses to dominant discourse, one component of my research looks to institutional writing, such as policies and legislation. This analysis occurs on three levels/for three purposes. First, I needed a general familiarity with those policies and practices impacting the adult industry, both to effectively engage with participants and to provide context for the opinions and actions of the broader porn community. Knowing the conversational abbreviations for controversial bills like “Measure B” and “Prop 60”, having a clear understanding of what is meant when people spoke of using the “PASS system” (all of which are described in the next chapter), having and demonstrating basic understanding of the issues at stake helped establish my legitimacy and garner trust and openness from others so we could speak more deeply of a subject rather than spending time on their explaining the intricacies of legislation to me (and ensured I could identify common deviations between how these policies are written and how they are understood and articulated by the actual people they impact).

Second, policies were read more deeply to conduct a critical policy analysis. This entails analyzing the practical appropriateness of specific health practices and policies, in their own terms, according to traditional methods of public health policy analysis. Several questions related to policy effects and implementation are used to guide the analysis: What effects does the policy have on the targeted health problem? What are the unintended effects of this policy? What are the

effects of this policy on different groups? What is the financial cost of this policy? Is the policy technically feasible? Do the relevant stakeholders view the policy as acceptable? (Morestin, 2012, p. 2). This analysis is practically useful as a means to envision and advocate for socially just, sex worker-centric policy around pornography production. It informs my collaborations with other academics, community groups, and adult-industry trade associations such as the Free Speech Coalition<sup>7</sup>.

Third and relatedly: given my ‘insider’, activist-researcher position (developed more below), I engage in the aforementioned ‘first-level’ policy analysis, while simultaneously undertaking what we might call a second-level reflexive analysis. By this I mean that I review policies as part of intertextual chains (i.e. the policy itself, press releases about the policy, news coverage of that press release, and public commentary or interview data about the news coverage; Jørgensen & Phillips, 2002), to develop an analysis of the overarching phenomenon that produces the policy. This involves interrogating the rhetorical moves being made on *all* sides of the policy issue, including *my own* participation in such activism. In other words, data includes the policy, what is said about the policy, and what I think about the policy and what is said about the policy. Modern governance relies heavily upon text-based discourses (DeVault, 2012), but it is attention to all the activity *around* the text that moves research from pure policy analysis to critical ethnographic inquiry.

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<sup>7</sup> The Free Speech Coalition (<https://www.freespeechcoalition.com/>) was formed in the early 1990s, and is the trade association for the adult industry including pornography and pleasure products. As will be described below and in the next chapter, it has played a significant role in the creation and administration of porn health protocols.

I collected the texts of proposed and passed bills through basic internet searches, usually available through the legislative databases of government websites. Relevant policies and procedures were usually found on organizational websites. Which policies and procedures I should investigate was largely determined by what was reported in popular and especially adult-industry news media, to which I turn below.

#### *2.4.1.2 News media*

I took a systematic approach to following news media in order to stay informed of significant bill proposals and passages, policies, and proclamations. On August 28, 2017, I created a “Google Alert”<sup>8</sup> to regularly gather English-language articles combining the terms “pornography” and “public health”; links to these were delivered to my email, and I would review them and break their content up into themes, developing and refining categories over time. This process kept me abreast of breaking events so that I knew when to go seek out the original text of pertinent policies and procedures. It also alerted me to related commentary from industry professionals, porn critics, public health workers, politicians, and others.

While I originally intended to produce an analysis of all these news pieces as a chapter of this dissertation, the alert gathered well over 1000 articles during the course of data collection. It became clear that this would become a stand-alone research project, to be completed at a future

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<sup>8</sup> When researching Google Alerts search algorithms, I became aware that the system has been criticized both by Google themselves (Hill, 2013) and competitors (Bhakuni, 2018; Whatman, 2020). These criticisms seem more targeted at the application’s usefulness as a public relations tool rather than at its news-gathering capacity specifically (for example, critics point out the fact that it only gathers web links and not social media posts). As my goal was simply to stay up to date on breaking news, rather than to generate an exhaustive collection or monitor trends in a systematic way, I still feel my use of Alerts was appropriate for my purposes.

date, and I have allowed the Alert to continue collecting new sources but have set aside further analysis at this time. My review of the literature gathered during the study period nevertheless informs my overall analysis of other data sources. My analysis draws on my general familiarity with this body of newsmedia, and I make use of the preliminary thematic database I made to organize these media pieces.

I also gathered reporting and press releases from adult industry media sources, namely XBIZ and AVN (Adult Video News), by signing up for their newsletters, following them on Twitter, and collecting their magazines and other print materials when at trade shows and events. Such publications are examples of the “documents of many different varieties, as well as other human artifacts” that “researchers encounter [...] in the course of participant observation. [...] These products of human activity potentially provide rich sources of secondary, and in some cases even primary, research materials. In most cases, data of this sort represent naturally occurring phenomena ripe with human meanings” (Jorgensen, 1989, p. 93).

As noted above, part of the activity surrounding policy includes news media. Policy documents alone do not adequately represent the many competing discourses surrounding pornography and public health. Additionally, social and news media are important sources of data because:

the media play a crucial role in defining our experience for us. They provide us with the most available categories for classifying out the social world. It is primarily through the press, television, film, etc. that experience is organized, interpreted, and made to *cohere in contradiction* as it were. (Hebdige, 1979, pp. 84-85, emphasis in original)

So beyond alerting me to, for example, state bill proposals of interest, news media offers an important window into the various public discourses competing to define pornography and its relationship to public health.

### *2.4.1.3 Social media*

I also engaged with social media as part of this project, specifically Twitter. Twitter is a more text-based social media than, for example, Instagram, but I consider Twitter more of a field site than a source of text per se, so it is described below in the section outlining my participant observation activities.

### *2.4.1.4 Source availability*

The texts in question were freely available on news and social media websites, publically available legislative or policy documents, or came out of free industry print media, show guides, et cetera. I did not access any texts that required a membership, registration, payments, or approval (for example, some social media accounts are set such that only certain viewers are granted access to some or all of the posted content). Given that these are all considered “public domain with no expectation of privacy”, no ethical approvals were required to obtain and review them even when they contain “identifiable information” (TCPS 2, 2018, p. 16).

## *2.4.2 Participant Observation*

Empirical studies about the pornography industry are few; most research tends to be theoretical/ideological, or to focus on the finished product rather than on who makes it and how it is produced (Voss, 2012; see also Berg, 2021). The adult industry remains a ‘pariah’ industry, making academics and journalists less likely to study it empirically and so more likely to produce unreliable research (Voss, 2012). To move beyond how pornography is framed discursively, I also spent time with adult industry professionals, conducting participant observation at adult industry events, porn film festivals, and on porn sets.



As with any researcher, my experience and positionality influence the topics I am drawn to, how I conduct my research, and the interpretations I make of my findings (Brooks & Hesse-Biber, 2007; Madison, 2012). It is largely my own involvement in the adult industry that motivated this project. I have worked in the adult entertainment industry in various capacities since 2002, primarily as a performer for mainstream and fetish/kink/BDSM<sup>9</sup> photo, film, and livestream productions. I have also acted as: manager of a webcam studio; on-set camera and boom microphone operator and production assistant; sex toy review, op-ed, and script writer; and voice actor for erotic audio stories. When I began working in the industry at the age of 18, I had no intention of attending university or pursuing doctoral work on the industry, but I always thought critically about pornography while performing within it. And I have always been troubled by the limited nature of discourse that circulates about it. This has led to great frustration with how rarely my own experience is reflected in reporting, scholarship, and public conversation about pornography—that is, my own experience of hermeneutical injustice. The dissonance between the lived realities of sex workers and the framing of our lives by those who judge and criminalize us is a perennial concern of sex worker rights movements. Not only because it amounts to a misrepresentation, but because such limited discursive terrain has very real, harmful consequences for sex workers, even when these discourses are well-intentioned. As Miranda Fricker writes, it is this sense of dissonance that can fuel rebellion, for it inspires “both the critical thinking and the moral-intellectual courage that rebellion requires” (2007, p. 168).

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<sup>9</sup> Fetish, kink, and BDSM refer to sexual practices perceived as atypical, such as arousal to body parts that are not typically considered ‘sexual’ (e.g. ‘foot fetish’) and the consensual and explicit eroticization of power differentials. The acronym BDSM stands for three different dyads: Bondage/Discipline, Domination/Submission, and Sadism/Masochism.

Therefore like Valli Kalei Kanuha (2000), I was drawn to my research subject out of a complex interplay between personal and political motivations: 1) a personal desire for more knowledge and exploration of a phenomenon that intrigued me and that I feel is inadequately represented in mainstream discourse; 2) an intellectual interest in locating this phenomenon within a theoretical and conceptual framework other than the sensationalist and moralist frameworks with which it is typically treated in media and public discourse; and 3) a justice-oriented aim to produce knowledge that can enable a more ethical treatment of the intersection between pornography and public health.

Participant observation is a qualitative method that seeks to develop, pursue, and reframe a research query through intimate everyday interaction (Jorgensen, 1989). It entails, as James Clifford wrote (2003), “a continuous tacking between the ‘inside’ and ‘outside’ of events: on the one hand grasping the sense of specific occurrences and gestures empathetically, on the other stepping back to situate these meanings in wider contexts” (p. 128). This “stepping back” is not to suggest that the observer can gaze in a culturally neutral or detached manner. It simply indicates that one is engaging (as their own unavoidable self) as both an observer, and an observer of observers (one’s self and others), with the aim of thinking both *about* and *with* other people (Geertz, 1973). The process is not simply intellectual, however. It is a method that “privileges the body as a site of knowing” whereby the “embodied researcher is the instrument” (Conquergood, 2003, pp. 352-353): to put it bluntly, you have to plunk your meat down in space and do day-to-day things with people.

Because of its ability to broadly capture social and organizational relationships and processes, participant observation is an especially useful method for situations where: 1) little is known

about the phenomenon, 2) there are important differences between the views of insiders and outsiders, and 3) the phenomenon is obscured from the view of outsiders and the public at large (Jorgensen, 1989). The pornography industry certainly fulfills the second and third criteria, and I would argue that the latest incarnation of interest in the health status of adult industry performers fulfills the first criteria, making participant observation an especially fruitful method for data-gathering in this context. Participant observation is also a highly flexible, opportunistic, and open-ended method (Jorgensen, 1989), well suited to studying emergent and understudied processes, since these are not amenable to extensively pre-planned modes of inquiry.

Participant observation also served two functions in relation to interviewing: given that the adult industry can be relatively dispersed and its members difficult to identify, field sites acted as a place to meet potential interviewees. Additionally, participant observation at a variety of field sites offered an ideal complement to interviews, because observing behaviour and speech in a social setting provides important contrastive data to the “performed retrospective accounts” of interviews (Charmaz & Belgrave, 2012, p. 352).

Many descriptions of participant observation (certainly the foundational ones) assume that the researcher is an ‘outsider’ entering unfamiliar terrain (e.g. Clifford, 2003; Geertz, 1973). Given that I spent 15 years involved in sectors of the adult industry before research began, this is not quite the case for me. Although some of the specific sites were new to me, my previous industry involvement influenced my experience and furnished me with useful knowledge, as will be apparent throughout this section. I take up the ethical, political, and intellectual implications of ‘insider’ versus ‘outsider’ status more explicitly below; for the present moment, I will focus on the specifics of the research process.

As far as setting timelines go, ethnography is a bit like sticking a pin into a butterfly so you can get a closer look: it helps you see the specifics of a time and a place or a situation, but it also freezes the very vibrancy that makes it interesting to look at, because of how it arbitrarily cuts off the two ends. There's an artificiality to cropping its contours. In this instance, setting a timeline feels all the more artificial given that the field is familiar: I 'entered' it long before the project began and it is unlikely I will ever fully 'exit'. This caveat aside, this particular project officially began with a preliminary field work trip to XBIZ (a major industry trade and awards show, equivalent to the porn 'Oscars') in Los Angeles in January 2017, and ended three years later at the same event in January 2020. A detailed description follows.

#### *2.4.2.1 Field sites*

My previous porn experience granted me a certain fast-track familiarity and ability to navigate adult industry events and sets, which, like any community or industry, are full of both spoken and unspoken norms and codes of conduct. More specifically, my existing connections both enabled and determined many of my field sites and initial interviews. To illustrate: my initial preliminary fieldtrip in 2017 was to the annual XBIZ trade show and awards ceremony. There are two reasons I selected this as an entry point. First, XBIZ is, alongside AVN (Adult Video News, described below), arguably the most important and influential industry news source, and its events are central to the adult industry circuit. Attendance at this event is key to establishing oneself as an industry figure. Second, I had good excuse and occasion to attend the 2017 edition because I had been nominated for an award, making my presence that year both personally gratifying and more legitimate. I did not win, but I got to see old friends in the industry and made a lot of new contacts.

While I had been to other trade show events in the past as a worker, this was my first time to XBIZ. XBIZ and AVN host a number of key trade shows, networking events, and the two primary awards nights celebrating achievements in adult film and webcamming. Both are based in the United States but have international attendance. Like some other annual events serving the relatively small adult industry, these operate much like a family reunion—an occasion for business, but also to catch up with friends and colleagues throughout the busy year. Regular attendance at these events is key to being perceived as an industry insider, and a mark of professionalism. The events are also useful for research because they offer a glimpse at the temperature and trends of the year: the topics of scheduled panel discussions, who is hosting and winning awards, which controversies are hot topics of conversation, and so on. Retrospective or diagnostic events such as “State of the Industry” or “Legal Landscape” panels are a regular feature and offer overviews of issues seen to concern the industry. Porn scholar Lynn Comella (2014) sees industry trade shows as a prime source for ethnographic data collection and an opportunity to engage in what she calls “porn studies-in-action”: an important departure from the armchair approach common to much porn studies research.

I completed field trips to a total of 17 sites (outlined in Table 1 below). On some occasions, these were trips where I also had non-researcher roles or tasks to fulfill, on others I went expressly and solely for research purposes. I performed and/or crewed (production assistant, script supervisor, boom operator, or camera operator) on four porn sets (August 2017, August 2018, January 2019, and August 2019). One of these sets was a short afternoon; the other three were all with the same company and spanned several days.

I attended nine trade shows. In January of 2018, I went to L.A. for XBIZ and continued on to the AVN expo in Las Vegas (the two events always happen sequentially). As mentioned above, Adult Video News, or AVN, is one of two paramount industry news sources and events. AVN differs from XBIZ, however, in that the AVN Adult Entertainment Expo is open to fans and welcomes around 35 000 each year (Kudialis, 2018). AVN thus offers additional insights and experiences compared to XBIZ: the presence of fans brings more performers together, which necessarily changes their behaviour but also opens up more opportunities for shooting together after hours, between the many parties and events. The two-week or so schedule of XBIZ, followed by AVN (with some also attending additional events like Internext and GaYVN<sup>10</sup> in between) is an important but exhausting annual ritual for many adult industry professionals.

I returned to XBIZ/Los Angeles and AVN/Las Vegas again in January 2019 and 2020. Both years I spent extended time with the Free Speech Coalition, the trade association for the adult industry. In 2019, I attended an additional show with them, the Adult Novelty Manufacturer Expo, visited their offices, and helped out on a panel they organized by audio-recording it. In 2020, I likewise spent time with the Free Speech Coalition at their booth. I was eventually invited to join the PASS Advisory Committee, which makes recommendations regarding the management of the PASS system (Performer Availability Screening Services, the system and database used to manage performer sexual health and industry-wide protocols and production holds and described in detail in the next chapter). I later worked in a volunteer consultant capacity for their COVID-19 task force, helping moderate focus groups with industry professionals to help in the development of filming guidelines. Following that, I became a

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<sup>10</sup> GaYVN is the Gay branch of the AVN brand.

founding board member when PASS was incorporated as its own entity in May 2021. While these roles have certainly informed my thinking, those meetings are confidential and so are not included as data for this project (although all other committee members and participants were made aware of my student status and research project). Besides growing my relationship with the Free Speech Coalition, each additional XBIZ/AVN trip has led to more and more sustained connections and networking.

Wanting to move outside of American circles and engage with performers from outside of these production hubs, I attended the Toronto International Porn Festival (formerly the Feminist Porn Awards) in April of 2018. This show is less business-oriented in that it draws a broad crowd of indie<sup>11</sup> and porn film fans and positions itself more as an artistic and activist event for members of sexually marginalized communities. Still, panels, performer mixers, and the awards show portion do bring together performers engaged in queer, feminist, and indie productions. I had attended this show several times in the past and so already had a familiarity with it.

To further explore non-American porn venues, I attended Montréal's Qwebec Expo, an adult industry trade show. I attended this show annually during the years that I was employed as a performer and administrator for a Montréal-based webcam<sup>12</sup> company. Therefore, I have long-standing connections with the organizers and many of the regular patrons. In 2018, the organizers contacted me to ask if I would consider giving a presentation oriented to performers. I agreed,

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<sup>11</sup> 'Indie' Is shorthand for independent. Festivals such as this one intentionally blur the line between films deemed 'pornographic' and other independent art cinema.

<sup>12</sup> 'Webcam' refers to webcamming, a form of adult entertainment where performers use a computer and camera to livestream content to viewers in real time. Webcamming—also referred to as livestreaming—will be described in more detail in the next chapter.

and explained that I already planned to attend in a research capacity, at which point they invited me to give an additional presentation on my research project. I developed a workshop for cam performers on negotiating consent with clients, and gave a talk about media framings of the porn industry as a “public health crisis”. I was asked to do the same in 2019, and presented the same consent workshop, as well as a panel covering various on-set sexual health management strategies.

Looking to move beyond North America, I also decided to attend a European film festival. I chose the Berlin Porn Film Festival because many of the performers I met in Toronto mentioned it as a key site for independent, queer, and European porn. I travelled to Berlin in October of 2019, attending both the PorYES festival (a three-day event consisting of public talks and festivities) and the Porn Film Festival Berlin (which consists of over a week of screenings in many diverse porn categories, as well as workshops, talks, parties, and awards).

All field sites are listed in Table 1 below, alongside their respective dates:



**Table 1*****Field Sites and Dates***

<b>Date(s) of collection</b>	<b>Fieldwork site<sup>13</sup></b>
August 11-19, 2017	Hollis, NH and Center Harbor, NH: film set
January 14-21, 2018	Los Angeles, CA: XBIZ trade show and awards
January 21-29, 2018	Las Vegas, NV: AVN Expo
April 20-22, 2018	Toronto, ON: Toronto International Porn Festival
July 30-August 2, 2018	Montréal QC: Qwebec Expo
August 12-17, 2018	Hollis, NH: film set
January 13-14, 2019	Los Angeles, CA: ANME show
January 14, 2019	Los Angeles, CA: Free Speech Coalition office visit
January 15-17, 2019	Los Angeles, CA: XBIZ trade show and awards
January 21, 2019	Las Vegas, NV: Film set
January 23-26, 2019	Las Vegas, NV: AVN Expo
August 7-8, 2019	Montréal, QC: Qwebec Expo
August 13-18 2019	Hollis, NH: film set
October 19-21, 2019	Berlin, Germany: PorYES Festival
October 22-30 2019	Berlin, Germany: Porn Film Festival Berlin
January 13-17 2020	Los Angeles, CA: XBIZ trade show and awards
January 22-25 2020	Las Vegas, NV: AVN Expo

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<sup>13</sup> Some disciplines may consider this an excessive number of field sites, but it is standard practice in anthropology.

Beyond these physical spaces, I also used Twitter as an additional digital field site. Twitter is the preferred social media platform for most porn performers because it has traditionally been the least hostile to sex workers, although like Instagram and Facebook, Twitter regularly closes or shadowbans<sup>14</sup> performer accounts. Nevertheless, adult industry figures are highly active on Twitter. I had not previously been active on social media, so I created a Twitter account under my performer name early in my research program (April 2017). Using purposive and snowball sampling, I began to follow key individuals and organizations of interest so that their tweets would appear in my feed. This includes individual performers, studios, industry commentators and news media outlets, trade association and related activist organizations, and other academics who study pornography. I have grown to follow close to 200 people; given the sheer volume of content this amounts to and the fact that posts are shown according to unknown Twitter algorithms, I have not attempted anything like an exhaustive or systematic review. Rather, I simply visit Twitter regularly enough to keep abreast of trends and events of importance, and to stay informed of industry gossip and controversies. Beyond acting as its own source of data, Twitter has helped me to stay in-the-know on relevant issues despite being so geographically far from production hubs, so that I could have more meaningful interactions with industry professionals when I was able to be face-to-face during fieldwork. I quote Tweets throughout the dissertation; given that these are public<sup>15</sup>, their use is not subject to REB approval (TCPS 2, 2018, p. 15).

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<sup>14</sup> Shadowbanning refers to the use of platform algorithms to make a user's posts and profile invisible or harder to find in searches. Sex workers, activists, and other users who post contentious content report having their accounts shadowbanned (Blunt et al., 2020). This tactic is often used in lieu of fully closing an account because it allows a platform to censor users without their knowledge.

<sup>15</sup> If they wish, Twitter users can make their accounts private or otherwise control who sees their Tweets: by blocking individual users, by making certain Tweets only available to followers, and so on. I have only quoted Tweets that were publicly visible to my account.

#### *2.4.2.2 Site selection*

Participant observation locations were chosen through a combination of purposive and convenience sampling. As I said, the North American adult industry is relatively small, and I knew of the key events and players through my previous experience in the industry. I was well aware that XBIZ and AVN were regarded as the most important events for the heterosexual industry. As the coordinator of the adult industry STI/HIV testing database (PASS), the Free Speech Coalition is an authority and important resource on industry sexual health. As its sole trade association, the Free Speech Coalition has also been instrumental in mounting opposition to the mandatory condom laws<sup>16</sup> that California public health and the AIDS Healthcare Foundation have sought to impose on the industry. Therefore, they were an ideal group for me to get involved in, and well-positioned to provide insight as to the opinions of people across the industry regarding health policies.

As noted above, the other field sites were selected either because they offered different geographic, political, or aesthetic value, and/or were sites I had some existing familiarity with or were linked to existing participants, and/or I had additional work-related reasons to attend. My goal was that the overall collection of sites would include a cross-section of different types of events from hubs in Canada, the U.S., and Europe. Again, the aim was to produce an eclectic but manageable data set.

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<sup>16</sup> These laws are explained in detail in Chapter 4.

### *2.4.2.3 Fieldwork activities*

Data gathering during participant observation was done by witnessing and participating in activities, and through casual conversation with those present. Observations are rooted on the “here and now” and “everyday life situations” (Jorgensen, 1989, p. 13). At trade shows this meant going to the main events, speakers, and awards ceremonies, as well as the casual socializing: dinners, cocktail hours, mid-day coffee and gossip in hotel lounges and lobbies. At film festivals this meant watching movies, chatting with other attendees in the lobby, and going to affiliated live shows and dance parties. When staying or socializing with people this meant doing everything from cooking meals or dining out together, putting on make-up, playing with pets, going to the gym, watching TV, and so on.

And in places like L.A. and Las Vegas: driving. Lots of driving.

As noted above, many of my trips involved specific tasks independent of my research project. On film sets this included performing, operating camera and audio equipment, or acting as production assistant (which could include anything from buying groceries and making food, to dressing sets, to finessing scripts and consulting on storylines, to cleaning up post-scene). At each XBIZ I ran a livestream recording of the annual event coordinated by the studio I work for. At AVN one year, I was asked by the Free Speech Coalition to audio-record a panel they organized. At Qwebec Expo I was a scheduled presenter running multiple seminars. Fulfilling tasks ‘behind-the-scenes’, rather than simply attending events as a spectator, was an important way to see how the proverbial sausage is made.

Fulfilling work tasks for others was also a way to ensure fieldwork did not happen solely according to my plans. Not dictating the course of fieldwork was an important strategy for me in more social settings as well. I would take up whatever opportunities were presented to me, and which I felt comfortable with, whether or not they appeared to have immediate relevance to my research interests (Jorgensen, 1989). For example, when two performers I was staying with invited me to one of their preferred pass-times—shooting assault rifles in the desert—I hopped at the chance, both as an occasion to spend more time together, but also thinking it might help me understand different approaches to and assessments of risk and pleasure. Yet when they offered me a rifle I declined, and spent a good deal of the afternoon cowering in their truck.

Much of my fieldwork consisted of ordinary, everyday life conversations, similar to Tillmann-Healy's (2003) proposal to frame friendship as a method of participant observation whereby "traditional forms of data gathering" are used alongside "the unfolding path of the relationships" (pp. 734-735). The difference between 'pure' friendship and friendship-as-method, perhaps, is the degree and type of attentiveness cultivated. I did my best to treat the research as secondary to relationships, rather than relationships as instrumental to the research. This was easy with relationships that pre-dated the onset of research, and something I actively cultivated with those I met after the onset of research. One outcome of this was gravitating towards spending more time with those 'participants' where we shared a natural inclination towards friendship.

#### *2.4.2.4 Fieldnotes*

An integral part of the fieldwork process is note-taking (Emerson et al., 2011). The exact process depends on the research (Emerson et al., 2011), but best practices suggest writing notes

contemporaneously in order to best capture observations, thoughts, and feelings as they arise and to minimize recall bias, with special attention paid to interactions, epiphanies, and questions that arise (Emerson et al., 2011). The type of notes I took included mundane observations, things I did or saw people doing, records of conversations and conflicts that occurred, information or links to emerging news events of relevance; and, in all cases, secondary thoughts about all these things and whatever preliminary analyses they might inspire (Jorgensen, 1989). Since I am effectively the ‘tool’ used to record the data, my observations about my observations are part of the data itself.

Typically, what this actually looked like was: I took notes as things happened. In some instances, such as during talks and panels at trade shows, my notes would be a combination of what was being presented by panelists, reactions of and comments made by attendees about the presentations, and then my own reactions and thoughts about what was presented as well as the reactions and comments of others on what was presented. I would note if there was an apparent split between, say, how performers responded to an issue versus producers or agents, or if I sensed distinct differences between my own response and those around me (Emerson et al., 2011). This kind of simultaneous multi-level recording and analysis is the essence of fieldnotes. As will be described more below in the analysis section, the fieldnote endeavour is entwined with the process of analysis (Emerson et al., 2011, p. 15). While it is important to spend time documenting *how* things occur without running to explanations or judgements as to *why* they occur a certain way, fieldnotes cannot be separated into discrete categories of, for example, “details about events and instances that I want to record for later consideration”, “narratives and stories that I encountered or that people told me”, “journaling my feelings and thoughts during

fieldwork and about all these things”, and “initial ideas and analyses about what this all *means*” (Emerson et al., 2011, p. 27).

Openly taking notes during a panel presentation is easy. Tables, pads of paper and pens are provided for the express purpose and so writing things down is not out of place (Emerson et al., 2011). Other scenarios and situations demanded a little more ingenuity in finding the time, place, and means to make notes. In some cases, such as during a party or more hectic social gathering, I would steal a few minutes to myself (often in bathroom stalls) and audio record my thoughts into my phone or Dictaphone. I would then transcribe the notes later on and delete them from my device(s). In other cases, I would scrawl cryptic notes to myself in the marginalia of trade show programs or cocktail napkins, stuffed into my purse or pocket for later deciphering (Emerson et al., 2011). And other times, I simply willed myself to remember events, insights, or turns of phrase until I was able to get to my home base and write them down. Most evenings, then, I would compile and type up my various scraps of paper, audio recordings, and memories of the day. If my notes referred to specific news events, for example, I would include the URL of a related webstory for reference. I would then generate any new notes, thoughts, or preliminary analyses that came up, date everything, and retire for the night.

#### *2.4.2.5 REB approval*

My first visit to L.A. in January 2017 was a preliminary one; no data was collected and no interviews were conducted. I undertook this trip before any formal ethical approval was in place, as “REB review is not required for the initial exploratory phase, which is intended to establish research partnerships or to inform the design of a research proposal, and may involve contact

with individuals or communities” (TCPS 2, 2018, p. 77, see also pp. 35 & 136-77). Following this trip, however, I applied for ethical approval through the Interdisciplinary Committee on Ethics in Human Research, Memorial University’s Research Ethics Board for non-medical research involving humans. Approval was granted on July 18, 2017 (Appendix A) and renewed annually for the duration of the project (20180439-ME).

#### *2.4.2.6 Consent at different field sites*

I visited three types of field sites: events broadly open to the public; events geared towards industry professionals, allied professionals, porn-adjacent businesses, and associated press; and closed film sets and offices. The ethical implications of consent are different for each setting.

Public events I attended would include the Toronto International Porn Festival, The PorYES Festival, and the Berlin Porn Film Festival. These events are not industry specific, but open to the general public (although all three festivals seem to encourage performer attendance; for example, the Toronto International Porn Festival hosted a performer meet-and-greet, and I would say that true to their ‘by-and-for’ ethic, about half of the folks I casually spoke to at the Porn Film Festival Berlin had some direct involvement in a film that was screening).

Events geared towards industry professionals would include XBIZ, Qwebec Expo, and Adult Novelty Manufacturer Expo. These are considered ‘B2B’ events, meaning business-to-business, where the intention is to showcase new products, make deals, sign up affiliates, and so on. The general public do not attend, although many uninitiated but aspiring porn professionals are always present. It is also not uncommon for journalists and researchers to attend these events.



AVN is a hybrid event, in the sense that it is geared towards porn professionals (who can purchase an “Industry Pass” with proof of industry employment) but serves as a venue for them to interface with fans and potential customers (who can purchase general admission or VIP badges that offer them varying degrees of access to the trade show floor and/or evening parties and events). Researchers are also a common presence at AVN, and every year I attended, there was some kind of informally organized ‘porn scholar meet-up’ numbering between 10 and 20 people.

For these public/industry events, attendance runs from a few hundred to tens of thousands (Hacker-Bousquet, 2016; Kudialis, 2018). It would be impossible to make every attendee aware of my presence as a researcher. There is also an enormous amount of press and social media coverage at these events, often with photographers, live-streams, and video cameras running at all angles. It is not uncommon to see postings warning attendees of pervasive filming, and that attendance in the space constitutes passive consent to be filmed. As such, these spaces fit the category of spaces where there is arguably “no reasonable expectation of privacy”, and my involvement was generally such that “dissemination of research results does not allow identification of specific individuals” (TCPS 2, 2018, p. 17). These conditions lower the threshold of ethical considerations and render REB approval unnecessary.

That said, I believe that smaller industry-specific events might entail some expectation of ‘privacy’ for some attendees (TSCP 2, 2018) in the sense of expecting that all persons present are pure ‘insiders’ (industry wariness of ‘outsiders’ will be discussed more below) without any additional ulterior motives or affiliations—such as an academic project. Indeed, I felt this expectation myself at times. For example, I have given several talks at Quebec Expo. During one

there was a journalist present who, the night prior, had cornered me into a conversation when he learned that there was a “PhD Cam Girl” around, such was his fascination that a sex worker could be pursuing an advanced degree. Even though the talk I was giving was open to all attendees, and might be reported on in relevant media covering the event, I still felt shocked when I discovered halfway through that this journalist had been recording the whole talk without asking permission. The insider/outsider aspect is relevant, as my sense that he was a disrespectful ‘outsider’ looking for a titillating story is certainly what ignited my resentment at his sense of entitlement, whereas I would happily welcome and pose for the intrusions of well-known adult industry photographers and journalists who were also in attendance.

All told, there is perhaps no one way to navigate the complicated right (or not) to privacy at public or semi-public events such as these. I agree that the specifics of scheduled events like film screenings and seminars are “public domain” (TCPS 2, 2018, p. 16), inasmuch as published agendas with the names of films and presenters are available on public websites, and, barring copyright-infringing use, the content shared therein is not intended to be privileged or private. Beyond that, I erred on the side of caution.

My challenge then was to find a balance between the practical constraint of not being able to make my researcher presence explicitly known to all, and the ethical responsibility of recognizing that while technically a public and widely broadcast event, some people could feel uncomfortable with the presence of a researcher. I decided that the ethical course to take was as follows: I allowed myself to take notes on specific individuals or information *if* it was part of the event’s scheduled (i.e. “public”) programming. I did not take identifying notes in any other context. Regarding interactions with other attendees, I never engaged in deception. I was always clear that

while I was indeed a performer, I was attending primarily for the purpose of my PhD research, and freely expanded on the nature of my research with as much or as little information as people requested. Given that I was often jokingly introduced as “the researcher”, I believe that I achieved a certain level of widespread transparency regarding my intentions and purpose for being there.

Obtaining consent on closed sets, offices, and in committee and board work was in some ways more complicated but also more straightforward. These venues include the film sets I was on in New Hampshire and Las Vegas, as well as my visit to the Free Speech Coalition offices in L.A. and subsequent work with them. I will discuss film sets first.

I had already been booked to perform and/or crew for the films shot in New Hampshire. The set I was on in Las Vegas was a situation where I was staying with friends who produce and perform; when they announced they would be filming in their home while I was there, I volunteered to work camera for them. So in all cases, I first and foremost had an instrumental role to play on set.

In all cases, I broached the subject of my research in advance with the directors, asking if they would be open to me operating in a dual-role as worker and researcher. Weeks before my first New Hampshire visit, I sent the director the consent form (Appendix B) that had been created during the ethical protocol development phase of the project. The consent form explained the project in detail, the type and method of data to be gathered, and that they could withdraw their consent at any point up until the end of my visit (i.e. the completion of filming).

The director was given a chance to ask questions or seek clarification. She completed and returned the form, knowing that when I arrived I would explain my intentions to all people present on set and would seek unanimous permission in order to proceed. When I arrived, I spoke to each person on set (crew, performers, extras, and on the first occasion, a documentary film team who were also observing the shoot). I explained who I was, my research project, and what I hoped to do as far as participant-observation on set. I described the background of the method, what exactly I would (and would not) be doing, and the kind of data I would (and would not) be collecting. I noted that I would not be collecting any personal, identifying information, but emphasized that there were limits on my ability to fully preserve confidentiality: that given the relatively small size of the adult industry, it could be possible to identify someone through association, even if all other identifying characteristics are removed. These individuals were given an opportunity to ask any further questions, and then gave verbal consent.

When returning to New Hampshire in subsequent years to work with the same directors, I asked if they would again be willing to support my dual-role under the same conditions as the initial consent form, and the same procedure for obtaining group consent was followed on each occasion.

The procedure was slightly different in Las Vegas, in adaptation to the smaller and more intimate nature of the set. As mentioned above, I was staying in the home and only knew a couple of days in advance that filming was going to occur, so I did not broach the subject weeks in advance as with my New Hampshire contact. The director, however, is a friend and colleague of many years and was well aware of my research (I had interviewed people while staying in her home the previous year). I brought up the prospect of conducting participant observation on set the day

before filming. I offered to show the director the consent form and she said she preferred to just have a conversation, and after explaining the implications and risks, she welcomed a chance to support the research. When the other two performers arrived on set the next day, she announced who I was and gave us time and space to also have a conversation. I again explained myself, the project, and what I meant by ‘participant observation’, offering to bring out consent form documentation. I gave people time to ask more questions and voice any concerns. They showed interest in the subject and agreed without wishing to see any formal paperwork.

As for my visit to the Free Speech Coalition offices: I had been introduced to an employee of the organization by mutual contacts during my 2018 visit to L.A. We had hit it off and he showed enthusiasm for the research. When I returned in 2019 I made contact and attended the Adult Novelty Manufacturer Expo show with him. During that show, I expressed interest in seeing the Free Speech Coalition offices. He said I was certainly welcome to come by but that I might be disappointed. The following day I made the bus ride out to their humble office. The organization does not employ many people, and there were only two folks in the office that I hadn’t met before. I was promptly introduced to everyone, and I explained my project. This visit was more a chance to get a visual of the space to flesh out my familiarity with the organization, rather than to ‘participate’ or even note-take in any meaningful way. I stayed for a couple of hours, touring the office and chatting informally with people. Given the nature of the visit, no formal review of consent forms was done.

Originally, I had also made signs intended to be posted in the space that would explain who I was and my role; this method was abandoned when I decided a) to only do participant observation in spaces that were small and intimate enough to have a face-to-face conversation with each person

present, and b) that I would only proceed if consent was unanimous, rather than just hinging on the director or supervisor. In the original crafting of documents for the ethical undertaking of participant observation, I had anticipated that I'd be asking to visit sets or offices where I was not well-known or had no previous relations with gatekeepers. In practice, I only ended up on sets and in spaces where I had established relationships. As such, formalities seemed less necessary. In fact, imposing them could have been considered inappropriate and actually damaged ethical relations and rapport (Zhang, 2017). This has been noted as especially pertinent when doing “insider” research with people who agree to participate in part because of shared goals and implicit trust (Zhang, 2017). Having thought deeply through the process of developing my ‘procedural ethics’, I felt confident that if my ‘ethics in practice’ deviated, they nevertheless maintained the spirit of just and respectful relations, perhaps even more so than rigid adherence would have (Guillemin & Gillam, 2004; see also Taylor, 2011 and Van den Hoonaard, 2011). As Guillemin and Gillam (2004) suggest, I take a reflexive approach not just to the production of research-generated knowledge, but to the entire research process, including research ethics. This reflexivity establishes the link between procedural ethics and the necessarily adaptive ethics in practice that are required to address “ethically important moments” (2004, p. 277)—those unpredictable events, scenarios, or contexts that arise in the course of qualitative work (2004, p. 275).

As for my later work on the PASS Advisory Committee, the COVID-19 Task Force, and the board of PASS when it was incorporated into its own organization, at each new juncture I discussed how the role related to my research and how to manage confidentiality and disclosure with the appropriate point person. This person was Ian O'Brien, who was Director of Scientific and Regulatory affairs for the Free Speech Coalition when my research started and, by the end of

my writing period, had transitioned into the position of Executive Director for the newly formed PASS organization. Ian and I agreed that I would sign a non-disclosure agreement, as do all board and committee members, and explain my research when introducing myself to other members with the caveat that I would never use any proprietary information in my work. Only information made publically available through press releases and organizational activities would be considered potential data.

### 2.4.3 Interviews

Interviews provide an addition or alternative to fieldwork data; not in a ‘corrective’ sense that one is public and ‘natural’ while the other private and synthetic, that one is about action and the other about narration, that one fills in gaps left by the other. Rather, in dissolving a strict distinction between ‘what people do’ and ‘what people say’, both methods come to be viewed as parallel ways to engage with “shared cultural understandings and enactments of the social world” (Atkinson & Coffey, 2003, p. 425). I was interested in porn professionals’ accounts of themselves and their experiences, their thoughts and preferences around on-set sexual health management, and how they frame these thoughts and experiences in socially salient ways. This section describes how interviewing was conducted, followed by a detailed description of the ethical protocol surrounding it.

#### 2.4.3.1 Interview quantity

There are many approaches to determining the ideal sample size for qualitative research, contingent on the research topic and question, study design, and quality of interview data; and calculated according to more or less standardized numerical and statistical equations (Sim et al.,

2018). I concur with Sim and colleagues (2018) that pre-determining sample size at the outset of a project runs counter to the ontological and epistemological foundations of inductive, exploratory qualitative work. Doing so implies that research “themes” already exist in the world independently, and so one can pre-calculate how many fungible participants are needed to accurately “extract” all the desired information (pp. 623-624). I agree that on the contrary, research themes are co-constructed through the researcher/participant dynamics, and additionally, that individual participants are not the primary unit of qualitative research (Sim et al., 2018); rather, it is the collective energy of participant experiences and accounts, which is greater than the sum parts.

Nevertheless, there are practical reasons to sketch out how many individuals we plan to talk to (Sim et al., 2018). I originally aimed to complete around 35 interviews. As discussed above, this research does not attempt or claim to represent all possible sexual health views or practices among adult performers. I do not aim for a sample that is generalizable or transferable, but rather for one that is *appropriate* (Morse et al., 2002). That is, one offering adequate depth to determine trends, and adequate breadth to develop a nuanced and conflicted account of the topic at hand.

Some scholars have attempted to quantify an appropriate sample size based on the notion of thematic ‘saturation’, that is, the point at which more interviews no longer produce new information or themes of interest. For example, Guest and colleagues (2006) argue that, among homogenous groups where all the members share the same ‘position’, approximately 12 interviews are required. I do not adopt this approach to sample size. For one, I aimed to speak to people with a variety of experiences, but more importantly I was not interested in trying to achieve ‘saturation’, as I do not feel this is the right metric for the current research.



It is important to consider criteria of reliability and rigor in qualitative research. However, this often takes the form of checklists or quotas, such as the COREQ (COnsolidated criteria for REporting Qualitative research; Tong et al., 2007), and achieving ‘saturation’ has become *the* unquestioned standard for determining an appropriate qualitative sample size (O’Reilly & Parker, 2013). As O’Reilly and Parker (2013) argue, qualitative research is too diverse to be judged by a singular analytic. Before applying a given criteria to a project, one must determine if those criteria are “theoretical[ly] congruen[t]” with the epistemological goals of the given project (O’Reilly & Parker, 2013, p. 195). Furthermore, even when ‘saturation’ is an appropriate marker for a research project, it is difficult to determine or prove when it has occurred (O’Reilly & Parker, 2013). Further, it is often not an appropriate way to determine if data collection has been sufficient for the project at hand. They state, “[i]f saturation is not reached this simply means that the phenomenon has not yet been fully explored rather than that the findings are invalid” (2013, p. 194). If a study has set out to answer a sufficiently narrow, pre-determined question, saturation may be a feasible and laudable goal; if a study (such as this one) sets out with a more inductive approach to an exploratory question, “the number of emergent themes are potentially limitless” (O’Reilly & Parker, 2013, p. 194). Claims of having achieved ‘saturation’ may say more about a researcher’s limited curiosity, waning time and interest, or the exhaustion of resources, than it does about the analytic accomplishment at hand.

With these considerations in mind, 35 interviews seemed appropriate to provide a rich but manageable amount of data for a sole-researcher doctoral project. This appears to be typical: one study observed interview sample sizes for 560 qualitative PhD studies and found a median of 28 and a mean of 31, with the most common sample sizes being 20 and 30 (Mason, 2010).

#### *2.4.3.2 Interviewee recruitment*

Ultimately, I conducted 40 interviews with 36 adult industry professionals (there were one or two follow-up interviews with three individuals). I used a variety of recruitment methods for this research, but primarily employed snowball sampling. My main point of entry was through my own work in the adult industry. Early on in my research, a long-established director that I frequently shot with sent my recruitment email (Appendix C) to a selection of contacts that he thought might be interested. A well-connected performer/producer I had shot with did the same with her network of contacts. In both cases, those contacts sometimes forwarded my email to still others, or would introduce me as “the researcher” if we were together at a trade show or other event. I would casually mention what I was interested in and that I was interviewing people, and several asked if they could participate. This snowball sampling led to a total of 19 interview participants.

Most other participants were recruited at various field sites. In 2018, I was invited to give a presentation at Montréal’s Qwebec Expo trade show. The organizers knew me from my time working in Montréal, when I would frequently attend their trade show representing the webcam company I worked for. They reached out to ask me if I could present something performer-centric for the show; when they learned of my research they encouraged me to also do a more academic presentation. They then asked me to return and do the same in 2019. I made a verbal recruitment invitation at the end of each of these four presentations, which led to an additional five participants. When attending a performer conversation circle during the Toronto International Porn Film Festival, I again mentioned my research and this led to the recruitment of three more participants. One person was recruited purposively; I reached out to her via her

publically available contact information after having spoken with several performers that had worked with her and becoming interested in specific policies that were posted to her website. After she agreed and we spoke, she passed my information on to some other performers which resulted in one more interview. Finally, the remaining seven participants were people I met while socializing at film festivals and trade shows, who expressed interest in being interviewed while we casually discussed our various reasons for attending.

#### *2.4.3.3 Interviewee composition*

The 36 adult industry professionals I interviewed were primarily performers: 26 had performed in adult films at some point. Some were retired entirely, and some had retired from performing to move into directing and producing. Most of the active performers I spoke with also produce their own content. Many also work in other areas of the industry such as marketing, industry interest groups, and/or as production assistants, camera-operators, or make-up artists. I also spoke with director/producers, marketing specialists, trade association employees, and attorneys who work with adult industry clients. The primary roles of participants at the time of the interview are presented in Table 2.

**Table 2**

***Primary Adult Industry Role of Interviewees***

<b>Primary role in adult industry</b>	<b>Number of interviewees</b>
Performer/producer	25
Director/producer	5
Attorney	4
Industry trade association	1
Marketing specialist	1

I intentionally focused on recruiting performers, as their bodies are the ones at stake when considering various sexual health management protocols. Certainly, I was also interested in the perspectives of producers and marketers, who have a financial stake in production and may consider themselves responsible for performer sexual health, as well as the perspectives of trade association employees and adult industry lawyers, who are directly involved in establishing and upholding workplace protocols. But these individuals are not personally or biologically impacted by production protocols the way performers are. As the people actually having sex on camera (alongside the many other roles they may perform) I consider performer points of view to be the most intimately informed and the most pertinent. Additionally, the dual role assumed by performers who also produce their own or other people’s content further illuminates the multiple and sometimes conflicting interests at play in determining such protocols.

It can be difficult to provide transparency that qualitative sampling has been done adequately to achieve its goals (Morse et al., 2002; Tong et al., 2007). My process reflects Sim and colleagues’ (2018) assertion that determining sample size “is an iterative, context-dependent decision made

during the analytical process as the researcher begins to develop an increasingly comprehensive picture of the developed themes, the relationship between these themes, and where the conceptual boundaries of these themes lie” (p. 630). When I say I aim for enough diversity to both establish trends and determine conflicts, this is evidenced in my recruitment strategies. I aimed throughout to have diversity regarding gender, racialization, age, time spent in the industry, areas of the industry worked in, type of content produced, and so on. When I recognized that I had already spoken, for example, to several white ciswomen who worked in straight porn I would stop actively pursuing more participants fitting that category *unless* they seemed to offer another important perspective I was lacking (e.g. also openly working as an escort or working outside of a major urban hub). I explicitly made trips to other parts of Canada and to Germany to balance out American voices. In instances where I was unable to make meaningful connections with people holding certain positions, I made sure to try and access their perspective in other ways. For example, I had occasion to discuss my research with a member of the Adult Performers Actors Guild. Though she was unresponsive to my interest in an interview, I made sure to follow her and other Adult Performers Actors Guild members on Twitter and to review their website and press releases, with the goal of being exposed to a wider variety of opinions.

As mentioned above, this work does not aim to be a representative cross-section of the industry or of all the opinions and experiences contained therein. It unpacks some of the ideas and discourses circulating in various parts of the industry at this time. I am under no illusion that I could ever talk to enough people to capture every possible position. I do not even have the space in this dissertation to unpack everything came up with the people *I did* speak to<sup>17</sup>. Balance, for

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<sup>17</sup> Francis and colleagues (2010) argue that this is actually an ethical concern and that samples should not be “larger than needed” because this wastes participant time and research resources (p. 1230). I’m not sure

me, entailed letting recruitment unfold organically (as far as who I was introduced to and surrounded by in the course of my fieldwork) while also making the conscious choice to seek and speak to people from a variety of positions, hopefully without tokenizing<sup>18</sup> them.

Earlier in my research, I did not want to assume the salience of particular identity markers (Emerson et al., 2011), but did try to collect demographic data to avoid making assumptions about people's identities and to aim for as 'diverse' a pool of participants as possible. When I returned transcripts for review by email, I asked people for their gender pronouns, racial or ethnic identity, age, and years and roles worked in the adult industry. This often felt clinical, and many participants simply did not fill the request. My impression is that this was more a matter of forgetfulness than any kind of explicit political position, but regardless I did not feel it appropriate, comfortable, or necessary to push people to respond. So partway through the research process I stopped sending this request and simply made a point during interviews to be sure I know what gender pronouns to use for people. I was also aware that performers' self-identification and the identity they perform under may not always align. For example, performers may capitalize on being perceived as racially 'ambiguous' to market themselves under any number of 'ethnic' categories depending on which is most lucrative. Similarly, non-binary, agender, and genderqueer people may work 'as' men or women to expand their marketability. And as will be discussed more in Chapter 3, a performer's sexual orientation and the kind of

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I agree, given that a lot of interview content doesn't make it into a project's published results, but the time spent was still meaningful because it is how rapport is established, and the conversational (versus more instrumental) nature of research is what makes participation potentially beneficial for participants (Corbin & Morse, 2003; Hutchinson et al., 1994; Rossetto, 2014).

<sup>18</sup> By tokenizing, I mean reducing participants to certain of their characteristics or socially-defined identities, under the assumption that "particular themes [will be] directly generated by specific, identifiable characteristics of members of the sample, or possibly by definable subgroups of the sample" (Sim et al., 2018, p. 624).

content they produce may or may not correspond. In such cases, I am not interested in outing people's 'real' identity by adopting the standard identity markers next to their names. My inclusion of these demographics is similar to Heather Berg, who writes:

[i]nformed by queer theoretical analyses of identity, I come to this project understanding that different points of identity matter to people at different times. I foreground those identities, if any, that workers mark as most salient in the stories they tell. (2021, p. 192)

These caveats aside, it is useful to offer a broad picture of who is and is not included in this 'sample'. Those participants who indicated a race/ethnicity identified as Black, Latino, Indigenous, white, and "mixed race". They described genders including ciswoman, cisman, transwoman, non-binary, agender, and genderqueer. Ages ranged from mid-20s to early 60s, and time involved in the industry ranged from 1 to 25 years with an average of 8 years and a median of 5 years. White ciswomen are overrepresented. This is a weakness of the project, and likely a product of my own social location and the locales from which I recruited.

Throughout the text, I allow these identity markers to emerge when and where *participants* deemed them pertinent, rather than making default assumptions. By this I mean I did not wish to determine *for* participants the valence of their intersectional identities. While I certainly take these factors into consideration, race, gender, and sexual orientation are not the key analytical axes of this research—working role is. Therefore, I have chosen to foreground what people *do* in the industry, rather than who they *are*, as necessary information for the reader. Therefore, when identifying participants throughout the dissertation, I list them by their name or *pseudonym*<sup>19</sup> followed by their primary role(s) in the industry. On that note, some definitions are in order. I intend "performer" to mean anyone who appears in front of the camera. As noted above, most

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<sup>19</sup> I distinguish pseudonyms by italicizing them to ensure the individual is not confused with another performer who may actually use that name as their stage name.

performers are also “producers”—this is a vast category that I intend to cover both those who own and operate their own pay sites, as well as content creators who upload their clips and videos to third-party platforms for a revenue share. I have listed most performers as “performer/producer” because arguably, even the curation of a sustained social media presence, which entails producing film and photo content and consciously branding oneself, is a time-consuming and skillful endeavor that I believe qualifies one as a producer.

#### *2.4.3.4 Interview structure*

Ethnographic interviewing takes the form of friendly, albeit less symmetrical conversations (Spradley, 2001). Initial interviews were semi-structured using a few predetermined prompts (Appendix D). Depending on how well we knew each other, interviews usually started with some general rapport-building conversation. Then I would ask about people’s experience and history with the adult industry, which usually offered an organic avenue into discussing health and safety issues related to their specific type of work. This was the only structured prompt I retained in later interviews, which were closer to what Corbin and Morse (2003) call “unstructured interactive interviews”. While we always hovered around themes of health and safety, the specific course of each interview was largely determined by participants and their interests. For example, some conversations headed more towards labour and economics, others towards industry tensions and politics, and others towards personal risk analysis or behaviours. Factors such as how and where we met, how well we knew each other, the kind of work they did, what we had in common, and the issues they most wanted to concentrate on, all influenced what we talked about and how the conversation developed. I aimed to establish and maintain rapport (Kaler & Beres, 2010; Spradley, 2001) and to pursue the unique interests and expertise of



participants, rather than adhering to anything like a systematic or mechanical interview process (Gubrium et al., 2012, p. 3). Concentrating on topics that were both of interest to me and most exciting to participants enabled a spirited *discussion*, and allowed participants to “retain considerable control over the process” (Corbin & Morse, 2003, p. 337). Given that I treat the interview as a dialogic experience, where the value is in the reciprocal experience (rather than treating it as a form of extraction; Corbin & Morse, 2003; Lillrank, 2012) I was more interested in capitalizing on mutual excitement and energy than on following a script.

This made for what is perhaps better described, not as a ‘group of semi-structured qualitative interviews’, but as an eclectic collection of diverse conversations. Transcripts are peppered with interfering pets, servers bringing our meals, friends shouting from across a showroom floor, or the need to stop talking so that lipstick and lashes could be applied correctly. The interviews sometimes document long-standing relationships and budding friendships, rife with laughter and inside jokes. Others are more clinical and calculated, complete with awkward pauses and technological failures, as we relaunch Skype or run to grab a power cable for a dying laptop. They are anything but standardized, and that, I believe, is one of their greatest qualities.

Additionally, over the course of research my interests shifted and narrowed in response to the interviews I conducted, my ongoing participant observation, and various breaking events in relevant sociopolitical spheres. The direction of interviews and the kinds of prompts I would use to initiate discussion therefore morphed in an iterative fashion, each subsequent interview inflected by the ideas that arose in the previous ones. I would sometimes use opinions that came up in one interview as a way to instigate conversation in another, using the ‘some people have told me X’ formula to elicit a position. This and other interviewing techniques such as pausing;

restating and incorporating new terms; asking descriptive, structural, or contrastive questions; and expressing interest or ignorance (Spradley, 2001) were employed, and were especially useful with less talkative participants.

#### *2.4.3.5 Interview duration*

There was also no pre-established duration for interviews, given that each followed its own course and given that people had different constraints on their time. During the consent process, I informed participants that interviews generally last an hour, as this has been my experience in previous projects. However, we often found ourselves speaking longer. In other cases, participants warned me that they only had a limited amount of time to offer me. The shortest interview ran 28 minutes, the longest over three hours, with an average duration of 77 minutes.

#### *2.4.3.6 Interview location*

Interviews also occurred in a variety of locales. I preferred to speak face to face with people, as I feel this is the most comfortable way to speak. It best enables a fluid, dynamic interaction, facial expressions and body language are available, and there are no technological failures to be concerned with such as accidentally interrupting one another due to lag in the video chat. Sometimes, however, face to face interviews were not possible for temporal or geographic reasons. In such cases interviews were conducted online using the video-conferencing software, Skype, or once over the phone. Technologically mediated interviews occurred either a) if we had met face to face but did not have time during the event to sit down together, and so reconnected online after returning to our respective homes, or b) in cases where I had been introduced to or met someone over email. In total, 27 interviews were done face to face, 12 over Skype (Zoom

was not yet *de rigueur*), and one over the phone. All interviews were audio-recorded for later verbatim transcription, except for one person who preferred not to be recorded, and in this case I made handwritten notes during the interview instead.

#### 2.4.3.7 Interview transcription

I transcribed interviews verbatim<sup>20</sup> with the help of software (Express Scribe) that enables audio files to be slowed down considerably without distortion. These were emailed back to participants, who I requested reply within two weeks if they wanted anything changed—a process described in more detail below in the section on ethical considerations.

#### 2.4.3.8. Informed consent

As noted above, this project received ethical approval through Memorial University's Interdisciplinary Committee on Ethics in Human Research (20180439-ME). Before commencing the interview, interviewees were presented with an informed consent form (Appendix E). They were given an opportunity to read through the form and discuss any questions or concerns. The

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<sup>20</sup> By verbatim I mean that, to the best of my ability, I faithfully transferred *what* was spoken into written word. Blake Poland (2001) has aptly problematized the notion of 'verbatim' transcription, and has raised several important ethical and practical concerns. For one, given that humans do not usually speak in "sentences", transcription entails a certain level of discretion that inevitably imposes meaning (p. 632). I placed punctuation where I believed it would best reflect what I understood to be the intended meaning of what was said. I did not make any notations regarding *how* things were said except for: italics on some emphasized words; exclamation points on some pronounced utterances; scare quotes if people made an 'airquote' gesture when speaking; quotes if they were mimicking or quoting other people, internal thoughts, or generic phrasing; and a note of an extended pause if it seemed to convey meaning (i.e. hesitancy, rather than a practical interruption). Poland also discusses the tendency to "tidy up" quotations so they will "read better", given that spoken language tends to look "incoherent and inarticulate" when "committed to the printed page", regardless of how articulate the speaker may actually be (p. 633). I have opted to do some such tidying, according to Poland's suggestions (only in ways that do not change the meaning of what was said, and only after analysis has taken place), both to facilitate readability and to guard against reinforcing the notion of porn professionals as unintelligent (p. 634).

form provided my name, affiliation, and contact information, described the project and what participation entails, and outlined risks and benefits. It also outlined that their participation was entirely voluntary and that they could withdraw their consent at any time during the interview. The form detailed that when completed, they could also have two weeks to review their transcript and make edits or withdraw entirely from the research, in which case all their interview data would be destroyed. Details on each of these elements appear below.

#### *2.4.3.9 Confidentiality and risk*

Finding ways to ensure confidentiality for participants was a central concern in the development of the ethics protocol. I recognized that given the relatively small size of the adult industry, there are major limitations on internal confidentiality; that is, even when “external confidentiality” is achieved such that outside readers cannot identify anonymized research participants, research participants can still identify one another through familiarity and context clues (Tolich, 2004). Those with insider knowledge of the industry could possibly identify other participants simply by knowing their role in an organization, their involvement in a certain campaign or production company, or even more minor identifiers like common turns of phrase. As such, the consent form and pre-interview conversations emphasized the fact that what people said could conceivably be traced back to them even if I removed all obvious identifying information. The consent form explicitly stated that breaches of participant confidentiality could lead to both social and financial risks if one is identified as saying something that could make them unpopular. This could include, for example, criticizing the policies or protocols of specific companies or producers, or criticizing how other performers manage their sexual health. Such statements, if traced to an individual, could damage their reputation or negatively affect their chances of being hired or

succeeding in business affairs. A common theme in interviews was how “outspoken” performers can find themselves blacklisted or labelled as a “diva” or “uptight”, so this was not a novel insight for most people.

Protecting internal confidentiality was rarely a concern, however, as most people opted to be identified in the research (by their stage name if they were a performer, or their legal name if they held some other role). Allowing participants to be identified is important to me politically: it is in keeping with other recent porn scholarship that honours people’s right to be associated with the research and credited for their contributions (e.g. Berg, 2017; Ingraham, 2016; see also TCPS 2, 2018, p. 140). Denying people the opportunity to be identified if they so choose presumes or imposes ‘vulnerability’ in a paternalist and protectionist manner that can reinforce rather than challenge a group’s marginalized status (Gustafson & Brunger, 2014). It was not shocking to me that most participants (26/36) chose to be identified, as many are public figures who are already outspoken about their opinions of the industry in interviews and on social media.

In the event that a participant wanted to be identified in the research, I informed them that I could respect that wish to the degree that their identification does not inadvertently identify another person. I did this by not including any quotes or information that would link an identified participant with a confidential participant.

The consent form included a section where participants checked a box indicating whether they wanted to be identified or remain confidential, along with a space to indicate exactly which name they wanted used in the research. While there was also a signature line, participants could sign

with whatever name they chose, and were not required to provide any legal or 'government' name.

Transcript files were named according to the number and date of the interview, and the body of the text was only labelled with whatever name and demographic detail participants wanted attached to them. No file was created linking pseudonyms to 'real' names (legal or stage) because given the small number of persons requesting a pseudonym, I did not need to create a potentially confidentiality-breeching document in order to remember who was who.

As a further safeguard of confidentiality and an additional opportunity for people to exercise agency over their participation, I returned completed transcripts for review. Once it was finished, I emailed participants their transcript and gave them two weeks to either withdraw their consent to participate or edit/redact any part of the interview (except for a few participants who explicitly asked not to be contacted with a transcript). When I sent the transcripts, I reminded people that they would no longer be able to modify their transcript or retract their consent after this two week period, but to simply request an extension if the timing was inopportune. All of this information was also included in the consent form. No one withdrew from the study. No one made any substantial edits, aside from asking that the name of specific companies be removed, the correction of some details that had been misheard and improperly transcribed, and the omission of reference to a partner.

#### *2.4.3.10 Sensitive topics and disclosures*

Discussing sexuality and sexual health has the potential to be uncomfortable, even for those who deal with sexual content and performance as a regular part of their professional lives. Given that sex work explicitly brings together sex and money—two matters often considered ‘private’—inquiring after someone’s sexual labour practices could feel invasive. While Brunger and I problematize research risk assessments that position sexual behaviour as inherently more sensitive than other topics (Webber & Brunger, 2018), I assured participants before and throughout the interview that they were not obligated to respond to any question and could discontinue the interview at any time (as I would have done with any research project). The consent form also contained a clear explanation that I was interested in asking people about their sexual health preferences and practices, to deter someone from agreeing to an interview if they did not want to share such experiences. Interviews were also unstructured, and largely followed participants’ lead; this enhanced their control over the encounter such that potential risks may have been minimized (Corbin & Morse, 2003).

I was also conscious that in discussing workplace policies and practices, participants might disclose having felt pressured to perform something they were uncomfortable with: such as a given scene or sex act, or working without their preferred testing or barrier methods. The lack of support available from the legal system (which is generally dismissive of, hostile to, or outright criminalizes sex workers), and the lack of a formal internal grievance system for such matters are perennial industry concerns. This was a recurrent theme of interviews. Needless to say, then, there is no truly adequate support I could have offered to participants if they made such a disclosure and wanted to pursue some kind of restorative action. I was prepared to direct

performers towards one of the better current options, the Adult Performer Advocacy Committee<sup>21</sup>, a non-profit performer advocacy group that offers peer-mentoring, referrals, and other supportive resources. I was also prepared to direct participants to an attorney specializing in labour and entertainment law if needed, and, once it was established in 2018, Pineapple Support<sup>22</sup>, an adult-industry mental health and wellness group. In no instances were such referrals made; indeed, almost everyone I spoke to was already familiar with these and other adult industry service groups.

Given the potentially explicit or sensitive nature of our conversations, I understood that people might have preferences about where we spoke. I always deferred to participant preferences—whatever was convenient and comfortable for them—so long as an audio-recording would still be feasible. Face to face interviews were conducted in a variety of locales: in coffee shops or restaurants, in participants’ homes, on-set, sitting in a park, or, often, in the lobbies and other seating areas of trade show hotels. This means many interviews were conducted in public. Some participants expressed interest in maintaining privacy, but many did not. For example, some participants asked that I join them at their booths in central areas of the AVN show room floor, so that they could chat with me without having to leave their post and miss connecting with fans or colleagues. Others opted to meet over dinner in hotel restaurants, so they could maximize their time. For public interviews with those who preferred some privacy, we selected cafes with enclosed booths or corners, restaurant areas that were loud enough to offer some sonic anonymity, or we positioned ourselves in lesser populated areas of parks and trade show hotels.

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<sup>21</sup> <http://www.apac-usa.com/>

<sup>22</sup> <https://pineapplesupport.org/>



This occasionally involved moving several times throughout an interview, or pausing and taking up our conversation again elsewhere.

#### *2.4.3.11 Duty to report*

The consent form outlined the conditions under which I would and would not be compelled to report illegal activity. It stated that I would not report any illegal activity about which I was told or observed, such as violations of public health protocols (e.g. not using condoms while filming acts of vaginal or anal penetration within L.A. County, California, in violation of Measure B. In the end, I was not on any film sets in L.A. County, so this was irrelevant). Participants were informed that the only exception to this rule was if I somehow witnessed the abuse of a minor. I was hesitant to include this on the consent form, because I did not want to imply that I associate the legal, adult pornography industry with child abuse or human trafficking, but felt it important to make the assertion anyway. In any case, I did not witness any such activity.

To avoid repetition, the sections below regarding compensation, data management, and writing refer to both interviews and participant observation.

#### *2.4.3.12 Compensation*

No formal compensation was offered to participants, but various attempts at reciprocation were made. If we met over food or coffee, I purchased participants' meals or drinks to ensure that speaking with me never *cost* participants anything. I also offered skill trades as reciprocation where possible. For example, I provided some free production assistance on the film sets I visited. This entailed one free day of crewing on each visit to New Hampshire (on shoots that

lasted 4-6 days); in Las Vegas I acted as camera person for free (on what was an afternoon-long shoot). This did not amount to so much in terms of convenience to or dollars saved by the directors that it could be construed as coercive, but was a small way to concretize my appreciation. I also tried (and continue) to reciprocate in other ways, such as helping gather useful peer-review literature and preparing reviews, or otherwise offering skills and time where I could, especially to those participants who were instrumental in enabling me to complete my research. The intention was to be useful, but also to build rapport and engage in an “ethics of care” (Zhang, 2017, p. 6). While this approach did feel more personable and in some cases led to ongoing correspondence and collaborative relationships, it was uneven: not all participants benefitted from such offers and acts.

Research remuneration can be a thorny ethical issue. The TCPS 2 (2018) “neither recommends nor discourages the use of incentives” (p. 29), leaving it to the discretion of researchers to justify whatever decision they make. In practice, though, REBs typically ask us to justify offering compensation, but do not ask the same if we do *not* to offer compensation. This asymmetry implies that it is innately just to withhold incentive, but incentives can serve an important role in attending to the power imbalances of the research process. When non-academic porn professionals contribute to academic knowledge production, they do not enjoy the same indirect financial benefits that academic writers will (hopefully) receive through their unpaid publishing efforts (Lee & Sullivan, 2016). In a special section on labour for *Porn Studies* journal, guest editors Jiz Lee (a performer) and Rebecca Sullivan (a tenured professor) write:

Academics who are broadly engaged in activist, intersectional research grapple with this conundrum of how to include research subjects as participating experts. While participatory methodologies have made significant strides in terms of engagement, the question remains: how should these participants be compensated, and by whom? Is Rebecca responsible? Are the editors of the journal? Or perhaps the publisher? [...] Yet

the institutional structure of academic publishing relies heavily on the unpaid labour of scholars—with vague promises of compensation down the road that are often unfulfilled. (Lee & Sullivan, 2016, p. 105)

Like Lee and Sullivan, I “disagree with anyone who would argue that financial compensation interferes with the ‘authenticity’ or political sincerity of our collaboration” (p. 105), but I am uncertain what kind of payment is fair. If we are asking people for their time, should we compensate them whatever their hourly rate would normally be? Does it matter that as a graduate student, there are no guarantees of ‘compensation down the road’ for me? Or should I have allocated a portion of the governmental and institutional funding I received to honouraria, even if a small symbolic amount? By the end of my data collection phase, I was uncomfortable with the decision not to offer standardized monetary compensation. Moving forward I commit to ensuring compensation for any future research projects, of an amount that has been thoughtfully landed upon, and to include this in any proposed research budget. To paraphrase something I heard several performers say about unfair filming practices, “if you don’t have the budget to pay performers well, then you don’t have the budget to be in business”.

#### *2.4.3.13 Data management*

Between fieldwork and interviews, there were seven types of data I had to store: interview audio files, scans of signed consent forms (participants retained the original paper copy), typed transcript Word files, a typed fieldnote Word file, printed copies of transcripts for coding purposes, a printed copy of the fieldnote file for coding purposes, and finally, whatever ephemera was collected from field sites (trade show agendas, magazines, flyers, etc.). Given I did all coding and transcribing myself, my supervisor Dr. Fern Brunger was the only individual who had access to data (in theory; in reality, no occasion surfaced where she had reason to access it).

Nevertheless, the possibility that my supervisor could access the data was outlined in the consent form.

Digital files were stored on a password protected, encrypted laptop and on a USB drive stored in a locked filing cabinet in a locked office in a card-access restricted area of Memorial University's Medical Education building. Before transcription was completed, backups of interview audio files were also stored in Dr. Brunger's folder of the secure Memorial University network. All hard files were kept in the same locked filing cabinet. A temporary amendment to this storage protocol was enacted between April 14, 2020 and July 31, 2020 to accommodate the campus closures that resulted from the COVID-19 pandemic. During this time, coded transcript files were stored in my private home. Review and approval of this amendment was granted by Memorial University's Interdisciplinary Committee on Ethics in Human Research (Appendix F).

This is how files were stored in St. John's, Newfoundland, but data collection at field sites was done while travelling. Protocols for safely storing data while in the field had to be devised. Interview audio files were transferred from my Dictaphone (which is not password protected) to my password-protected, encrypted laptop as soon as possible, either immediately if I had my laptop with me, or at the latest, that evening when I got back to my lodging. Files were then deleted from the Dictaphone. Consent forms were scanned by my cell phone using the application Cam Scanner and then transferred to my password-protected, encrypted laptop as soon as possible and deleted from my phone. Participants retained the original hard copy.

For fieldnotes, only handwritten and audio fieldnotes were made to preserve observations and reflections while out in the field. No photographs, video, or audio recordings of other humans

were taken for research purposes. I did sometimes take pictures of signage or flyers or other inanimate objects of interest. Some participants wanted to post a picture of us together for their social media, in which case I always obliged. Once back at my lodgings, handwritten or audio recorded notes were transcribed into a password protected digital Word document, and saved on my password protected encrypted laptop. The original paper notes were then shredded and discarded, and audio files were either deleted or also saved to the laptop.

Per university requirements, all data will be retained for 5 years following my completion of the program, at which point the electronic records will be deleted.

#### *2.4.3.14 Writing*

The ethical obligations of writing extend far beyond the immediate matters of protecting trust and confidentiality. These broader political considerations are discussed in the next section. I will note here, however, that when writing about my participant observation or interview interactions with persons who preferred to remain confidential, I have done a few things to ensure confidentiality. I exclude information, such as companies they worked for or aspects of their physical appearance, that could likely identify a person.

Other participants may have agreed to be named in relation to their interview transcript, but shared other things with me in the context of friendship that were not officially either on- or off-the-record. As Tillmann-Healy (2003) writes, “due to our deep and sustained involvement [with the communities we study in], we may be told secrets that would add significant layers to our accounts. Even with nonprivileged information, the dual role of friend/researcher makes it

difficult to decide what to divulge” (p. 741). Taylor (2011) offers guidance by suggesting that we use our intuition to determine when something has been said ‘off the record’, and default to the actions of an ethical friend first, and a researcher second: “being an ethical friend may also at times compromise one’s research, particularly what you allow yourself to see as a researcher and what you choose to communicate with outsiders; that is, what you say and what you do not say” (p. 13). When unsure, I have usually either gotten in touch to ask specifically if I could disclose a particular encounter, or I have erred towards confidentiality. Alternatively, I have anonymized or generalized the information, writing that ‘someone mentioned X’ or ‘I have heard Y’.

Finally, auto-ethnography entails additional ethical considerations of a relational nature, because my personal reflections inevitably implicate others. I have edited my own accounts to avoid identifying confidential information about others, unless they gave permission that I speak freely about a shared encounter.

## 2.5 Layer Three: Making Sense Through Coding & Analysis

Ethnography is a bit like an earthquake, and some phases of the process are easier to record than others: data collection are those activities that fill the shelves up with a collection of objects, some intriguing, some banal. The internal, iterative analytical processes of the ethnographer’s mind are the shifts in the tectonic plates, which knock those objects about, arranging them in certain ways. Coding involves certain concrete activities—colour classifying, cutting and pasting, making diagrams and maps—that help organize and refine the arrangement of the objects. Writing, finally, records how everything fell into place.

It is very difficult to describe qualitative analysis as a series of clear steps and distinct tasks, because of the way in which this process is intertwined with data collection. The two phases are “dialectical” rather than distinct, interwoven rather than episodic (Jorgensen, 1989, p. 110). As we collect data and make fieldnotes, we already start to organize our experience into themes and topics seeming most interesting and pertinent to us; some of this is recorded explicitly in fieldnote writings through the inclusion of “asides and commentaries” alongside descriptive accounts (Emerson et al., 2011, p. 79), other times it is apparent in a more general sense of guiding how the researcher interprets the new things being heard and witnessed. The accumulation and sorting of material happen simultaneously, but the way the accumulated data is sorted changes constantly, as new material is added. We can think of each field experience, interview, or news article, for example, as data points. The process of analysis is iterative because data points make meaning in relation to one another. As new data points are added, new meanings are made possible, and so newly articulated “themes” will better capture the essence of the new meanings that are taking form. As O’Reilly (2009) puts it, analysis of ethnography is “not a stage in a linear process but an iterative phase in a spiral where progress is steadily made from data collection to making some sense of it all for others” (p. 14).

The value of ethnographic research is this holism, in the way a researcher immerses themselves within an issue and milieu in order to glean something that cannot be observed, only experienced. I am hesitant to describe the coding and analysis process in a way that depicts it more rigidly than it actually occurs, as this “ossifies” the dynamism of qualitative work (Cheek, 2004, p. 1148). These caveats aside, perhaps the best way to distinguish between data collection and data analysis is by the main activity of each phase: so long as data collection is ongoing, one is in a primarily ‘writing mode’, adding to one’s fieldnotes and transcribing interviews. Only when collection is

complete can one shift into a primarily ‘reading mode’ where these texts are reviewed and coded (only to use this reflective period to roll into yet another writing mode) (Emerson et al., 2011).

Coding is about pulling things apart in order to piece them back together (Jorgensen, 1989). It is how qualitative researchers “break down their data to make something new” (Elliott, 2018, p. 2850). It is the process of “summarizing, sorting, translating, and organizing” (O’Reilly, 2009, p. 14) everything so that we can make something manageable enough to move into deeper analysis. Put more pragmatically, “coding involves constructing short labels that describe, dissect, and distill the data while preserving their essential properties” (Charmaz & Belgrave, 2012, p. 357).

As Neale (2016) describes it:

Coding involves reviewing all data line-by-line, identifying key issues or themes (codes) and then attaching segments of text (either original text or summarized notes) to those codes. New codes are added as additional themes or issues emerge in the data, often creating a hierarchical ‘tree’ of codes. [One option is to code] initially into multiple exploratory ‘open’ codes, then collapsing these into fewer more focused codes, and then merging the more focused codes into a small number of broader conceptual codes. (p. 1097)

As this process continues, the researcher occasionally stops to “review, rationalize, and re-group all the points [...] to ensure some logical order or emerging narrative”, creating new groups and headings as necessary (Neale, 2016, p. 1102). The emerging narrative is developed in part by putting the texts into relation with one another and linking them to larger bodies of knowledge (theoretical, subject-specific, policy-based, et cetera) in order to make sense of and draw conclusions from the identified themes (Neale, 2016).

Detailing the coding process can be convoluted, first because the terminology used to *describe* it is not standardized (Elliott, 2018), and second, because *how* we code depends on the individual, the project, the data, and the goals of the research. But in its most basic sense, coding involves



using words and short phrases as a way of “tagging data that are relevant to a particular point”, in order to get a handle on massive amounts of information (Elliott, 2018, p. 2851).

This tagging happens on multiple levels. The first-level is comprised of what I call *codes*: these are more basic, more descriptive. The second-level is comprised of what I call *themes*: more overarching, conceptual categories under which the various codes fall (Punch, 2014, c.f. Elliott, 2018).

When fieldwork was complete, all fieldnotes finished, and all interview transcripts typed and approved, I printed all text-based data (transcripts and fieldnotes) and gathered all print-based ephemera collected during fieldwork, such as show guides and flyers. The coding process described below was applied uniformly to all these texts (Jorgensen, 1989). I started with transcripts, then proceeded to fieldnotes, then coded ephemera.

I coded by hand, using differently coloured markers. I prefer a tactile approach to coding and analysis, as I feel this offers increased familiarity and intimacy with the data. Given the manageable size of interviews and notes I had to work with, I chose not to use any software (such as NVivo or ATLAS.ti) aside from a word processor to facilitate the process. The first round of coding consisted of marking directly on the printed material, highlighting things vaguely associated with one another in the same colour. At first, this was done without a definitive rationale for what precisely made the different phrases or topics associated. Consistent with the epistemological framework laid out at the beginning of this chapter, codes were emergent rather than pre-determined (Punch, 2014, c.f. Elliott, 2018).

Each novel highlighted item was condensed into a phrase (one word, a few words, or a sentence) describing it. There were several types of codes, that did a variety of different things (Miles et al., 2014, c.f. Elliott, 2018). In some cases, they simply described the most basic or interesting feature of a data point. In other cases, they name a relationship between data points (Jorgensen, 1989). Sometimes they report what was said, other times they reflect my analysis of what was said. In all cases, I usually used a few words or a short phrase to articulate each code. A new colour was added every time I encountered a new point of interest that did not fit under the themes developing out of the existing colours in use.

Once several data points of the same colour started to be grouped together, I would eventually decide on an appropriate thematic label to preside over those individual codes (usually a single word or a few words). Throughout the coding process, adjustments were made to how the presiding themes were labelled, and to where the various codes were best located. Many data points (e.g. portions of a conversation, reflections on a fieldwork moment) draw together multiple codes and themes, evidenced by sections of transcripts and notes marked up with several different colours. These bright spots on the paperwork are of extra analytical value, as they often indicate common associations between or patterning of different codes (Ritchie & Spencer, 1994, c.f. Elliott, 2018). Rather than trying to splice up or repeat these “juicy ‘chunk[s]’” (Elliott, 2018, p. 2854) in association with several themes throughout the results, I view these multiply coded moments as ideal devices for determining how themes should be brought together, how chapters should be organized. Far from being instances of muddled thinking, they are key analytical spring boards.

When the coding process was complete, this totaled 22 themes comprising 344 codes (Appendices G and H). Some themes, such as ‘Conspiracy Theories’, were minor and only consisted of two or three codes. Others, such as ‘Respectability’, were expansive and encompassed many codes (the largest included 32). The average theme contained 16 codes. I wrote these all out on a large spool of paper that I could hang on the wall, so I could see the entirety of the codes at once. Not all themes or codes get taken up in the dissertation at hand, but putting them all in one place facilitated the ongoing process of making associations between the data points to envision ways they might speak to one another. Both the dominance of certain themes (i.e. comprising many themes), and the density of interconnections between codes (i.e. the number of associations made between them) were considered in the decision of what would be included, and how.

Applying the same coding system to all data ‘sets’ (interviews, field notes, and ephemera) allowed for a descriptive consistency that better enabled putting different kinds of data in conversation with one another. This is not ‘triangulation’ in the sense of using multiple qualitative data sets as a means to verify their validity; it is more like each datum is a spoonful of paint, being combined in a single bucket to see how the collective colour changes. As many ethnographers have argued, the notion of ‘reliability’ and ‘validity’, in the scientific sense, is not the appropriate criteria for determining the value of ethnographic writing (Bochner, 2000; Ellis, 2004; Huber, 2001; Richardson, 2000; Tracy, 2010).

### 2.5.1 Finding the Truth versus Producing a Truth

Regarding the renunciation of anthropological claims to ‘objectivity’, Clifford (1986) asserts that ethnography “is always caught up in the invention, not the representations, of cultures” (Clifford, 1986, p. 2). Once coding is complete, then, analysis is not systematic so much as “inquisitive” and “imaginative” (O’Reilly, 2009, p. 14). Analysis is about “sorting out the structures of signification [...] and determining their social ground and import” (Geertz, 1973, p. 314). This is not to imply that analysis and writing are matters of pure invention, but given that there is no one way to code and interpret data, no one way to ‘determine social import’, no one way to ‘make sense of it all’, there is an inevitably creative element to the process. At the very least, writing entails editing and selection; it is not a direct transference of reality to paper (Emerson et al., 2011).

Completed, an ethnography does not catalogue or produce a set of rules or equation outlining how to behave in order to ‘pass’ in the context under study. The ethnographer writes, turning a “passing event [...] into an *account*” (Geertz, 1973, p. 317, emphasis added). And accounts are always interpretive, but they are not imagined. They are based on the *having been there*. So to say that ethnography is a fiction is not to say that it is a falsehood; it is “fashioned” but not false (Clifford, 1986, p. 6). It is both “partial” and “serious”, both “committed and incomplete” (Clifford, 1986, p. 6). It’s not that ethnography intends to be incomplete but that it admits it can only ever be incomplete. The crucial distinction is that this partiality is conscious and self-reflexive, entailing attention to the “*specification of discourses* in ethnography: who speaks? who writes? when and where? with or to whom? under what institutional and historical constraints?” (Clifford, 1986, p. 13, emphasis in original).

Of course, it is not the point of ethnography to produce definitive Truth. According to Glassie (1982):

The reason to study people, to order experience into ethnography, is not to produce more entries for the central file or more trinkets for milord's cabinet of curiosities. It is to stimulate thought, to assure us there are things we do not know, things we must know, things capable of unsettling the world we inhabit. (p. 12-13, c.f. Conquergood, 1985, p. 9)

As the famous phrase goes, ethnography produces such an unsettling in how it “makes the familiar strange, the exotic quotidian” (Clifford, 1986, p. 2).

Vision is the dominant metaphor of (academic) knowledge production generally (Classen, 1997) and in anthropological research specifically. But as Clifford asks, what happens if, rather than posing ethnography “as things observed” we think of them as things “heard, invented in dialogue, or transcribed?” (1986, p. 12). He continues, “[i]n a discursive rather than a visual paradigm, the dominant metaphors for ethnography shift away from the observing eye and towards expressive speech (and gesture). The writer’s ‘voice’ pervades and situates the analysis, and objective, distancing rhetoric is renounced” (Clifford, 1986, p. 12). This shifts how we configure the *conditions* of ‘truth’ and ‘falsity’ (Hacking, 1982, c.f. Rabinow, 1986).

Rather than seeing (there it is!) ‘objectivity’ as the mark of truth, and rather than seeing ‘truth’ as the mark of good research, perhaps production of an *ethical* representation is the better litmus test for valuable ethnographic writing. With this attitude in mind, measuring the accomplishment of a given research project is less of a “technical concern” (Potts & Brown, 2005, p. 277), and is instead based on how it represents the participants, and whether or not this serves them. As Conquergood (1985) writes, the presentation of ethnography is always a performance of other people’s stories. He discusses how some types of presentation are “morally problematic” (p. 4):

those that exploit and extract, or are superficial, trivializing, exoticizing, romanticizing, or that refuse any attempt at cross-cultural understanding. He argues that the appropriate middle ground and path to genuine understanding is “dialogical”, bringing "self and other together [...] [in] a kind of performance that resists conclusions” (p. 9). To keep the conversation open, to avoid making definitive claims.

Given that “all inquiry is both political and moral” (Denzin & Lincoln, 2008, p. 1), research investigation and representation is ethically fraught in many ways. The next section explores some of these considerations in greater detail.

### 2.5.2 Centering Sex Worker Voices

*“People forget that sure, I like to be peed on, but I have things to say too.”*

- Participant Charlotte Sartre, performer/producer

There are political implications to all knowledge creation, and every scholar must consider how they aim to orient themselves to that fact. I echo Bruckert (2018) and Madison (2012) in saying that the “epistemological point of departure” for critical ethnographers must be “to respectfully attend to the experiential voice and centre experience” (Bruckert, 2018, p. 10), as this work entails “an ethical responsibility to address processes of unfairness or injustice” (Madison, 2012, p. 5). Ideally, we “use our speaking and writing skills and our positions as scholars and critics in ways that transform and uplift our research, local, and global communities” (Tillmann-Healy, 2003, p. 735)—indeed, to try and rectify the forms of epistemic injustice introduced in the introduction. Doing so requires embracing a certain approach to research in both its processes and

its outcomes, including using methods that privilege the knowledge and agency of those usually framed as mere research ‘subjects’ (Potts & Brown, 2005).

The knowledge and opinions of sex workers, including porn performers, are often dismissed. While there has been a relative explosion of speech around pornography and health in recent years, related journalism and research rarely centre the perspective of performers and other adult industry professionals, often failing to focus on what porn legislation and sexual health practices mean to the people who are actually impacted (Sullivan & McKee, 2015). Sex workers are actively silenced and ridiculed (Taormino, 2012); we are dismissed or discredited if we do not fulfill popular stereotypes, our voices only amplified when they support narratives of sex work as uniformly dangerous and exploitative (e.g. FTND, 2017; Kendrick, 2017; Romero, 2014). On this point, one performer I spoke with, Alex Coal, noted that,

a lot of [journalists or academics I’ve spoken with] focus on the negatives. Like, generally that’s what they’re going for, and so then they’re either disappointed or shocked when I don’t have that many negatives. [...] And that can get frustrating and it can make you feel bad when people just assume that you’re sad all the time.

Sex workers have always been aware of how mainstream narratives misrepresent our realities, with devastating and often deadly consequences. Critical ethnography can transfer this awareness to others, by documenting and highlighting the ideology-rupturing, everyday experiences of those commonly excluded from dominant modes of knowledge production (Potts & Brown, 2005; Smith, 1990).

However, a political commitment to participants does not equate to indiscriminate support and naïve optimism. Certainly, the academic community has an important role to play in destigmatizing sex work and sex workers (Weitzer, 2018). We must be conscious of how our

research has the potential to reinforce negative perceptions or be used to justify discriminatory behaviours (Dwyer & Buckle, 2009; Kaler & Beres, 2010). That said, there are injustices in the world of adult entertainment, and justice-oriented research cannot ignore these. Like other creative and ‘gig economies’, the adult industry can be insecure and precarious, features that make it prone to exploitative labour practices. Workers tend to have contractor rather than employee status, meaning there are fewer means by which they can engage in collective bargaining or other acts of worker justice; they are also stigmatized and marginalized, lacking supportive resources and experiencing discrimination from adjacent businesses like payment processors and banks (Sullivan & McKee, 2015). The adult industry is guided by the same problematic profit motives that drive all labour under capitalism, and as with all other industries, those who suffer most are the workers who hold the least social privilege, capital, or mobility.

I do not wish to contribute to the stigmatization of the adult industry, nor do I wish to cast silence on the injustices that impact sex workers. I aim, imperfectly as any of us, to strike a balance that is both just and accurate. Part of my own struggle with striking this balance has to do with my own status as a sex worker. As Taylor (2011) writes, those who research their ‘own’ community may be additionally “resistant to an unsympathetic critique of the field”, finding it “difficult to manage the delicate balancing act of academic credibility and friend/community accountability” (p. 14).

### 2.5.3 Inner Access

Why do we research ‘our own’? In problematizing the “pursuit of the other” (Visweswaran, 2003, p. 89) and the dynamics of power and privilege that emerge when academics “study



down”—essentially building their careers through the exploitation of marginalized communities—a “matching strategy” assumes that stigmatized groups should only be studied by researchers who are also members of that group (Emersen et al., 2011, p. 163), particularly given the collapse of belief in and pursuit of ‘objectivity’ within anthropology and similar fields (Visweswaran, 2003). Thus has ‘insider research’ become a method and a subject of enormous debate in its own right.

### 2.5.3.1 Advantages

Potential political rationale aside, there are some practical benefits to insider research. Having prior experience in a community or field affords a certain degree of cultural literacy: aside from basic access to people and places, this also entails familiarity with norms, institutions, and terminology, and quicker establishment of trust and rapport—all of which are especially valuable when doing work with stigmatized groups who might have had previous negative experiences with researchers or other investigative outsiders (Dwyer & Buckle, 2009; Kaler & Beres, 2010; Taylor, 2011). Again, speaking with Alex Coal about agreeing to an interview, she said “you being a performer did make it super comfortable. Because I’ve given interviews to people that aren’t performers and they can get very *confused* very fast [laughs]”. Many adult industry professionals shared with me that they had had negative experiences in dealing with academics and popular news media, such as being subjected to leading questions, being quoted out of context, or being written about in a sensationalist or unflattering light after what appeared to be an amicable interaction. Therefore, the fact that I have appeared in pornographic films and share many of the same stakes may have instilled some trust and fostered rapport with potential participants (Kaler & Beres, 2010). At the same time, when I asked directly if my status as a

performer influenced their assent, most performers agreed it was a bonus, but that it was more important to them that someone they knew had vouched for me.

While I aim not to psychologize participants, an almost unavoidable element of research among familiars is that:

[r]egular and intimate contact [...] increases one's level of perception in relation to body language and non-verbal communication; sensitive or covert topics; detecting false-truths; emotive behaviour; the degrees of affect that something may have upon someone (for example, shame or disappointment about which people may be less likely to speak openly); logics of taste and rationality; an informant's self image and their performative attempts at displaying this; and their intended meaning which may sometimes be obscured by incongruous or abstruse language, but is able to be referentially decoded through the researcher's intimate understanding of past events and/or their knowledge of the informant's personal history. (Taylor, 2011, p. 11)

This familiarity can inform the research and analysis process in beneficial ways.

### *2.5.3.2 Disadvantages*

There are also clear concerns or disadvantages related to having insider status. For one, while insider status may encourage certain disclosures, in other instances people may feel discouraged to share something, specifically because you are an insider; or, they may simply fail to mention certain things because they assume they do not need to 'state the obvious' (Emersen et al., 2011).

Conducting insider research means you are also more likely to have pre-existing friendships entangled in your fieldwork relations, characterized by "empathy and affection"; participants may want to please in ways that detract from the research process (Taylor, 2011, p. 15). Insider research conducted among friends might also lead to overrepresentation of participants who share the researcher's "opinions, values and logics of taste." It is therefore ideal to ensure that even

insider-research involve “a mix of intimately familiar and unfamiliar informants” (Taylor, 2011, p. 15).

One concern raised about insider research is that familiarity with the field can result in “insider blindness” whereby some of the “mundane” or “everyday” features of interest are invisible (Taylor, 2011, p. 16, see also Emersen et al., 2011). It has been suggested that an insider-researcher create distance between themselves and their field, on an intellectual, emotional, and physical level, in order to combat this “myopia” (Ohnuki-Tierney, 1984, c.f. Taylor, 2011, p. 15). While I did not purposefully adopt this as a strategy, circumstance required it. Having moved to the relatively porn-barren island of Newfoundland to complete my graduate studies, I went into an imposed semi-retirement from performing for the duration of the research, travelling in and out of my field sites rather than being immersed in them. In retrospect, I do believe this distance helped balance my various perspectives in fruitful ways.

This insider ignorance, where seeming familiarity may lead to assumptions of shared understanding that allow things to be taken for granted (Dwyer & Buckle, 2009; Kaler & Beres, 2010; Kanuha, 2000), is a valid consideration. One should never presume that “as an insider, one necessarily offers an absolute or correct way of seeing and/or reading the culture under investigation”, nor that “dichotomous rubrics such as insider/outsider” are an appropriate way to frame knowledge production at all (Taylor, 2011, p. 6). For as Wolcott (1999) states, “[t]here is no monolithic insider view [...] every view is *a* way of seeing, not *the* way of seeing” (p. 137, emphases in original, c.f. Taylor, 2011, p. 6).

For all its political optimism, the “matching strategy” approach to research can be quite simplistic and reductive. It overemphasizes the importance of certain shared elements, when perhaps more salient elements are not shared, and assumes these elements are “static, self-evident attributes whose influence or interaction can be known beforehand” (Emersen et al., 2011, pp. 163-164). Additionally, it does not adequately take up power relations or the complexity of subject-position. So while I do believe that, generally speaking, research about marginalized communities is best conducted by members of that community or invited allies, I do not believe that my simply *being* a sex worker makes any knowledge I produce on the subject politically privileged or ethically immune. My experiences as a sex worker are specific and contextual. I have a range of other experiences and circumstances that produce my “view from somewhere” (Haraway, 2008, p. 350).

#### 2.5.4 Reflexivity

Regardless of where one is located vis-à-vis their community of study, a commitment to justice necessitates a self-reflexive process where we examine how we are in power-relation to it (Madison, 2012). Reflexivity in research “means that the researcher should constantly take stock of their actions and their role in the research process and subject these to the same critical scrutiny as the rest of their ‘data’” (Mason, 1996, p. 6, c.f. Guillemin & Gillam, 2004, p. 274). Who I am and where I am from leads me to ask certain questions; it also leads me to hear certain answers more profoundly (Frank, 2015; Talmage, 2012). Unpacking such insights requires a concerted effort to make critical reflexivity a sustained and integrated part of the analytic process. Explicit attention to critical reflexivity “allows us to become answerable for what we learn how to see” (Haraway, 2008, p. 348). Adopting a reflexive approach also means that I value and

utilize my own feelings about my fieldwork and interviews in the analysis process, rather than treating them as ‘noise’ that might impede understanding. My emotional responses are resources for unpacking the phenomena under study (Kleinman, 1991), and sharing those reflections with readers can help them understand and evaluate the claims I make (Frank, 2015).

For example, a theme that will emerge throughout the research is that of ‘professionalism’—that different approaches to STI and HIV management indicate varying levels of competency and experience. The focus is not unfounded: many interview participants explicitly made such claims—using words like ‘professional’, ‘legitimate’, and ‘seasoned’, or ‘newby’ and ‘green’—when discussing sexual health. However, some of my feelings about *my own* involvement in the porn industry surely impact *how* I emphasize this theme, for I might not have found these narratives of professionalism so remarkable if they did not trigger my own doubts and insecurities. While I have worked in the Industry for a long time and have earned a few accolades, there have been extended periods when I did not make a film. My work is sparse and marginal, and I am not a known name. Surrounded by more successful performers at industry events, I was sometimes plagued by an internal dialogue that I never could have ‘made it’, that I am too incompetent to hustle the way they do. If I had established more of a career in porn, I may have found the emphasis on professionalism rather common-sense, and not much worth writing about.

I relate strongly with how Claire Carter (2016) articulates her research relationship with queer communities. She writes:

Currently living in a small Canadian city, returning to Toronto for a research trip I found myself re-immersed into the queer community I had left 18 months earlier. After the first few interviews, I reflected on my elation to be among queer folk again and wondered how

my personal context was affecting the interviews. How was I being read by participants—was I being read as queer, as an insider or outsider? My desire to be recognized both for my sexuality/sexual identity and as an insider (even if at a distance) of the queer community, as well as my delight in having queer coffee dates across the city are critical to the research process. (p. 121)

Similarly, having moved to St. John's after nearly 15 years embedded in the lively sex worker communities of Montréal, my research was impacted by feeling like I had left my community behind, of deeply desiring connection with other sex workers, and when in the field, being elated to have it. This sense of connection was often accompanied by feeling like an imposter, an amateur, that I both do and do not belong to the mainstream porn community for a host of reasons. Again, the notion of who does and does not belong, of who gets to speak (or not) for *The Porn Industry*, is a perennial theme of this research. My particular relationship to the industry and my own career in it does not invalidate these findings, but it most certainly contributes to their shape.

These things considered, I claim my 'insider' position with some trepidation, some caveats. Namely, I hold a relatively privileged relationship to the adult industry in that I can generally choose whether or not I am 'out'. As mentioned above, I am not generally a well-known or recognizable adult performer so, unlike many performers, I have the luxury of determining when and how I am 'out', thereby avoiding potentially devastating consequences (Lee, 2015). Even during the times that adult performing was my main or sole source of income, I have usually pursued other work and/or been a post-secondary student. This means I can draw from less stigmatized experiences, cultural capital, vocabulary, and so on, which allows me to operate as more of an insider or an outsider according to what best suits me in a given setting. For example, if I am looking for credibility in the adult industry, I can emphasize extreme sex acts and fetish competency; if I am hoping to gain credibility in the academic world (oops, too late!) I can

emphasize peer-review publications and theoretical jargon. This flexibility evokes ethical questions. Mullings (1999) discusses the strategic decision to emphasize either insider or outsider status depending on who she was talking to—decisions based on which status would make her seem the least threatening (and therefore more trustworthy) in a given context. While this does not entail any falsification, it does require some omissions or emphasis of certain opinions or characteristics. She writes that this strategy carries some ethical concerns—questioning “whether [she] should have been explicit about all the dimensions of [her] personality” (p. 347).

The ethical anxiety researchers feel about their potential for fluidly adopting insider/outsider roles certainly stems from a general distrust and disease with shape-shifters; tropes like the duplicitous bisexual, the passing biracial, the conniving transsexual, all underscore a deep ambivalence around people who cannot be easily categorized (Douglas, 1966). We know, of course, that the slippage is not a trait of certain law-defying persons, but a result of the inadequacy of strict categories to hold human experience. As Sonya Corbin Dwyer writes of conducting research among fellow adoptive parents:

I found myself writing both “we” and “us,” and “they” and “them.” Sometimes I wrote myself into my research, and other times I did not. On further reflection, I realized I sometimes shared experiences, opinions, and perspectives with my participants, and at other times I did not. It is not that I sometimes saw myself as an outsider instead of an insider. Rather, not all populations are homogeneous, so differences are to be expected (Dwyer & Buckle, 2009, p. 56).

Dwyer and Buckle (2009) suggest that the insider/outsider binary is insufficient to discuss a researcher's relationship to their participants and their research subject. They refer to a ‘space between’ that is better able to encompass and preserve the many similarities and differences we may experience in relation to members of our research community than the traditional dichotomous conception:

Perhaps, as researchers we can only ever occupy the space between. We may be closer to the insider position or closer to the outsider position, but because our perspective is shaped by our position as a researcher (which includes having read much literature on the research topic), we cannot fully occupy one or the other of those positions. (p. 61)

The failure of the insider/outsider binary is evident in both these internally felt “fragmentations of the self”, as well as the material conflation of the research space, wherein “‘the field’ is not only [a] site of work and learning, but it is [a] place of personal belonging, comfort, trust, friendship and love” (Taylor, 2011, p. 19). My fields overlapped as places of study, income generation, and pleasure. Sometimes this included filming with participants. In some cases, people had performed with me first and agreed to participate in the research later; in others, people participated in the research first and we then decided to film together. Inevitably, I have been intimately entangled with some of my ‘participants’. According to most people’s definition, if we filmed together, we have *had sex*: one of the most unspeakable realities of fieldwork (Kulick & Willson, 1995, see also Frank, 2015).

On this I wish to make two points: For one, I obviously cannot speak for all performers, but among people working in the adult industry, producing sex on set is not necessarily experienced the same way as is having sex outside of the work environment—physically, emotionally, or psychologically. In my previous research, several performers said that filming with someone did not feel so much like ‘having sex together’ as it did ‘working together’ or ‘making porn together’ (Webber, 2013). More casually, in conversation with other performers, it is uncommon that anyone would frame their relationship to co-stars as having ‘slept together’; we’d be more likely to say ‘we’ve worked together’ or ‘I’ve shot with that person’. For people who have not engaged in sex work, this distinction may be difficult to relate to—an example of the hermeneutical injustice discussed in the introduction. As Kulick (1995) writes, in some societies or subgroups,



sexual relations may be considered less “intimate, committing, or exploitative” (p. 10) than non-sexual ones. Sexualized activities do not mean the same things to all people across all contexts.

This leads to my second point, perhaps the apex of matters of power and position, inside and outside, of concern in this subsection: even if filmed sex acts *are* experienced as sexual encounters, the presumption that sexual power dynamics are inherently more problematic than other power dynamics is the result of unquestioned sex-exceptionalism (Frank, 2015; Webber & Brunger, 2018). The de facto assumption that any and all ‘sex in the field’ is unethical is illustrated by the fact that sexual ethics are rarely included in academic training (Kulick, 1995<sup>23</sup>). Kulick (1995) suggests that sex is considered “out of bounds” for fieldworkers because of the “pivotal position” sexuality holds “in Western understandings of self” (Kulick, 1995, p. 12). Bringing sex into the field thus risks upsetting the self/other, personal/professional, researcher/researched dichotomies underpinning notions of authority, objectivity, and rationality—binaries that anthropologists and other critical qualitative fields have long congratulated themselves for working to dismantle. Treating sex as the greatest potential exploitation allows researchers to avoid looking at the problems of power inherent to the research enterprise as a whole: specifically, “silence about the erotic subjectivity of fieldworkers” helps conceal and maintain the structures—like the distinctions and hierarchies between self and other—that enable “our continuing unidirectional discourse about the sexuality of the people we study” (Kulick, 1995: pp. 4-5). More broadly, Kim TallBear (2013) addresses the innate exploitative nature of all research, writing “[m]y queasiness with academic social-science research had to do with feelings of the individual power I could exercise via standard academic

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<sup>23</sup> While Kulick’s text is admittedly dated, I am not aware of any standardized research ethics training to date that includes the subject of sex in the field.

approaches to extract knowledge and to publish analyses under my individual name, to speak *for* versus speaking *with*” (p. 15).

I am of the opinion that if we are not at least somewhat uncomfortable doing research, it is because we have not thought long enough about it. That is not to say we abandon the project. It means we take it on, trying our best to remain open to hearing about the mistakes we make and humble about our need to grow and change. I am indebted to the work of Indigenous, feminist, and sex working scholars, and to vocal groups of those who have traditionally been viewed as ‘subjects’, for their critiques of the institution of research and for demanding that we consider the ethics of who says what about whom and how.

### 2.5.5 Indecent Exposure and the Discrediting of Sex Worker Knowledge

There is one last point I wish to make regarding my insider status. The reflexive, at times autoethnographic, shape of my research means that throughout this dissertation, I will occasionally write about personal experiences and thought processes typically considered ‘inappropriate’ to the academic context. This includes sharing information about my own sexual activities as they relate to my porn work. These subjects are generally considered at best irrelevant, at worst offensive, within mainstream definitions of what constitutes valid scholarly information. But if—as is the goal of this project—we are to take seriously the unique epistemic contributions of sex workers, we must welcome different kinds of sharing into the scholarly canon rather than forcing our contributions to fit into dominant definitions of academic legitimacy. If I have arrived at knowledge through my own intimate experiences of sex and fluid exchange (fluid exchange being, in essence, the central event around which this research is

organized), that knowledge cannot simply be dismissed as in poor taste or lacking decorum. To do so would be to reintroduce the epistemic injustice I seek to confront. Marking some knowledge as ‘indecent’ is exclusionary, a common tactic used to dismiss and deny the valuable knowledge of sex workers. I challenge the notion that there is nothing of scholarly value in what I have gleaned from my own sexual experiences, or that there is nothing of value in telling those stories free of evasion and euphemism.

The distinction between ‘appropriate’ and ‘inappropriate’ knowledge communication is arbitrary and context-specific. Within the social sciences, a quote attributed to a participant may be considered appropriate while the same thing attributed to the author is not. I do not make this distinction. Just as I am quoting interviewees who divulged ‘intimate’ details about themselves—their genitals, sexual activities, STI diagnoses, and so on—I sometimes divulge my own. As Tim Dean (2015) writes of the sterile academic terminology used to describe sexual concepts, “[w]hat are we trying to prove with such linguistic choices—that we remain uncontaminated by the libidinal impulses we nevertheless are drawn to analyze?” (p. 225). In my writing, I do not aim to remain uncontaminated because I do not believe the themes and concepts in question are toxic. I encourage the reader to attempt the same.

Having provided a thorough description of my epistemology, research methods, and ethical protocols, I now offer a more narrative description of the research field. The next chapter sketches relevant aspects of the pornography industry, to lay sufficient groundwork for the analytical chapters to follow.

## CHAPTER 3: THE PORNO LANDSCAPE

### 3.1 Introduction

This chapter lays the groundwork for a discussion of pornography production and health policy, and begins to describe the various occupational health protocols used by different types of productions. First, I discuss how porn production has been understudied in favour of a focus on its products and consumers, and how this trend limits the amount of reliable data available. I provide some estimates of the size of the industry and number of performers, describe the main types of porn products, and explain how production and distribution channels have shifted over recent years. I then contextualize my field sites geographically within the broader porn landscape. Next, I sketch the various genres of straight, gay, and queer/feminist/art porn. I then give a brief history of early industry health and labour organizing and describe two key industry-run occupational health institutions. This leads into an outline of PASS (Performer Availability Screening Services), the primary sexual health management system used by mainstream straight productions in major American production hubs. I then offer a brief discussion of condom use (or lack thereof), and the primacy given to HIV in all prevention efforts. This base knowledge sets the foundation for the following chapter, which documents attempts made by external bodies to impose their own regulatory protocols on the industry. It also establishes the norm against which alternative harm reduction practices are positioned, as will be discussed in Chapters 8, 9, and 10.

## 3.2 Data Deficits

The production of pornography is not that different from other media production, yet there is a reticence to study the industry. Scholarly attention to porn has generally focused on “the nature of the product itself and its effects on both individual consumers and wider society” (Voss, 2012, p. 392), instead of how it is made. Enormous attention has been paid to study of porn’s alleged impact on viewers: their gendered beliefs and attitudes, sexual practices, and romantic relationships (Lim et al., 2016). Yet little work by comparison explores the internal structures and the organization of labour. Voss (2012, 2015) attributes this to stigma<sup>24</sup>. Stigma surrounding pornography can impede empirical study, as industry participants are not necessarily quick to trust curious outsiders. In addition, scholars who study pornography can incur stigma by proxy and so may choose to avoid it. When scholars do decide to study porn, hard numbers are difficult to come by: industry data is often missing from the standard business studies databases one might consult, and “porn sales statistics are notoriously difficult to quantify and don’t take into account the vast quantities of porn illegally downloaded” (Ashford, 2015, p. 200). In response, many authors have called for pornography to be studied like a ‘normal’ business rather than something

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<sup>24</sup> The U.S. Department of Justice Attorney General’s Commission on Pornography from 1986 (the ‘Meese Report’) similarly stated that “there have been to our knowledge almost no ‘scientific’ investigations into the background of participants in pornography nor its effects on them afterwards. Such investigations would certainly be extremely difficult—perhaps impossible—to design and conduct given the clandestine character of the pornography industry” (p. 853). Ironically, one could argue that the Commission itself has contributed substantially to this ongoing stigma, as its much debated findings painted pornography production and consumption in an extremely negative light and portrayed pornographers as either malicious criminals or pathetic victims. Many believed the Commission was struck by President Reagan with the biased intention to counter the much more neutral findings of the previous 1970 Commission on Obscenity and Pornography set up by President Johnson. This earlier report did not find any connection between porn viewing and ‘deviant’ behaviour, advocated for sexual education, and rejected imposing any restrictions on adult viewing.

exceptional (Voss, 2012; see also Berg 2016, 2021; McKee, 2016; Sullivan & McKee, 2015; Smith & Attwood, 2014).

Porn Studies has grown as a field over the last 20 years, moving beyond binary debates to a more nuanced “critical academic discussion on [the] genre’s history; its production, consumption, and aesthetics; its audiences; and its place in contemporary culture” (Voss, 2015, p. 5). This has included an increase in the study of industry machinations, particularly in the last five years, however the available resources are still largely non-peer reviewed, industry-produced journalistic accounts: for example, articles written by the two primary adult industry news sources, XBIZ and AVN, both based in California. Because of this, reliable facts and figures can be difficult to find. The sources I cite below are from a small body of peer-reviewed community health studies, most of which were also conducted in California. I focus mainly on how pornography is produced and the different sexual health protocols employed on different types of sets, limiting myself to what is necessary to ground my research field, rather than providing an exhaustive historical or global description.

### 3.3 Performers

There is a common claim that performers’ careers are short-lived. A commonly cited figure in both scholarship and popular media is 18 months (Goldstein et al., 2011; Javanbakht et al., 2017), but other studies report an average 3.6 years working in porn (SD=4.3) (Grudzen et al. 2011, 2013) or a range of 1-18 years with a median of 3 (Rodriguez-Hart et al. 2012). “There are two general career arcs within the industry”, writes Schieber (2018a, p. 4), “(1) performers who are

looking for quick money are in the industry for only a short period of time, and (2) performers who take part in certain strategies to lengthen their careers”. Certainly, some people only make a few films and then discontinue their work in porn. High performer turnover was often cited by participants as a barrier to labour organizing, for example. But many performers do have long-lasting careers, both consistently or interspersed with or alongside other jobs, projects, and educational pursuits. The career-span of performers I spoke with was one to 25 years with an average of 8 years and a median of 5 years. One person had shot a single film, while others had filmed hundreds of scenes and branched into directing and other areas of production. Some shot regularly, making several films each week or month. For others, the volume of work fluctuated according to the opportunities available. Some took occasional breaks from filming to work in other fields, and others worked simultaneously in multiple areas, both in and outside of sex work.

Because porn is sometimes worked intermittently, it is difficult to estimate a baseline population of performers. Part of this stems from disagreement over how recently or regularly someone needs to work to be considered an ‘active’ performer. I have heard no agreed-upon definition amongst performers and producers. In the literature, the handful of epidemiological and community health studies of porn performers that exist use inconsistent inclusion criteria: having performed in adult film for at least 3 months (Grudzen et al., 2008); having performed in one adult film released in the past 6 months (Grudzen et al., 2011), having performed in one adult film in the last year (Javanbakht et al., 2017; Rodriguez-Hart et al., 2012); having accessed a health service dedicated to porn performers (Coyne et al., 2009); or self-identification (King & Evans, 2020). Many other studies do not specify their inclusion criteria.

As such, reported estimates of the size of the active performer pool include 1200 in San Fernando Valley, California (Taylor et al., 2007), 1200-1500 throughout the U.S.A. (Grudzen & Kerndt, 2007), 1000-3000 throughout the U.S.A. (Javanbakht et al., 2017), 2000-3000 in California (Kluger, 2014; Rodriguez-Hart et al., 2012), and 2000 in California and 3000 total<sup>25</sup> (Goldstein et al., 2011). However, no rigorous statistics are available to describe full-time performers (Tibbals, 2012) nor those who may work in porn casually or temporarily. Many of the above studies refer back to a 2005 Morbidity and Mortality Weekly Report (Rotblatt et al., 2005) that claimed 1200 performers worked in L.A. County, and have extrapolated their numbers from there. Given how production has democratized and proliferated in the past decade (discussed below) it is doubtful that these estimates truly capture the growth in porn performance since 2005, as they appear to be focused solely on mainstream studio performers. Conversely, one highly dubious and non-peer-reviewed text makes the unsubstantiated but oddly specific claim that there are 103,000 performers worldwide (Lemon, 2020).

### 3.4 Production

Porn is produced at various scales, from individual performers' social media to large scale feature films. It can also encompass a wide variety of affiliated satellite industries, depending on one's definition of 'pornography'. Thus, to speak of 'the' porn industry is a misnomer, in the sense that the pornography landscape is highly decentralized. There is a long-standing difficulty of generating accurate production and revenue estimates about the porn industry (Berg & Penley, 2016; Sullivan & McKee, 2015; Voss, 2012). Estimates range widely, in part because "[b]oth

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<sup>25</sup> It is unclear from the article if they mean globally or just in the U.S.A.



producers and critics of pornography have an interest in making it seem as big as possible” in terms of output and profits (Sullivan & McKee, 2015, p. 20). It is therefore difficult to say exactly how much is produced, and where, with any kind of assuredness. “The porn industry as it has been traditionally understood does not exist,” argues Heather Berg (2021):

There is no powerful, centralized body of producers calling the shots. [...] When I use the term “industry,” then, I am not gesturing to a monolithic or internally consistent body. Instead, I mean to indicate the heterogenous array of studio executives, agents, producers, directors, technical set and post-production workers, and performers—and the many points at which these identities overlap—who make porn. This is the closest we will get to a porn industry at the turn of the 2020s. (p. 22)

Similar to other contemporary media creation, porn has moved away from centralized, studio production. While the evolution of the porn industry has been uniquely influenced by some targeted policies (discussed below), most of the economic and social forces of import are the same as those which have impacted all other creative economies such as music, TV, and cinema: rising production costs, falling profits due to an increase in piracy and freely available ‘tube’ sites<sup>26</sup>, an increase in ‘pro-am’<sup>27</sup> or ‘user-generated’ content creation, and the development of technological platforms that facilitate independent production and dissemination (Berg & Penley, 2016; Bleakley, 2014; Nayar, 2017; Pezzutto, 2019; Ruberg, 2016; Schieber, 2018a, 2018b; Sullivan & McKee, 2015). These are all factors which support the global increase in ‘gig’ economic structures, “in which traditional businesses hire independent contractors, freelancers, and short-term workers to perform individual tasks, assignments, or jobs” (Longley, 2019, para.

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<sup>26</sup> ‘Tubes’ refer to sites like YouTube, where users can upload videos. These videos may be viewed for free, or through a paid premium subscription that offers exclusive content or ad-free viewing. Individual fans, as well as independent performers and porn studios, upload content to these sites as advertising for their paid products and/or to earn ad and affiliate revenue.

<sup>27</sup> ‘Pro-am’ is short for ‘professional amateur’, that is, ‘amateur’ performers who create products at a professional level in terms of quality and/or output.

1). The gig economy is alternately criticized for stripping workers of rights and benefits, or lauded for the flexibility and agency it offers. As Heather Berg (2016) writes,

the problems of precarious labour are not confined to the porn industry. The gig economy is a site of contestation and struggle. We should neither celebrate it as a new frontier in workers' autonomy nor wax nostalgic about more stable employment models (in porn work or otherwise). (p. 162)

That said, big budget studio features continue to be made and distributed through traditional pay-sites, where content is available for a monthly subscription, or on streaming networks similar in form and function to Netflix or Crave. But these films now reside alongside a vast and voluminous array of smaller scale production and distribution models. Performers may build their own pay-sites. Additionally, multiple platforms such as ModelHub, ManyVids, or OnlyFans now exist where performers can create a page or profile and sell live streaming or pre-recorded content directly to consumers. Performers on these platforms earn money through ad and affiliate revenue, subscription fee or pay-per-view revenue shares, and/or tipping and other in-kind gifts sent from fans. These productions make up an increasing proportion of the porn industry market, as evidenced by the introduction of new industry award categories<sup>28</sup> for cam models<sup>29</sup>, clip creators, and other small-scale productions. I will briefly describe each type of production, noting that these categories are imperfect and the distinctions between one kind of production and another are often blurry.

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<sup>28</sup> The two major award entities for adult film are XBIZ and AVN. XBIZ started honouring the title Cam Model of the Year in 2018, Clip Artist of the Year in 2019, and Premium Social Media Star of the Year in 2021. AVN added the category of Favorite Cam Girl in 2020, whereas GayVN (a separate AVN awards show focusing on gay porn) recognized best Webcam Show as early as 2010 and added Favorite Cam Guy and Social Media Star in 2018.

<sup>29</sup> 'Cam models' are performers who do live shows via webcam, streaming content to viewers in real time.

### 3.4.1 Studio

Studio porn is perhaps what people typically envision when thinking about film production. In most ways, studio pornography mirrors that of other video media—a day on set filming pornography is not markedly different from a day on set filming a sitcom, art film, or TV commercial, except for the content. Generally, it goes something like this: performers and crew arrive on set at a pre-established call time. Most often, the set is the director’s private residence, a rental location such as a vacation home or hotel room, or a dedicated studio space belonging to or rented by the production company. Upon arrival, performers do make-up (most often by themselves, although paid make-up artists might be present for larger feature films) and complete other bodily preparation tasks such as anal cleansing or shaving. They then dress in their own or pre-selected costuming. Depending on whether or not there is dialogue, scripts may have been circulated in advance or are reviewed before beginning. Paperwork is signed, including model release contracts and record-keeping paperwork. Preferences around sex acts, and confirmation of sexual health protocols, are discussed between performers in conjunction with the director. The director may work or have worked as a performer as well, or not; they may be contracted by a studio to produce the film, or are producing it for their own site. Crew dress the set and prepare cameras, microphones, and lights. Scenes are blocked (a practice run of how performers will move through the space, the order of the sex acts, what positions they will be doing, etc.). This process may be more or less collaborative between the director and performers, depending on the production. Some photos are usually taken before the scene begins, and periodically throughout, for ‘box covers’<sup>30</sup> and promotional materials. Then cameras roll and the scene is shot, pausing to

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<sup>30</sup> Most studios no longer distribute hard copy DVDs but still produce box cover-like imagery featuring the title, cast, etc. to serve as a thumbnail on web platforms.

reshoot and redirect, adjust lights and camera or audio settings, and so forth. Cast members are typically paid (by the day, not the hour) at the end of filming, usually by cheque (see Berg, 2021, for a detailed discussion of filming processes).

The vast majority of porn health studies have focused on California, and most of these claim that there are approximately 200 porn production studios in L.A. County employing some 6000 non-performer workers (Goldstein et al., 2011; Grudzen & Kerndt, 2007; Kluger, 2014; Rodriguez-Hart et al., 2012; Taylor et al., 2007). These numbers are sourced from the aforementioned 2005 Morbidity and Mortality Weekly Report. The industry has undergone major shifts since 2005, with many studios being absorbed by MindGeek, which now exerts a significant monopoly<sup>31</sup>. The passage of §2257—a data management law—caused some studios and secondary content providers to fold when their record-keeping was no longer considered sufficient or sustainable<sup>32</sup>. Some American studios have also moved out of California due to what is considered by some to be a hostile policy environment. Firstly, many studios moved their operations to neighbouring Nevada with the introduction of Measure B, a mandatory condom law that applies to L.A. County, and which will be discussed at length in the next chapter. More recently, changes were made to California labour law (Pardon, 2018; Turner, 2020) which more narrowly define independent contractor status. Most performers are classified as independent contractor status, but under the stricter test should be considered employees and granted the associated rights.

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<sup>31</sup> MindGeek owns the major network Brazzers, popular studios Digital Playground, Reality Kings, and Twistys, as well as the Pornhub tube network (Pornhub, RedTube, YouPorn, etc.) and more (P., 2015).

<sup>32</sup> §2257 changed adult industry record keeping requirements such that secondary content distributors—not just the producers who actually filmed the content—must also hold the ID records of all performers in those films and retain them, along with recordings of the scenes they appear in, for 7 years (See O’Conner, 2005; Pardon, 2005; Yagielowicz, 2004).

Some speculate that this labour law may encourage still others to leave the state as California's regulatory landscape becomes increasingly difficult and expensive to navigate (G., 2019).

As such, many performers work in several 'satellite industries' in addition to shooting studio scenes (Berg 2016; Pezzutto, 2019; Schieber, 2018a). Indeed, these complementary revenue streams are generally more lucrative, as performers can work more often, take a larger cut of profits, and earn in perpetuity—whereas studio scenes typically pay a single flat rate, regardless of how widely the scene is distributed or how well it sells. Studio performers will usually also engage in a variety of the production types described below, to diversify their income. There are also many performers who only work in these satellite industries, as success in the studio industry is often limited by racist, ageist, fat phobic, and ciscentric<sup>33</sup> beauty standards. By turning to direct-to-consumer models, performers who fall outside these standards can earn decent wages, as the consumer palette tends to be broader than that envisioned by producers (for further discussion of privilege and satellite industries see Berg, 2016, 2021).

### 3.4.2 Clips

'Clips' are pornographic scenes that are typically shorter and simpler than studio productions. They tend to be filmed in private residences or hotel rooms on a single camera or phone, often in a single take, and may be custom-created for specific customers. Clip production is generally filmed and directed by performers themselves, who then retain ownership of the content they

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<sup>33</sup> The prefix "cis", as in cisgendered, means that an individual's gender identity corresponds to gender norms associated with the sex that they were assigned at birth. A ciswoman is someone who was assigned female at birth and identifies as a woman, and a cisman is someone assigned male at birth who identifies as a man (Dumaresque, 2019).

create. Sometimes these shoots are set up as a trade, whereby performers film together and instead of paying one another, both produce content for their respective brands. In other cases, a performer hires co-star(s), paying an agreed upon rate through cheque or e-transfer. Clips may be sold through a performer's own website and/or through a third-party platform such as Clips4Sale, ManyVids, or Modelhub, where revenue is split between the platform and performer at various payout rates ranging from 60-80% (Webcam Startup, n.d.a).

### 3.4.3 Cams

Camming, also known as livestreaming or webcam modelling, refers to the performance of live streaming shows. Performers, typically solo but also in couples and occasionally groups, use a webcam and computer to stream their video and sound. In the early 2000s when camming was first growing as a sector, people often worked out of centralized brick and mortar studios that supplied the technological overhead and infrastructure. Now, as domestic high-speed internet and quality computer and camera equipment has become relatively more accessible, people usually stream from their own homes. These broadcasts are displayed through third-party platforms such as MyFreeCams, Chaturbate, Streamate, and LiveJasmin, where viewers can log-in to access these live shows. Sites typically have one of two revenue models: 'premium' or 'freemium'. In a premium model, performers host a non-explicit 'free chat' room where all prospective viewers can see, hear, and communicate with them until someone takes them to a 'private chat' on a pay-per-minute basis and where explicit performance can occur (typically striptease, masturbation/sex). In a 'freemium' model all activity occurs in the same chat room, and viewers tip the performer to request certain explicit acts. Pay-per-minute or freemium rates may be universal across the platform, or vary according to rates set by the performers themselves, with

all revenue split between the platform and performer at various payout rates ranging from 30-80% (Webcam Startup, n.d.b.).

#### 3.4.4 Fan Sites/Monetized Social Media & Communications

Fan sites and monetized social media are another growing area of porn production and distribution (Freixes, 2020). These are platforms where consumers can subscribe to a specific performer on a monthly basis to have access to whatever content they upload. The archetypical platforms of this genre (at the time of writing) are OnlyFans, Fansly, FanCentro, and JustForFans. Others, such as SextPanther or NiteFlirt, offer fans direct phone or text contact with performers on a pay-per-use basis. Again, all revenue is split between the platform and performer at various payout rates ranging from 40-85% (Webcam Startup, n.d.c.; Webcam Startup, n.d.d).

Many of these clips, cam, and social media sites also allow performers to sell products such as merchandise or used underwear and lingerie (Webcam Startup, n.d.e). Performers may also feature dance at strip clubs, escort independently or through agencies and brothels that specialize in ‘porn star experience’, or do other types of in-person sex work. In this way, the “boundaries separating adult film from other industries are amorphous”, and increasingly so, as performers seek to maximize their income through cross-promotion between related income streams (Berg, 2016, p. 164).

In sum, ‘the porn industry’ is much more than standard studio films. It is a vast collection of intersecting products and platforms. It can be difficult to delineate what constitutes ‘the porn industry’ as this depends on which satellite industries are included in the definition. For the

purpose of this research, ‘porn production’ includes all of the above areas, as the performers and producers I spoke with engage in all such types of content creation. Where relevant, I specify the type of production under consideration, as health and safety is enacted differently depending on the type of set. For example, studio productions are more likely to be influenced by some external regulatory oversight, whereas clip, camming, and social media productions are more likely to be managed autonomously. These distinctions will be discussed in detail throughout the dissertation.

### 3.5 Geography

The geography of the industry can be difficult to establish beyond major production hubs. Because of uncertain legal status, porn producers may be secretive about their operations. Companies may incorporate in a jurisdiction with a favourable business climate but shoot in places with more plentiful performer pools or cheaper production costs. And with so many independent content producers, one cannot rely on the location of major studios alone as a barometer.

Here, I offer some geographic contextualizing of the five locales where I conducted fieldwork: California, Las Vegas, New Hampshire, Canada (Montréal and Toronto), and Berlin. Describing their relation to the global landscape of pornography production will help to situate my later discussion of findings.



### 3.5.1 California

While the industry is increasingly decentralized now, historically American production has centred in California. There are several legal and infrastructural reasons for this. A 1988 California Supreme Court decision (*California v. Freeman*) legalized pornography production in the state by declaring that it is not prostitution, which remains illegal throughout the U.S.A. New Hampshire is the only other state where pornography enjoys legal protection, thanks to the 2008 case of *New Hampshire v. Theriault* (Shachner, 2015, p. 350), and several studios operate there (Kelly, 2016). Other states do not have laws explicitly banning porn production, but neither do they have precedent-setting cases that protect it. Indeed, there are notable industries in both Nevada and Florida (Sperlein et al., 2014). When the modern porn industry took shape in the 1970s however, production required access to specialized equipment. Hollywood was already established in California, and with it a massive repository of mainstream film production resources. This placed the many services and skills needed for porn production within easy reach: camera and lighting equipment rentals and technicians, editing services, filming locations, and talent (Sullivan & McKee, 2015).

Throughout the 2000s and to some degree today, the California landscape can generally be divided into two primary sectors: the ‘straight’ industry concentrated in Southern California (mainly Los Angeles and the San Fernando Valley) and specializing in heterosexual content, which includes some ‘girl-girl’ and transwomen content; and the gay, queer, and kink industries located more in Northern California and the San Francisco Bay area (Tibbals, 2012). Definitions of and differences between these genres/markets will be described below.

California's pornography output was often estimated at 90% of all American-produced porn (Shaffer, 2015) to 60–80% of all porn produced globally (Motyl, 2014; Rodriguez-Hart et al., 2012; Shachner, 2015). This proportion is certainly shifting, both with the increase in independent production as well as global industry centres in other countries. Yet California continues to play a central role in the global industry both ideologically, as the apex of the porn imaginary, and materially, as the site of important institutions. Major production companies continue to film there. The industry's trade association, the Free Speech Coalition, is based there, as are the media and award show outlets XBIZ and AVN. The bulk of porn labour organizing<sup>34</sup> among performers has also happened in California<sup>35</sup>. Several talent-led organizations were established throughout the years, with varying degrees of engagement and longevity. While there have been several unsuccessful attempts to join the mainstream acting union, Screen Actors Guild, most industry organizing has focused on independent mutual support structures rather than traditional attempts at unionizing. Some of these groups included The Pink Ladies' Social Club<sup>36</sup>, Protecting Adult Welfare<sup>37</sup>, the Erotic Entertainers' Guild<sup>38</sup>, the Adult Performers Union<sup>20</sup>, and the Adult Performers Association<sup>39</sup> (Berg & Penley, 2016; Gall, 2016). The key performer-

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<sup>34</sup> Other types of sex workers have also organized into labour unions, notably the Lusty Lady peep show in San Francisco (Koopman, 2003).

<sup>35</sup> Note not all early talent organizing occurred in California: Club 90 was a porn performer support group formed in New York City that met regularly to provide mutual emotional support as well as business strategies (Wissot, 2015).

<sup>36</sup> The Pink Ladies served as a peer information sharing and support group around working conditions, particularly STI risks and symptoms, formed in 1989 (Berg & Penley, 2016; Gall, 2016; Miller-Young, 2014).

<sup>37</sup> PAW (<http://www.pawfoundation.org/pawhome.htm>) formed in 1994 and provided educational seminars, mutual aid, and mental/emotional support services to performers and other porn industry workers, and aspired to open a home for performers needing temporary housing.

<sup>38</sup> The Erotic Entertainers Guild (1997) and Adult Performers Union (2003) both “focused on establishing a wage floor” and on creating “performer-centred healthcare protocols” (Berg & Penley, 2016, p. 165).

<sup>39</sup> The Adult Performers Association (<http://bppa.blogspot.com/2011/09/adult-performers-association-latest.html>) was formed in 2011 to provide mentorship and education to new performers, advocate for performer agency around testing facilities, and create a repository of adult-friendly resources.

founded and operated, U.S.-based groups active at the time of writing are the Adult Performer Advocacy Committee<sup>40</sup>, the Adult Performance Artists Guild<sup>41</sup>, Pineapple Support<sup>42</sup>, the BIPOC Adult Industry Collective<sup>43</sup>, and the Adult Industry Laborers & Artists Association<sup>44</sup>. These groups centre issues of performer mutual aid, sex work advocacy, mental health, occupational health and safety, and improved working conditions and business practices.

Finally, because of California's long-standing legal relationship with the porn industry, the state is the site of all major occupational health policy battles to date. As the later chapters of this dissertation will explore, porn producers of all types and all over the world establish their own health and safety protocols, but it is only in California that standards have been strictly codified and subject to public and legal scrutiny. How occupational health and safety is dealt with in

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<sup>40</sup> APAC (<https://www.apac-usa.com/>) was formed in 2012 and provides educational resources, mentorship to new performers, mental health resources, and a vetting system to identify adult industry-friendly professionals and services (physicians, therapists, lawyers, accountants, banks, etc.). They have created a Model Bill of Rights and Performer Code of Conduct.

<sup>41</sup> The Adult Performance Artists Guild (<https://apagunion.com/>) was originally formed in 2016 as the Adult Performers Actors Guild and held membership in an umbrella organization called the International Entertainment Adult Union. Their relationship to IEAU was terminated in 2020 over a labour law dispute. APAG is now registered independently as a labour organization with the Office of Labor-Management Standards at the U.S. Department of Labor. They are not a union in the sense of serving adult performers as an exclusive collective bargaining representative, as this requires further filing and election procedures be conducted according to National Labor Relations Board guidelines (Reed Lee, personal communication, January 26, 2021), but they do provide education and support and conduct advocacy on behalf of performer interests.

<sup>42</sup> Pineapple Support (<https://pineapplesupport.org/>) was created by a former performer in 2018 and provides mental health services to adult industry performers through webinars and support groups, 24/7 chat, and subsidized online counselling with sex worker-friendly therapists. Pineapple Support is registered as a charity in the U.K. and holds non-profit status in the U.S. They are present in California but mainly offer online support, so services are available globally.

<sup>43</sup> The BIPOC Adult Industry Collective (<https://www.bipoc-collective.org/>) was formed by performers in 2020 and seeks to address racism in the industry through mutual aid, microgrants to BIPOC (Black, Indigenous, and People of Color) sex workers, wellness sessions, educational resources, and advocacy.

<sup>44</sup> The Adult Industry Laborers & Artists Association (<https://ailaa.org/>) was formed by performers in 2019 and conducts advocacy work around a variety of bills and policies impacting all types of adult content creation and sex work.

California, then, matters for the industry as a whole. The next chapter will go into these policy debates in detail.

### 3.5.2 Las Vegas

As noted above, Las Vegas, Nevada has become a popular destination for those leaving California after the introduction of Measure B<sup>45</sup>, because of its “cheaper permits, no health checks and no condom law” (Sullivan & McKee, 2015, p. 34; see also Johnson, 2012, 2013a; Pardon, 2014, 2016; Randazza, 2012), as well as low taxation rates and affordable rent. But Las Vegas has a more longstanding position within the adult industry landscape that predates this recent migration. With a libertarian business ethos, and as home to many strip clubs and the only legal brothel industry in the country, it is considered adult-business friendly and features some natural collaborations with pornography. The AVN Awards (the ‘Oscars of Porn’) have taken place in Las Vegas since their inception in 1984 (Pedro, 2015), and the city has been home to many other industry and retailer trade shows<sup>46</sup> over the years. Op-eds and how-to articles on migrating one’s adult business to Las Vegas certainly increased in 2011-2012 with the passage of Measure B, but there was also industry speculation around a move to Vegas when a cluster of HIV cases in 2004 raised concerns of filming moratoriums and incoming health policy (Houston, 2005; Pardon, 2004). The “Sin City Chamber of Commerce” was established in 2004 (Burke, 2005) to assist and encourage a growing adult industry presence in the city (Henderson, 2006).

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<sup>45</sup> Florida was another popular destination (Walters, 2012).

<sup>46</sup> For example, the Adult Entertainment Expo, AVN Novelty Expo, Internext, Adultcon, Adult Webcam Conference, XFANZ, and StorErotica.

### 3.5.3 New Hampshire

While porn is made throughout the U.S., technically New Hampshire is the only state besides California where there is a specific legal precedent defending the right to produce pornography. In 2008 the New Hampshire Supreme Court ruled that filming porn is not prostitution and therefore legal (*New Hampshire v. Theriault*). The state hosts a small industry dispersed throughout its more rural landscape. The low taxes and lack of mandatory condom law are often cited as ideal reasons to film in the area (Gonzalez & Klemack, 2012; Kelly, 2016; Rowntree, 2014), however the state has not yet developed into a hub that would rival the larger centres.

### 3.5.4 Canada

Montréal, Québec is the closest Canada has come to a porn capital. While filming opportunities have decreased over the last decade, Montréal still boasts the greatest number of studios in Canada. Montréal is also the headquarters of the post-production operations of many of porn's largest companies. It is the only city in Canada that features an annual adult industry trade show (Québec Expo). Toronto, Ontario, has also been home to several studios and post-production units as well as the Toronto Porn Film Festival (previously the Feminist Porn Awards).

Production also occurs in other cities such as Vancouver, Winnipeg, Edmonton, and independent cam and clip artists are scattered throughout the country (see also Balsam, 2016; P., 2015).

### 3.5.5 Berlin

With a low cost of living and a history as a sexually liberal city, Berlin, Germany is a hub of European porn production (particularly in the fetish, queer, feminist, and artporn genres).

Performers and producers from around the world have settled in Berlin, which is part of a circuit

with other European/U.K. porn hubs like Amsterdam, Barcelona, and London. The city boasts several famous sex clubs and popular porn and sex festivals<sup>47</sup> including the Porn Film Festival Berlin, founded in 2006. When I attended in 2019, performers I spoke with described the event as a sort of ‘family reunion’. This European alternative porn scene is composed of a relatively tight knit collection of workers; it is common to see the same performers appearing and reappearing in different films throughout the various screenings (see also Brendan, 2011; Thaddeus-Johns, 2019).

The geographic sketch is limited, as porn is produced to varying degrees in many other locales not covered here<sup>48</sup>, such as Australia (Stardust, 2014; G., 2017a), Brazil (G., 2017b), Colombia (G., 2017c) Israel (G., 2017d), Japan (Strusiewicz, 2018), Turkey (G., 2017e), Spain (Turner, 2019a), the U.K. (G., 2017f), the Netherlands, Hungary, Czech Republic, Bulgaria, Russia, Thailand (Sullivan & McKee, 2015), Greece (Tsaliki & Chronaki, 2016), Cameroon, Democratic Republic of the Congo, Ivory Coast, Morocco, Nigeria, South Africa (Bangré, 2011), Nigeria (Yoruba, 2017), Senegal (seneporno.com), and surely everywhere else there are cellphones and an internet connection. While not global by any means, I intentionally expanded my fieldwork beyond the U.S.A. because, like Tsaliki & Chronaki (2016), I wanted to avoid the common porn-studies pitfall of “superimpose[ing] the American industry on all porn experiences” (p. 175).

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<sup>47</sup> Such as the KitKatClub, Berghain, PorYES, Venus, and Xplore.

<sup>48</sup> Lists of studios and producers, while certainly incomplete, are available at: <https://www.xbiz.com/directory/studios-producers/studios-producers?show=all> and <https://www.iafd.com/studio.asp>

## 3.6 Markets

When speaking about porn markets, it is not the sexuality of performers that is operative but rather the presumed sexual orientation of the target market, and to a lesser degree, the orientation used to describe the sexual activity being performed. Broadly speaking, porn productions can be categorized as ‘straight’, ‘gay’, or ‘queer’, with the latter often blended with ‘feminist’, ‘ethical’, or ‘artporn’ genres. The lines between these markets and genres are sometimes blurry, not least because the actual audience frequently differs from the intended one. I will describe these each in turn, understanding that my definitions are not conclusive or exhaustive, but intended to give the reader guidance for understanding the landscape and interpreting later discussion about how occupational health is addressed in different settings.

### 3.6.1 Straight

Traditionally, ‘straight’ content includes scenes featuring cismen with ciswomen and scenes featuring sex between cisgender women when marketed to a heterosexual male audience. Increasingly, scenes between cismen and transwomen also fall into the ‘straight’ realm (Pezzutto & Comella, 2020). This content is further divided into all variety of subgenres, depending on the type of performers involved, the type of sex acts being portrayed, and other plot or stylistic factors. In many ways the white, heterosexual, 18-44-year-old cisman is the unquestioned target of most porn production and marketing, although other demographics have always made content from their own perspectives and for their own communities (Beyer, 2020; Ingraham, 2016; Miller-Young, 2007; Moreno Morillas, 2020; Taormino et al., 2013). The industry is slowly but steadily shifting production resources into the hands of those previously disregarded as marginal

or niche populations (people of colour, women, queers). These reigns have been taken by force through the growth of independent production, and, to a lesser degree, through deliberate efforts on the part of the mainstream studio world.

Perceived as a small and discerning market, content targeting straight women tends to fall into euphemistic or ambiguous categories like ‘softcore’, ‘couples’ porn’, or ‘porn-for-women’. That heterosexual women form a sizeable porn-consuming market worthy of attention has steadily gained traction, however the notion of ‘porn for women’ has been hotly contested as it tends to make narrow and homogenous assumptions about the type of content that women want to watch (Naughty, 2013). For example, it is well established that gay male pornography is a favourite among women of various sexualities (Neville, 2015, 2018).

### 3.6.2 Gay

Sex between cismen (and sometimes, between cis and transmen) is typically considered ‘gay’ regardless of whether the performers are themselves gay, bisexual, queer, or openly heterosexual (although some sex between cismen, or between cis and transmen, may instead be considered ‘queer’, largely based on how and to whom it is marketed). Straight men work in gay porn often enough that it has generated the term ‘gay-for-pay’ (Escoffier, 2003), just as men who have sex with men work in straight porn. Like straight porn, gay porn is divided into various subgenres based on the sex acts involved, the performers’ body types, and the filming style.



### 3.6.3 Queer

Performer identity and intended audience align most cleanly—but not perfectly—in ‘queer porn’, which usually features openly and ‘visibly’ queer folks, in the sense that performers’ body and hair stylings often resonate with dominant queer codes of the time: body hair and styling, clothing styles, tattoos and piercings, jewelry choices, et cetera. This porn is typically intended to appeal to a pangendered queer audience. Unlike mainstream porn’s emergence out of the world of Hollywood studios, queer porn has its roots in art film and community activism, explained Shine Louise Houston and Jiz Lee—of Pink & White Productions, a trailblazing queer studio—during a panel on queer porn production (XBIZ, January 16 2019). As such, queer porn tends to have an artistic ethos and/or political agenda, rather than a purely financial one. As Vex Ashley (2016) wrote, “Queer and feminist porn movements showcase marginalized sexualities as a political act” (p. 187). In contrast to ‘girl-girl’ porn featuring conventionally gendered women intended for hetero male audiences<sup>49</sup>, the bodies and sex acts depicted in queer porn aim to reflect and celebrate the sex cultures of queer people, rather than orienting themselves to a heterosexual palate.

### 3.6.4 Feminist, Art, and ‘Ethical’

Queer porn aligns and overlaps with other genres that refer to themselves as ‘feminist porn’, ‘artporn’, and ‘ethical porn’. These projects may distinguish themselves from mainstream straight

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<sup>49</sup> It must be noted that many of the women who perform in these films are queer, bisexual, or pansexual; neither their gender presentation nor the audience for whom they perform undermines that. One of the top directors of the genre, Bree Mills, is herself a lesbian and her highly celebrated film *Teenage Lesbian* is a semi-autobiographical account of coming out. There exists a rich and complex ‘authenticity’ debate interrogating whether or not porn reflects ‘authentic’ practices and desires, and whether or not there is such a thing as ‘authentic’ practices and desires. While not the focus of this research, that question will be taken up periodically throughout the dissertation where applicable.

and gay porn in several ways: either by claiming that they employ more egalitarian or ethical production processes; that they showcase less heteronormative sexual acts, storylines, and power dynamics; or that they are more artistically motivated and less profit-driven. These films are often distributed through similar avenues as mainstream porn. They may appear on mainstream platforms, but also specially curated ones such as PinkLabel.tv, QueerPorn.tv, or AltPorn4U.com. Unlike mainstream scenes, however, they are more likely to also run a festival circuit of public screenings very similar to independent cinema or short film festivals (such as the aforementioned Porn Film Festival Berlin or Toronto Porn Film Festival). These categories are generally aimed at a combination of demographics including queer people, straight women, and pornographic cinephiles interested in less mainstream or commercial aesthetics.

I use these labels tentatively, however, as the terms ‘feminist’, ‘ethical’, and ‘art’ have been subject to much debate within porn communities. How one defines these porn genres is unclear, and many resent the implication that mainstream productions are not or cannot be feminist, ethical, or artistic. As director, producer, and performer Marcus Quillan writes of “feminist” and “ethical” porn:

I support and enjoy much of the work that has been described in these terms or been considered part of movements associated with them. I understand their use as marketing labels or ways to differentiate certain creators from others, yet there is already much written about how they can be problematic and further stigmatise those who don’t fit certain slippery criteria. It is not for me to decide if our work serves a feminist or ethical function, and I would rather not rely on these terms to hold our work to standards that are subjective, ever-changing, and disputed (n.d., para. 3).

Launched in 2017 as a space dedicated to discussion of ethical business practices in porn, the site Ethical.Porn defines ethical production as follows:

At its most essential, adult content that is consensual and transparent, is created in an environment that emphasizes safety and respect, and does not contribute to wider social inequalities via troublesome post-production marketing is ethical. Elements like tenor and

intensity, sex acts being depicted, or production value do not preclude content from being ethical. Beyond these key dimensions however are a wealth of subjective issues, standpoints, and concerns that require multidimensional, evolving dialogue. (2017, para.4)

Whatever the adopted definition, within mainstream porn spaces queer, feminist, ethical, and artporn genres are generally considered small or insignificant markets. The mainstream industry, therefore, is usually spoken of in binary terms: there is a ‘gay side’ and a ‘straight side’. While gay and straight sites may be owned by the same conglomerates, the two spheres are usually considered distinct and separate: with different trade shows, publications, and awards ceremonies.

Several participants recounted that the gay and straight industries did not always occupy such separate universes. Wolf Hudson, a performer/producer who has worked in both gay and straight film and who now produces bisexual content that defies the gay/straight bifurcation, told me that “once upon a time the straight side would actually go to the gay side, to their awards, and there was comradery.” Several sources cite a difference in approach to sexual health management as one of the major reasons for their eventual cleavage. Wolf dates this to 2004, as he continues: “I think things started to really change after 2004 when there was a male performer, a straight male performer, who became HIV+”. The Adult Performance Artists Guild, on the other hand, cites the 2011 closure of Adult Industry Medical (a clinic dedicated to STI/HIV testing for porn performers, discussed below) as the source of gay/straight divisiveness, “when 2 sides of the same industry decided to take a different approach to eradicating the transmission of the HIV virus” (APAG, 2019a). It is to these differences in occupational health and safety protocols that I now turn.

### 3.7 OHS Protocols

Occupational health and safety (OHS) protocols are influenced by a number of elements: the genre of content being filmed, the preferences of the producers and performers, the production budget, where it is being filmed, and so on. Mapping these differences is complicated as there are multiple axes to consider; indeed, the reasons behind these differences are the focus of this entire dissertation. For the moment, then, I will limit myself to a description of the systems used by mainstream gay and mainstream straight productions in California, U.S.A., and some of the historical factors behind this divide. Doing so allows me to present the most standardized OHS approach used in the industry—“PASS”—which lays the foundation for understanding how other types of productions negotiate sexual health.

#### 3.7.1 AIM: The PASS precursor

Given its prominence and longevity, the mainstream porn industry in the U.S.A. has several long-established institutional bodies around which to organize sexual health strategies. The Free Speech Coalition, a trade association, was formed in 1990. Originally tasked with defending the industry against obscenity charges and antagonistic legislation, this trade association’s mandate later broadened to include occupational health management. In 1998, there was a string of five HIV transmissions on straight sets (Cachapero, 2007a). Testing protocol was not yet standardized at that time; performers sometimes got tested and presented their paperwork, but there was no coordinated system (Daly, 2018, 21:38-22:40). The Free Speech Coalition and Protecting Adult Welfare (see footnote 37) partnered with performer Dr. Sharon Mitchell to form Adult Industry Medical (commonly known as AIM). As a private non-profit clinic based in L.A., Adult Industry

Medical tested performers monthly for HIV, syphilis, gonorrhea and chlamydia (Mitchell, 2004). In 2006, they partnered with other clinics and labs to expand their reach. Results were maintained in their “AIMCheck” database, which could be accessed by producers and helped to impede forgery and assist in contact-tracing in the event of a positive HIV test (Lynn, 2006). Adult Industry Medical also provided sexual health counselling and services, such as producing *Porn 101* videos for prospective talent or delivering safer sex and harm reduction information to sets (Berg & Penley, 2016; Shachner, 2015; Tannen, 2004). Adherence to the testing regimen was voluntary in the sense that nothing was government mandated, however many producers would only hire talent who complied; compliance was reported to be 98% (Tannen, 2004), with approximately 1200 performers being tested each month (Mitchell, 2004). Some sources say that both gay and straight performers availed of Adult Industry Medical (Nahmod, 2011), but most suggest that only a handful of gay studios adopted this system (Siegel, 2009).

### 3.7.2 PASS

The Free Speech Coalition supported the creation of Adult Industry Medical. They also began drafting an industry-appropriate blood-borne pathogen control plan in 2009 (Pardon, 2009). When Adult Industry Medical closed in 2011 following a series of legal battles that bankrupted the clinic, the Free Speech Coalition began directly organizing occupational health practice. They initiated the Adult Production Health and Safety Services in August 2011, now known as Performer Availability Screening Services, or PASS<sup>50</sup>. The PASS protocol mandates that in order to perform, talent must have tested negative on the following tests: HIV RNA<sup>51</sup>, Hepatitis B

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<sup>50</sup> The name change occurred in August 2013 (Johnson, 2013b).

<sup>51</sup> That is, PCR-NAT technology. In 2019 the HIV antigen/antibody test was also added (FSC, 2019a). This event and the controversy surrounding it will be covered in more detail in Chapter 9.

HBsAG surface antigen, Hepatitis C Anti-HCV antibody, syphilis RPR (rapid plasma reagin) and EIA (enzyme immunoassay)<sup>52</sup>, trichomonas vaginalis<sup>53</sup>, gonorrhea, and chlamydia urine (anal and oropharyngeal swabs are not required, but can be added for an extra charge). If a performer tests positive for a treatable STI, they must complete treatment and can return to performing once they receive a negative test. If they test positive for HIV, however, they are barred from using the PASS system.

Originally, STI/HIV testing was done monthly. Later, a 14-day standard was encouraged, but it was not required in order to be ‘PASS-compliant’. Widespread adoption of the 14-day standard was facilitated when MindGeek<sup>54</sup> (owners of Pornhub) decided to require it on all their sets in Summer 2012 (Pardon, 2012); testing frequency was then officially increased to a 14-day standard in Fall 2013 (Motyl, 2014). COVID-19 testing was added to the panel at the start of the pandemic, and it was recommended that all people on set (not just performers) have a negative test within 3 days before filming.

PASS testing is built on a network of existing, privately run draw centres<sup>55</sup> and laboratories. Originally this included four facilities (Duke, 2011a) with a focus in L.A., first expanding to Las Vegas in 2012 (Miller, 2012a). The list of affiliated labs and clinics has shifted throughout the

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<sup>52</sup> Regular syphilis testing was added to the panel in 2012 (Sanford, 2012a).

<sup>53</sup> The tests for Hepatitis B and C and trichomonas vaginalis were added to the panel in August 2013 (Miller, 2013).

<sup>54</sup> At the time, MindGeek operated under different ownership and was called Manwin. The name was changed to MindGeek in 2013.

<sup>55</sup> Draw centres may be clinics run by these companies themselves, or be housed within other clinics through an agreement that staff will collect and ship samples for a fee.

years, and continued to shift at the time of writing<sup>56</sup>. At the time of data collection this network included Talent Testing Service<sup>57</sup> (441 draw centres), Cutting Edge Testing<sup>58</sup> (72 draw centres), and Adult Industry Testing<sup>59</sup> (8 draw centres). In total, this network comprises over 500 draw centres, primarily in the U.S.A. but also in Canada, Budapest, Colombia, and Greece.

Performers go to one of these affiliated clinic/draw centres to have their biological samples collected. Samples are shipped to labs for testing, and the outcomes of the results are forwarded to the PASS database. Importantly, the specific test results are not stored in the PASS database. Rather, the database only shows whether or not a performer has tested negative on all tests within the last 14 days. The interface lists performers by both their performer and legal names, along with a green check mark (if all tests have come back negative within the last 14 days and the performer is “Cleared to Work”) or a red X (if a test has come back positive *or* if no test has been conducted within the last 14 days, in which case the performer is “Not Cleared to Work”). The following screen captures show how this appears to the database user:

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<sup>56</sup> The introduction of COVID-19 testing during the pandemic caused disagreement between partners and destabilized the system substantially, however this is too broad a topic to cover in this dissertation.

<sup>57</sup> Talent Testing Service (TTS, <https://www.talenttestingservice.com/>) is privately owned, headquartered in Miami with offices in Los Angeles, Oakland, and Las Vegas. Established in 2005, they provided testing to performers alongside Adult Industry Medical while it operated, and continued to do so after it closed. When PASS was formed they did not initially become a part of the affiliated network, amidst some controversy over independence and administrative requirements (Duke, 2012b; Miller, 2012b). TTS has withdrawn and rejoined the PASS network several times over various disagreements.

<sup>58</sup> CET (<https://cuttingedgetesting.com/>) is privately owned, headquartered in Sherman Oaks, California.

<sup>59</sup> AIT (<https://www.ait-labs.com/>) was privately owned, headquartered in Las Vegas. By the end of writing, their website was no longer functional and the company appeared to have folded.

ID:

Legal Name:

Name	ID	PASS-Panel Clear?	14 Day Expiry	Last Neg. COVID-19 Result (days since)
Polly Pass	48579	✓	06/08/2021	2021-05-25 (1)

ID:

Legal Name:

Name	ID	PASS-Panel Clear?	14 Day Expiry	Last Neg. COVID-19 Result (days since)
Polly Pass	48579	✗	N/A	2021-05-19 (7)

### Image 1

*Screen Captures from the PASS Database (with fake username)*

Top: Cleared to Work

Bottom: Not Cleared to Work

Source: PASS (images courtesy of Ian O'Brien)

By disclosing work availability, rather than specific tests results, PASS remains HIPAA<sup>60</sup> compliant while still communicating a meaningful result to those using the database to check performers' testing status before filming. While there is no data on exactly how many or what percentage of performers use PASS, the system processes approximately 1000 to 1500 tests per month (Ian O'Brien, personal communication, August 31, 2020).

The database is supported through funds administered by MindGeek, a major porn producer.

Originally the cost was more diffused, with individual performers charged annually and

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<sup>60</sup> HIPAA refers to the Health Insurance Portability and Accountability Act. This U.S. federal law, established in 1996, requires “national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge” (CDC, 2018, n.p.).



producers charged monthly to access the database (Duke, 2011b), but in 2012 MindGeek adopted all administrative costs (Duke, 2012a). It was also at this time that MindGeek established the Performer Subsidy Fund to help offset the cost of testing for performers, whether or not they perform for MindGeek (costs which increased when MindGeek leveraged their considerable influence to increase testing standards from monthly to bi-monthly; Duke, 2012a). MindGeek continues to be the primary funder of this subsidy, although other producers are welcome to contribute.

Since its inception PASS has consulted with performers and producers as well as medical and legal representatives through advisory committees (Duke, 2011c). That said, the exact degree of power held by these committees, and how power is distributed among its various members, has been subject to some debate among performers. In many ways, the most sway is held by large producers whose buy-in is necessary to finance and legitimize the database, and by those who operate the necessary clinics and laboratories that make the system possible.

Besides testing, PASS also provides general sexual health education. They coordinate filming moratoriums (cessation of filming in the event of an HIV<sup>61</sup> diagnosis while confirmatory testing and contact tracing is undertaken), and issue health advisories and guidance of relevance to performers. Examples include communicating an outbreak of ringworm (FSC, 2018a), surges in bacterial STIs, or incidences of HIV and syphilis on non-PASS affiliated sets in Europe (FSC, 2019a, 2019b). PASS also crafted and communicated detailed recommendations for filming

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<sup>61</sup> Usually moratoriums are reserved for HIV infections, however a filming moratorium and widespread prophylactic treatment campaign was coordinated for several cases of syphilis that occurred in 2012 after manipulation of a performer's positive test result (Sanford, 2012b). This incident led to the adoption of regular bi-weekly testing for syphilis (Sanford, 2012a, 2012c, 2012d).

during the COVID-19 pandemic (FSC, 2020a). In May of 2021, PASS was incorporated as a separate organization<sup>62</sup> distinct from the Free Speech Coalition. While the two organizations maintain a partnership, the bifurcation aims to enable PASS to dedicate itself entirely to a wider range of pornography health issues and services.

Because PASS does not collect and maintain health data, it is unable to produce data on exactly how many infections are detected through the PASS network. PASS is only able to coordinate production holds through an agreement with labs that they will alert PASS in the event of a positive HIV test; similarly, labs will inform PASS of a marked increase in other STIs to assist in health advisories. Therefore, a record of HIV and STI incidences that resulted in a production hold exists within the archives of PASS press releases and communications, but regular incidence counts are not recorded. There are some externally conducted epidemiological studies of the adult industry (e.g. Coyne et al., 2009; Goldstein et al., 2011; Javanbakht et al., 2017; King & Evans, 2020; Rodriguez-Hart et al., 2012) which report high incidences of bacterial STIs among porn performers, however these studies suffer notable flaws in research design that inflate these numbers. First, studies have tended to sample from draw centres and clinics that performers are known to frequent, but these clinics also serve the broader public. Therefore, the sample is not necessarily composed exclusively of active performers. Second, if an infection is detected, there is no way to determine if the infection was acquired on-set or in a private sexual encounter.

Given the inconsistent sampling, some performers would not have worked on a set in over a

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<sup>62</sup> As noted in the previous methods chapter, I acted as a member of the PASS Advisory Committee when it was still a Free Speech Coalition service, and now serve as the Board Chair for the newly formed PASS organization. Ian O'Brien is now the Executive Director of PASS, but at the time of data collection was Director of Scientific and Regulatory affairs for the Free Speech Coalition. Throughout the dissertation I will refer to PASS/O'Brien as an independent organization where appropriate, and as part of the Free Speech Coalition where historically relevant.

month, increasing the likelihood the infection was not work-related. There is also no way to know if the infection was then transmitted to another performer on a film set. The purpose of testing is precisely to detect infections before a performer returns to work. If the infection was caught and treated before the performer worked again, this only proves that the testing system is effective. Moreover, sampling from clinics specifically used as treatment centres inflates the rates of infection. Third, as mentioned above there is inconsistency in determining who constitutes an ‘active’ performer. This makes it difficult to calculate incidence and prevalence rates because the baseline population of performers constitutes the denominator of the equation. Further, Mayer (2011) points out that the denominator should be composed of all *tests* performed, not the number of (estimated) performers. Otherwise, assessing study outcomes by comparing performer STI rates with those of the general population is problematic because adult performers are tested far more frequently (see also Shachner, 2015). For all of these reasons, externally produced data is questionable. Were it possible for PASS to engage in its own epidemiological research, many of these methodological issues would persist because even with tools like molecular surveillance, it is impossible to determine for certain if an infection was related to work sex or recreational sex.

### 3.7.3 The Role of Condoms

Straight sets in California (and straight studio production companies throughout the U.S.A.) typically adhere to PASS protocol. They are unlikely to feature condoms. There are several reasons that the straight industry avoids condoms. These will be discussed more thoroughly in Chapter 6, but briefly these concerns are: 1) financial and aesthetic, as producers believe consumers prefer to watch (and pay for) pornography without condoms; 2) practical, in that filming with condoms can make it more difficult for talent to maintain erections, generally

prolonging and complicating shooting days; and 3) health-related, as many performers argue that filming with condoms irritates vaginal and anal tissues, causing pain and increasing the risk of contracting STIs because of the resulting micro-abrasions. There certainly have been periods of time, types of production, or specific mainstream studios more amenable to condoms (for example, major studio Wicked Pictures was condom-only from 2004 until their acquisition by Gamma Films in 2021; Kingstown, 2021; Sullivan & McKee, 2015) but non-barrier filming across all straight sectors is the norm.

On the other hand, the gay side of the mainstream American industry has been less likely to require testing (Langner, 2015; Siegel, 2009), historically relying more upon condom use (Calvert & Richards, 2007; Langner, 2015). The resistance to institutionally-mandated testing, writes Connor Habib (2014), is the product of:

gay men's unique history with HIV. Gay porn producers, being equipped with a more experiential and deeper education surrounding HIV infection and its accompanying cultural stigma, decided to treat everyone on set as if they were positive. To avoid the invasions of medical privacy testing would bring, especially in the quarantine-minded political climate all gay men—especially HIV-positive ones—were facing, condoms were the clear choice to protect performers. (para. 4)

Unlike the straight industry, many performers in gay film are HIV+ (one estimate put the rate around 50%, Cachapero, 2007a), but a policy of condom use made mandatory testing and disclosure unnecessary (Langner, 2015).

The role of condoms in gay porn has since shifted in a relatively short time. Indeed, because of its more intimate connection to the HIV crisis, gay production has gone through several different eras of occupational health management, shifting in response to the epidemic and HIV science. Condom use became universal by the late 1980s. Many producers sought to incorporate some level of sexual health education into films (if only the presence of condoms) and awards shows in

the 1990s recognized the most creative incorporation of condoms into films (Adams, 2019). In the late 1990s some studios<sup>63</sup> began making bareback<sup>64</sup> films, and by the early 2000s bareback was an identifiable subgenre. This was not without controversy. Performers who shot bareback were often blacklisted from performing for condom-only studios, but moving into bareback was often a lucrative career move (Adams, 2019; Cachapero, 2007a). To avoid risk of transmission, studios would typically ‘serosort’ by matching performers based on their HIV status (that is, HIV+ performers work with one another, and HIV negative performers work with one another). While there is no data documenting how effective serosorting is at eliminating HIV transmission specifically in the context of porn production, a systematic review of the practice more generally notes that it is less effective than consistent condom use, but more effective than serodiscordant condomless sex (Purcell et al., 2017).

Condoms remained the norm until about 2010 (Adams, 2009; Habib, 2014; Hennessy-Fiske, 2010; Nahmod, 2011), with one 2006 estimate suggesting that 75% of gay content producers had condom-only policies at that time (Cachapero, 2006). This shifted when the advent of free-streaming tube sites decimated DVD sales, sending producers scrambling to find new ways to

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<sup>63</sup> Namely, Hot Desert Knights, Treasure Island Media, and SX Video. While they sold very well, “The titles they produced were conspicuously ignored by the mainstream porn industry and could not be advertised, for the most part, in magazines” (Adams, 2019, para. 6).

<sup>64</sup> ‘Bareback’ is a term used primarily in gay communities to refer to anal intercourse without a condom. It usually also conveys intentionally not using a condom (versus, for example, circumstances where one fails to use a condom when they would have preferred to). Terminology like ‘bareback’ holds different meaning for different people and subgroups, and shifts over time (Ashford, 2015; Dean, 2015; Mowlabocus et al., 2014). I use ‘bareback’ throughout this dissertation because it is the one used most commonly in porn industry discourse about gay porn and condomless sex.

market their products (Phinney, 2013<sup>65</sup>). “Everybody started going bareback”, producer/performer *Thierry Lagache* told me,

when [DVD sales] went kaput [...] Back in the day it was always condoms, for the first 10 years [of my career, starting in 1999]. All of a sudden [...] everybody was stealing from each other. It was hurting most companies really bad so they were like *you know what, let's go bareback*. And when that happened, everybody's sales went from here to like [makes skyrocketing sound].

The majority of gay porn is now bareback (Adams, 2019; Ashford, 2015), but serosorting has become less of a priority, as advances in HIV medicine have opened up new prevention opportunities. In 2008, the ‘Swiss Statement’ affirmed that HIV anti-retroviral medication can suppress one’s viral load to the point of undetectability, which effectively eliminates the possibility of transmission; this has since been confirmed by several large studies of serodiscordant homosexual and heterosexual couples (Eisinger et al., 2019). This biomedical strategy is referred to as ‘treatment as prevention’, commonly referred to by the shorthand: ‘U=U’ (standing for Undetectable = Untransmittable). Additionally, performers who are HIV negative may avail of pre-exposure prophylaxis or PrEP, a drug regimen approved by the FDA in 2012<sup>66</sup> that greatly reduces the risk of seroconverting in the event one is exposed to HIV (Chou et al., 2019). Some argue these technologies have so shifted the terrain as to render the once transgressive label *bareback* entirely obsolete<sup>67</sup> (Adams, 2019).

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<sup>65</sup> “What we’ve seen in the last five years are an increasing number of gay studios distributing bareback scenes—not because safe sex is less important than it was 10 years ago, but because bareback sells, and quite frankly, they need the money” (Phinney, 2013, para. 5).

<sup>66</sup> In 2014 the CDC broadened their recommendation for PrEP to include anyone ‘at risk’, and by 2018 many other countries had approved PrEP as well.

<sup>67</sup> It is important to note here that access and affordability of PrEP is deeply structural. There is debate regarding reliance on PrEP; it has been critiqued as an overly individualized, neoliberal, and privileged approach to prevention, and one that may divert treatment from those already living with HIV (Haire & Kaldor, 2013; Lee, 2013; Macklin & Cowan, 2012; McClelland, 2019; Sandset, 2019). This is discussed more in later chapters.

Anyone testing positive for HIV was barred from inclusion in the Adult Industry Medical database (Siegel, 2009), and PASS continues this practice of excluding HIV+ performers. Since a significant segment of performers in the gay industry are HIV+ (Habib, 2014; Siegel, 2009), most gay studios do not opt in. The gay studios that do use PASS are typically those whose parent company also owns straight studios and has standardized sexual health protocols across all brands (Clark-Flory, 2019; Habib, 2014).

### 3.7.4 HIV-Centrism

That the above discussion has centered on HIV is a reflection of the fact that porn health practices have prioritized eliminating HIV transmission (see also Sullivan & McKee, 2015). While the prevention of other infections is a goal, there is recognition that “HIV *is* exceptional for a variety of reasons”, as Ian O’Brien of PASS told me. While “the goal of PASS should always be to reduce all potential harms and risks of shooting to zero, I think PASS as it is currently designed does reflect the exceptionalization of HIV”. By way of explanation, Ian points towards the two main criticisms of the PASS system: that oral and anal swabbing is not mandated<sup>68</sup>, and that the cost of testing is borne by performers:

The biggest glaring flaw in PASS right now is that there is no oral or anal swabbing that’s done, so those remain sites of potential transmission. [...] But the cost [of adding swabbing] is like, a lot. However, [...] if we had that kind of risk and even if it was a minimal risk of reducing HIV, we would include that expense. And we’d force that expense. And if it was an expense that was to be borne by the producers I think we’d do it in a heartbeat. But the cost burden for performers<sup>69</sup> is a different kind of health negotiation, right? Because if we make it too expensive then they opt out of the system altogether.

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<sup>68</sup> While not mandated to receive PASS clearance, certain draw locations do allow performers to add oral and anal swabs for an additional cost.

<sup>69</sup> The burden on performers prompted the establishment of the performer subsidy fund (FSC, 2012a).

HIV risk reduction is prioritized for two reasons: first, while treatments have greatly improved, HIV remains a chronic illness that is life-threatening without medication. “The other”, Ian continues, is

the legal risk, right? There is less fear of prosecution over syphilis, gonorrhea, or chlamydia infection than there is over HIV. And there’s also a lot more money that is required. Like if you charge somebody for getting gonorrhea on set, they have to pay for a single treatment of penicillin or whatever they’re using now. And workers’ comp for a little bit, and they’re done with it. But HIV, as a chronic manageable condition, with very expensive drugs, there’s somebody paying lots of money for the rest of somebody’s life<sup>70</sup>.

As Ian notes, HIV occupies a unique legal position relative to other STIs. There is a higher risk that someone might prosecute in the event of a workplace transmission. Additionally, many countries criminalize HIV non-disclosure, including the U.S. and Canada, where sentencing can require sex offender registration (Cameron & Bernard, 2019; Center for HIV Law and Policy, 2022; Michaud et al., 2021). This will be discussed further in Chapter 9. Beyond these legal distinctions, HIV and other STIs are tested for and treated differently. Bacterial STIs remain largely treatable<sup>71</sup> with antibiotics. Other viral STIs, such as HPV and HSV, are extremely common and/or difficult to test for and prevent. As such, PASS aims for total eradication of HIV but takes more of a harm reduction approach to other STIs. Like any sexual activity, STIs are a possible outcome of porn performance, and several interview participants discussed their experiences of treatable STIs with me. Performers’ attitudes towards STIs as an occupational hazard are discussed throughout the coming chapters, particularly Chapter 10.

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<sup>70</sup> In keeping with this point, the only cases of performers suing productions for alleged on-set STI transmission that I am aware of have been in regards to HIV, namely the case of two performers suing Kink.com in 2015 (AVN, 2015).

<sup>71</sup> There has been minimal discussion of antibiotic resistance in porn health conversation to date.



To summarize: while many American gay productions use a combination of testing, PrEP, serosorting, and occasionally condoms, straight productions typically mandate PASS and rarely use condoms. Because PASS was developed by the industry's trade association (Free Speech Coalition) and is used by the industry's largest conglomerate (MindGeek), PASS is viewed and presented by many as the Gold Standard. As coming chapters will unpack, this Gold Standard is highly effective at preventing HIV transmissions on set, but it is also problematic in a number of ways. Briefly: it is only available to people working in geographically and economically privileged sectors of the industry, it excludes HIV+ performers, and it diminishes the validity of other harm reduction methods such as barrier usage<sup>72</sup>, serosorting<sup>73</sup>, strategic positioning<sup>74</sup>, or fluid-bonding<sup>75</sup>.

### 3.8 Conclusion

In this chapter I have laid some foundational groundwork for understanding how the porn industry operates. After a brief discussion warning about the paucity of reliable data about the industry, I presented various estimates regarding the size of the performer pool and the shape of typical career trajectories. I then described how production and distribution channels have shifted over recent years, and the main types of porn products that have resulted. I offered a geographic

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<sup>72</sup> Barrier usage refers to condom use but also dental dams for oral sex on a vulva or anus, and gloves for manual sex acts like fingering (inserting one or more fingers into a vagina or anus) and fisting (inserting the whole hand into a vagina or anus, up to or past the wrist).

<sup>73</sup> Matching performers based on shared HIV status.

<sup>74</sup> In a serodiscordant couple, having the HIV negative person take the insertive role and the HIV+ person take the receptive role, to reduce the likelihood of transmission.

<sup>75</sup> Fluid-bonding refers to the establishment of a select closed couple or group of people who have sex without barriers with one another, but use barriers with anyone outside of the closed group.

sketch, locating my field sites within the broader porn landscape. Then I described the different genres of straight, gay, and queer/feminist/art porn. Finally, I presented PASS, the current industry standard for occupational health used by mainstream, straight film in production hubs of the U.S.A., along with a brief acknowledgement that this system is focused specifically on enabling HIV prevention without the use of condoms. I have alluded that such a hyper-focused mandate invites a variety of concerns, and these will be taken up in future chapters. Next, however, I will outline the many attempts made by non-industry bodies to delegitimize the PASS system and impose externally crafted and enforced health policy protocols.

## CHAPTER 4: A TIMELINE OF POLICY ATTEMPTS

### 4.1 Introduction

There have been many attempts to regulate health and safety on California porn sets. A variety of bills and petitions have been proposed and debated over the last two decades. These regulatory attempts have tended to emphasize mandatory condom use<sup>76</sup> while dismissing other harm reduction methods. This chapter traces that history. I review the proposed bills and petitions, outlining the health measures they sought to enforce. I illustrate how, throughout these policy debates, industry-developed protocols were dismissed and adult industry voices were ignored.

First, I illustrate how mainstream media and health scholars inaccurately frame the industry as exceptionally and exceedingly dangerous due to its lack of regular condom use. Next, I detail the various health policies proposed by California Occupational Safety and Health Administration (Cal/OSHA), AIDS Healthcare Foundation, and politicians. Finally, I demonstrate how these entities failed to engage in stakeholder consultation with active porn workers, and strategically pursued a method of policy development, known as ‘ballot initiatives’, that would not require such consultation.

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<sup>76</sup> As noted in the last chapter, there are financial/aesthetic, practical, and health and safety reasons that porn professionals resist condom use; I expand upon these reasons in Chapter 6.

## 4.2 A “Dark and dangerous nature”: Porn as Innate Health Risk

As described in the previous chapter, there is a dearth of scholarly literature describing the internal workings of the pornography industry. What literature does exist tends to frame the industry in terms of risk and danger. Porn debates in the 1980s and 1990s were primarily preoccupied with definitions of obscenity and claims that viewing pornographic material constituted a direct and indirect violence towards women<sup>77</sup> (Duggan & Hunter, 1995; Jochelson & Kramar, 2011; MacKinnon, 1987; Strub, 2011). Increasingly, the conversation has shifted to suggest that pornography represents a health risk. Porn consumers, assumed to be white, heterosexual cismen (Oeming, 2018), are warned that ‘excessive’ viewing will lead them to suffer from ‘porn addiction’ or ‘porn induced’ sexual and/or erectile dysfunction (Love et al., 2015; Park et al., 2016; Wilson, 2017<sup>78</sup>). Fourteen U.S. states have passed legislation declaring pornography a ‘public health crisis’<sup>79</sup>, and governments have been lobbied to do the same in Canada, Australia, New Zealand, and the U.K. (Webber & Sullivan, 2018).

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<sup>77</sup> Only one small section (63 of its 1048 pages) of the 1986 U.S. Department of Justice Attorney General’s Commission on Pornography (the ‘Meese Report’) was dedicated to the health and wellbeing of performers themselves, claiming that “[p]recisely because sex is their job, models face health hazards of forbidding intensity. Working three to four days a week, with two sex scenes each day, any one model may have twenty-four to thirty-two different sexual partners every month, just through work. Even though some performers state that they receive regular medical check-ups, the odds of contracting sexually transmitted diseases are very high—particularly because performers do not even have the option of using condoms or other ‘safe sex’ techniques” (p. 872). Despite this claim, the section actually goes on to describe regular blood tests and, in one example, creative use of barriers to avoid contact with a herpes lesion. The greater sexual health atrocity at the time is the fact that by the time this report had been published, President Reagan, who commissioned it, had still not addressed the AIDS crisis in any major public speech. He would only do so the following year, a full 6-years into the epidemic (ABC News, n.d.).

<sup>78</sup> Proper engagement with these claims is beyond the scope of this dissertation, but I wish to note that the addiction framework is deeply contested by leading experts in the field (Grubbs et al., 2019, 2020; Ley et al., 2014; Prause & Williams, 2020).

<sup>79</sup> House and/or Senate bills have been passed in the following states: Utah (SCR 9, 2016), Arkansas (HR 1042, 2017), Kansas (SR 1723, 2017), Louisiana (SCR 100, 2017), South Dakota (SCR 4, 2017), Tennessee (SJR 35, 2017), Virginia (HJR 549, 2017), Florida (HR 157, 2018), Idaho (HCR 50, 2018), Kentucky (SR 170, 2018), Missouri (SCR 52, 2018), Montana (HR 5, 2018), Pennsylvania (HR 519,

The shift to label porn a public health issue is a good strategy for porn critics. It can encourage a sense of urgency and the need for collective action (Verweij & Dawson, 2007), all while seeming more ‘objective’ than an explicitly moral complaint. But it is not just consumers who are the target of these health warnings—porn performers themselves are framed as both at risk and a risk to others. Mainstream media reports routinely exaggerate the sexual health risk of porn production, presenting it as inherently dangerous and irresponsible. Anti-porn commentator Gail Dines (2016) claims that

the performers who make up the porn industry are also at risk, in ways that affect them as well as members of the broader public. Aside from frequent claims of sexual violence and harassment<sup>80</sup>, film sets are often *flush* with sexually transmitted infections. [...] Since members of the industry have protested proposed safety measures requiring the use of condoms and other prophylactics, legislating to protect these performers has proven challenging. (para. 9, emphasis added)

Dawn Hawkins (2016), Executive Director of the National Center on Sexual Exploitation, writes:

What other industry would insist that its employees ingest or be covered in semen on a regular basis, and risk a myriad of harms to their physical health? Firemen, law enforcement officials, and healthcare professionals all wear special protective gear, but pornography performers have been left without even the most basic protections for their physical health. The *dark and dangerous nature* of the pornography industry is clear. Profiting from sexual exploitation is the industry’s only concern. (para. 5, emphasis added)

Scholarly literature about occupational health in adult film similarly implies that porn production is disorganized, entirely unregulated, and inherently dangerous:

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2018), and Arizona (HCR 2009, 2019). Bills were also introduced in Georgia, Iowa, Texas, West Virginia, and Wyoming.

<sup>80</sup> There are certainly instances of sexual harassment and assault on porn sets. However, it is not the case that sexual violence occurs any more often in the porn industry than it does in other workplaces. One recent Statistics Canada report found 4% of women and 1% of men had experienced sexual harassment at work (Hango & Moyser, 2018, p. 1). A review of data from the U.S.A. found workplace sexual harassment prevalence rates ranged from 2% to 43% for men, and 4% to 53% for women (GAO, 2020, p. 14). As Heather Berg writes, in recent years there have been some well-publicized accounts of sexual violence on porn sets, but the fact that “these abuses brought performer complaint and wide publicity highlights how sharply they deviate from the norm” (2021, p. 55).

Adult film industry performers are routinely exposed to extreme and unhealthy working conditions including prolonged unprotected vaginal and/or anal intercourse with multiple partners over short periods, often resulting in traumatic mucosal injury and direct exposures to potentially infectious bodily fluids from blood, semen, and fecal pathogens. Performers' use of condoms on adult film sets is rare. (Rodriguez-Hart et al., 2012, p. 987)

Throughout the course of their employment, adult film performers are routinely exposed to STIs and are at high risk for acquiring and transmitting STIs including human immunodeficiency virus (HIV) as a result of work that is characterized by: (1) multiple and concurrent sex partners over short periods; (2) an industry trend toward types of sexual contact with extremely high probability of infection, such as anal or double anal-penile penetration and internal ejaculation; (3) prolonged intercourse that may result in inadequate lubrication and anogenital trauma or bleeding, resulting in excessive exposure to semen, seminal, and vaginal/ cervical fluids and blood; and (4) limited use of condoms or other barrier methods for reducing exposure to infectious bodily fluids and/or fecal pathogens. (Javanbakht et al., 2017, p. 181)

Although adult film has gained acceptance with expanding audiences through its availability on the internet, cable TV, and in major hotel chains, industry standards for protecting adult film performers lag far behind established worker health and safety standards. Adult film performers routinely engage in anal and vaginal sex without condoms, including prolonged and repeated sexual acts with multiple sexual partners over short periods. (Goldstein et al., 2011, p. 644)

These studies additionally warn that performers constitute a “bridge population”, an epidemiological term to describe vectors between groups considered “high-risk”—in this case, porn performers—and those considered “low-risk”—here, the proverbial ‘general public’ (APHA, 2010; Javanbakht et al., 2017; Steinberg et al., 2012). As Javanbakht and colleagues (2017) write:

Although the total population of performers at any given point in time may appear small, they may have a large sexual network [...] Adult film performers are not an isolated community and performers may serve as a core transmitter population. Patterns of disease transmission from core transmitters to lower-risk individuals are characteristic of sex workers around the world, many of whom are considered part of a bridge population in passing STIs across sexual networks. [...] it is common for performers to have unprotected sex with individuals who do not perform. (pp. 181-182)

As is apparent in these accounts, the assertion that porn performance is dangerous hinges significantly on the lack of condom use. These scholarly papers rarely mention the existing porn

health protocols—such as frequent testing, contact tracing, and other methods—described in the previous chapter. When papers do detail these protocols, their usefulness<sup>81</sup> is doubted (e.g. Gold, 2015). Those seeking to increase porn health and safety regulations have therefore focused most of their attention on mandating condom use. I now detail the history of attempts to regulate porn health policy. As noted in the last chapter, because of California’s unique status as having a longstanding, large, and legal industry, this is where porn health regulatory measures have been developed, debated, and passed through formal, legislative process. To my knowledge there are no other jurisdictions, in the U.S. or globally, where porn production health policy has been passed or even proposed<sup>82</sup>. As such, the history outlined below focuses exclusively on California.

### 4.3 AIDS Healthcare Foundation

As mentioned in the previous chapter, the Californian porn industry’s first dedicated STI/HIV testing and treatment facility, Adult Industry Medical, closed in 2011 due to a legal battle. The nature of this battle is important, as it was funded by AIDS Healthcare Foundation, a giant L.A.-based AIDS Service Organization co-founded by president Michael Weinstein. AIDS Healthcare Foundation has a long history of antagonistic behaviour towards the Californian porn industry, which this chapter documents. AIDS Healthcare Foundation states that their interest in regulating condom use in the porn industry is about preventing HIV infections among performers and setting a good example for viewers. Given their organizational mandate this seems logical, yet

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<sup>81</sup> As discussed in Chapter 3, there is limited epidemiological data about PASS. But the available evidence suggests PASS is highly effective at preventing HIV, with no documented instance of transmission ever occurring on a PASS-compliant film set.

<sup>82</sup> When production started to migrate to Nevada after 2012, the state health department briefly considered passing a mandatory condom law (Associated Press, 2015), but nothing was ever formally proposed.

the group's commitment to evidence-informed prevention has been questioned. AIDS Healthcare Foundation has raised concerns about the wide scale utility of PrEP for HIV prevention (Weinstein et al., 2017); however, many community activists argued that the organization is anti-PrEP (Garcia, 2014; Merevick, 2014; Ryan, 2017) and journalists have quoted Weinstein referring to PrEP as a "party drug" (Associated Press, 2014). AIDS Healthcare Foundation has also produced prevention campaigns that some journalists and activists have argued stigmatize and shame gay and 'hook-up' sex (Brait, 2015; Dembosky, 2016). Interview participants and those I spoke with casually during fieldwork were highly critical of Weinstein's motivations and tactics. Most often, people suspected there was a financial motive behind AIDS Healthcare Foundation's focus on the adult industry. Lynsey G., a journalist who specializes in the adult industry, explained this suspicion in a recent article (G., 2021): AIDS Healthcare Foundation is a type of non-profit referred to as a social enterprise; they take donations but also earn revenue through a network of pharmacies, clinics, and a condom company. If AIDS Healthcare Association were to undermine the industry's established testing and treatment systems (Adult Industry Medical, PASS) and replace them, they could earn money by testing performers through their clinics, filling treatment prescriptions through their pharmacies, and supplying the industry's condom needs. Additionally, this journalist argued, AIDS Healthcare Foundation introduced a bill (Proposition 60, discussed below) that was worded such that, if passed, Weinstein could have assumed the state government role tasked with enforcing it (G., 2021).

Performer/producer *Daisy Sky* shared that she's

permanently frustrated, because I don't truly understand what you would have to gain and why you would spend a ton of money on billboards vilifying adult performers that you could be spending on helping populations living with AIDS. Isn't that what your mission statement is? If I were someone in an affected community I would feel betrayed by that misallocation of funds on this personal crusade.



Whatever their exact motivation, many adult industry professionals believe the AIDS Healthcare Foundation tried to regulate the porn industry not out of genuine concern for performer wellbeing, but out of a moral judgement of the industry. For example, as former Free Speech Coalition Executive Director, Diane Duke, wrote, AIDS Healthcare Foundation “attack[ed] the adult industry with frivolous lawsuits, Cal/OSHA and labor complaints as well as protests and misleading inflammatory press conferences” (Duke, 2011d, para. 7; see also Kernes, 2010a, 2010b; Romero, 2011). First, AIDS Healthcare Foundation petitioned both state and federal agencies to close Adult Industry Medical for allegedly violating performer privacy by sharing their test results with producers and other performers, but these attempts were unsuccessful (Business Wire, 2010). Then in 2010, Adult Industry Medical’s database was hacked, and performers’ identifying information was published online on a website called PornWikiLeaks. This included over 12,000 current and former performers’ stage names, legal names, contact information, addresses, and testing histories<sup>83</sup>. Following the breach, AIDS Healthcare Foundation launched another privacy lawsuit, in the name of two ex-performers, against Adult Industry Medical, arguing that the clinic’s handling of patient files enabled the data breach in violation of HIPAA<sup>84</sup> medical privacy standards. Around the same time, AIDS Healthcare Foundation also raised questions around Adult Industry Medical’s licensing, which resulted in their being cited by California State and L.A. County Public Health offices. Subsequent application for the required license was denied. Adult Industry Medical attempted to reopen under a private for-profit model, but the damage was already done (Shachner, 2015). The privacy lawsuit was likely settled out of court, as no final decision is on record (Shachner, 2015), and

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<sup>83</sup> While unsubstantiated, it was not uncommon to hear porn professionals suggest that AIDS Healthcare Foundation facilitated this data breach (see also G., 2021).

<sup>84</sup> The Health Insurance Portability and Accountability Act (1996), which legislates the protection of confidential medical data.

Adult Industry Medical filed for bankruptcy in May 2011. In short, AIDS Healthcare Foundation engaged in a sustained and multifaceted attack on Adult Industry Medical, which led to its eventual closure.

#### 4.4 Cal/OSHA Section 5193

The PASS testing system, as described in the last chapter, was introduced swiftly following Adult Industry Medical's bankruptcy. Nevertheless, closure of the clinic created an ideal 'policy window' (Kingdon, 2003) for the introduction of legislation. Historically, the California porn industry was rarely subjected to health or labour law enforcement. As a legal industry, however, porn producers are technically beholden to the 1973 California Occupational Safety and Health Act (Cal/OSHA) governing all California employers; however, enforcement of the Act is only undertaken in response to complaints. Cal/OSHA includes provisions to protect employees against contact with blood-borne pathogens and other potentially infectious materials (including bodily fluids like semen and vaginal secretions) under Section § 5193<sup>85</sup>. This Section was adopted in 1992, modeled after the Federal equivalent (1910.1030) adopted in 1991. Importantly, both the Federal and State sections were written with healthcare workers in mind and are clearly intended for the healthcare environment. No federal or state standard specific to porn production was included in the original occupational health and safety acts, in part because porn production was legalized through case law rather than statute (Steinberg et al., 2012). Further, most porn workers contend that performers are independent contractors, not employees, and so are not

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<sup>85</sup> Section 5193 is found under: Title 8, California Code of Regulations, Subchapter 7: General Industry Safety Orders, Group 16: Control of Hazardous Substances, Article 109: Hazardous Substances and Processes, Section 5193: Bloodborne Pathogens.

subject to OSHA laws (Klausner & Katz, 2011; Steinberg et al., 2012). However, a 2014 Cal/OSHA ruling against the porn company Treasure Island Media confirmed that § 5193 does indeed apply to adult film, that only condom-usage<sup>86</sup> could satisfy the Section, and that porn performers are in fact employees<sup>87</sup> (Business Wire, 2014).

There was much porn health policy-making activity in California leading up to this landmark decision. The earliest reports indicate that the L.A. County Department of Public Health consulted with Adult Industry Medical in 2000 to start a pilot program offering STI testing in addition to HIV (Cohen et al., 2011). Then in January of 2003, the L.A. Times published an article (Huffstutter, 2003) claiming that STI and HIV cases among porn performers had increased. In February 2003, the L.A. County Board of Supervisors passed a motion instructing the OSHA Board to request that Cal/OSHA: 1) review how sections § 5193 (Bloodborne Pathogens) and § 3203 (Injury and Illness Prevention) of the California Labor Code (Title 8) apply to the adult film industry; 2) review the need for a new standard to protect adult film workers from STI exposure and other occupational health risks; and 3) require that producers develop and implement a written plan of how to ensure worker health and safety. Cal/OHSA determined that the relevant sections of Title 8 do indeed apply to the adult film industry and that

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<sup>86</sup> As Chris Ashford writes regarding the case: “on an equally reasonable reading of this statute, one would conclude that protective goggles should also be worn during sex, particularly in the vicinity of ejaculations. That we have not seen a spate of goggles-enforcement cases in California suggests what might generously be described as selective application of the statute” (2015, p. 200).

<sup>87</sup> Additionally, the 2019 passage of Assembly Bill 5 on worker status (which had nothing to do with porn specifically but does apply to it) has further solidified a broader definition of “employee” under California state law. This law will make it more difficult for producers to claim performers are sub-contractors as a means to evade adhering to Cal/OSHA requirements or to avoid providing other employee benefits. To my knowledge no case of this kind has been brought forward, but discussion at the XBIZ trade show in January 2020 indicates that many producers think such a case is imminent.

a new standard of occupational health and safety measures needed to be established (Steinberg et al., 2012)<sup>88</sup>.

In 2004, an American performer travelled to work in Brazil, where condom use is standard but regular STI/HIV testing is not (Larkin, 2004). The American performer contracted HIV while working condom-free amongst this untested Brazilian performer pool (Clendenning, 2004; Farrar, 2004). Upon his return to the U.S.A., he shot with 13 other performers before he received a positive HIV test (at the time, testing was done monthly rather than every 14 days). Adult Industry Medical (still in operation at the time) called an industry-wide production hold so that no films were shot while contact tracing was conducted. Dozens of performers committed to a voluntary quarantine, and eventually three of the 13 first-generation performers who shot with the index case also tested HIV positive with what was determined to be an identical virological strain (Brooks et al., 2006).

Despite being relatively well-contained, this and similar transmission events are often referred to as “outbreaks” in the health sciences literature, evoking a sense of alarm and uncontrolled contagion (APHA, 2010, repeated throughout 23 times; Gold, 2015, pp. D185 & D186; Goldstein et al., 2011, p. 644; Grudzen & Kerndt, 2007, pp. 0993 & 0995; Grudzen et al., 2013, pp. 518 & 521; Rodriguez-Hart et al., 2012 pp. 987 & 991). But as Adult Industry Medical founder Dr. Sharon Mitchell said of the event:

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<sup>88</sup> The UCLA Reproductive Health Interest Group—a graduate student group at the UCLA Fielding School of Public Health—may have played a role in getting AIDS Healthcare Foundation and government departments involved. The group claims they were instrumental in getting Cal/OSHA to develop the adult-industry specific § 5193 protocols (Cohen et al., 2011). In our interview, lawyer and Free Speech Coalition Board Chair, Jeffrey Douglas, stated that this group did not have performers’ best interest in mind but rather was “committed to an antagonistic relationship with the adult industry”.

This actor picked it up in Brazil. He tested when he got back but no test on earth [at that time] will pick up HIV only 7 days after exposure so he had a negative test. He came back 3 weeks later and tested positive. I had to quarantine 60 people who had first or second generation exposure to him. I found three women who had unprotected anal sex with him during his most virulent phase and they were positive, but the amazing thing is that they were all on quarantine [were refraining from filming while contact-tracing and testing was completed]. This was early detection. You can't look at any other model in the world and say this wasn't handled brilliantly. (c.f. Tannen, 2004, p. 751)

Despite having been so well handled, the case ignited a flurry of state interest in enforcing § 5193. L.A. County Public Health Director launched an investigation into the incident (Rotblatt et al., 2005). The L.A. County Department of Public Health sent letters to 760 production companies recommending condom use, STI testing, and vaccinations (Cohen et al., 2011). Cal/OSHA created a web page outlining how § 5193 applied to the adult industry<sup>89</sup>, and issued four citations to two companies totalling over \$30 000 for breaches of § 5193 (Cohen et al., 2011). Overall, however, Cal/OSHA enforcement of § 5193 has been called “scattershot” in popular media (Lybarger, 2016, para. 8) because they only investigate in the event of a formal complaint. The majority of these “Workplace Safety Complaints”<sup>90</sup> have been filed by AIDS Healthcare Foundation, not performers, including the complaint that led to the above-mentioned case where it was determined that state bloodborne pathogen protocol § 5193 does apply to adult film and requires condom use (Business Wire, 2014; Steinberg et al., 2012). Today, Cal/OSHA continues to issue the occasional citation, however it is impossible to get an accurate count of exactly how many. While a public database is available<sup>91</sup>, the industry classification system it uses—the North American Industry Classification System—does not have a specific listing for

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<sup>89</sup> The site (<https://www.dir.ca.gov/dosh/adultfilmindustry.html>) includes a list of performers' rights on set (such as the right to make complaints about health and safety conditions); an ideal exposure control plan including STI training, vaccination, barriers, and Post Exposure Prophylaxis; information about STIs; and the number to a phone line for making complaints about industry health violations.

<sup>90</sup> <https://www.dir.ca.gov/dosh/Complaint.htm>

<sup>91</sup> <https://www.osha.gov/pls/imis/industry.html>

porn production. Classification is therefore inconsistent; inspectors may have classed porn production citations under any number of different designations relating to film production, broadcasting services, entertainment, et cetera<sup>92</sup>.

#### 4.5 Petitions & Bills

Given the limitations of a complaint-driven system and dissatisfied with the lack of § 5193 enforcement, the AIDS Healthcare Foundation and sympathetic Assemblymembers<sup>93</sup> have filed lawsuits and introduced various bills or petitions aimed at increasing regulatory scrutiny of the porn industry. These attempts are listed in Table 3, below, and then described in more detail.

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<sup>92</sup> On February 22, 2021, I submitted a Public Records Act request to Cal/OSHA asking for or guidance on which NAICS number I should use to conduct my own search, or for them to provide me with a list of how many citations had been made to adult film sets from 2000-2020. I did not receive a response. It is possible that such requests are only fulfilled for California or American residents.

<sup>93</sup> There is one exception—Petition 576, filed in April 2019—which was submitted anonymously by a former performer. Among other things, the petition called for MindGeek (a major porn company) to cover the costs of all testing throughout the industry, and for the Free Speech Coalition and Adult Performers Actors Guild (a performer advocacy group) to provide health insurance to all performers. The petition was approved to the extent that an advisory committee be convened, but then found that most of the requests were either already required by Title 8 or fell outside the purview of Cal/OSHA.

**Table 3*****Legislative Attempts to Mandate Adult Film Health & Safety***

<b>Bill/Petition/Act</b>	<b>Year</b>	<b>Introduced by</b>	<b>Main components</b>	<b>Status</b>
AB 2798	2004	Assemblymember Tim Leslie (R)	Require government mandated performer testing, statewide	Did not pass: inadequate study
Petition 513	2009	Michael Weinstein/AIDS Healthcare Foundation	Require condoms and employer-funded testing, vaccination, and PEP, statewide	Did not pass: less stringent measures and inadequate consultation
City of LA Safer Sex in the Adult Film Industry Act	2012	Michael Weinstein/AIDS Healthcare Foundation	Make film permits contingent on condom usage, in the city of Los Angeles	Adopted by city council
Measure B	2012	Michael Weinstein/AIDS Healthcare Foundation	Require permits, record-keeping, condom usage, and allow random inspections of sets, statewide	Passed by voter ballot (56.96% in favour)
AB 332	2013	Assemblymember Isadore Hall III (D) & AIDS Healthcare Foundation	Require condom usage, employer-paid testing, record-keeping, health training, statewide	Did not pass Senate Appropriations Committee
AB 640	2013	Assemblymember Isadore Hall III (D) & AIDS Healthcare Foundation	Require condom usage, employer-paid testing, record-keeping, health training, statewide	Did not pass Senate Appropriations Committee

AB 1576	2014	Assemblymember Isadore Hall III (D) & AIDS Healthcare Foundation	Require condom usage, employer-paid testing, record-keeping, health training, statewide	Did not pass Senate Appropriations Committee
Petition 557	2016	Michael Weinstein/AIDS Healthcare Foundation	Require condoms and employer-funded testing, vaccination, and PEP	Advisory committee formed, but no further action implemented
Petition 560	2016	Eric Paul Leue/Free Speech Coalition	Grant a PPE exception for adult film based on testing protocol	Advisory committee formed, but no further action implemented
Proposition 60	2016	Michael Weinstein/AIDS Healthcare Foundation	Require permits, record-keeping, condom usage, and enable civil lawsuits against producers	Not passed by voter ballot (53.67% not in favour)
AB 2389	2020	Assemblymember Cristina Garcia (D)	Introduce mandatory business licensing for adult performers incl. health training	Set aside to prioritize COVID-19 legislation

#### 4.5.1 AB 2798 (2004)

In 2004, AB 2798 was introduced by Assemblymember Tim Leslie (R), which would have compelled government-mandated testing and made production companies liable in a civil action for any test-falsification or STI-transmission related damages (Steinberg et al., 2012). The bill was shelved because it had been drafted without adequate “study or discussion” (KHN, 2004, para. 2).



#### 4.5.2 Petition 513 (2009)

Michael Weinstein (of the AIDS Healthcare Foundation) then filed a lawsuit against the L.A. County Department of Public Health in June of 2009 to compel them to mandate condom use (Cohen et al., 2011), and when this failed to secure any results, he submitted<sup>94</sup> Petition 513 later that year. Petition 513 aimed to make a few adult-industry specific amendments to §5193 (namely the requirement to use condoms and for employers to provide testing, vaccination, and post-exposure prophylaxis where indicated). A committee was convened and met six times between June 2010 and June 2011. The proposed text of the amendment was drafted between 2011 and 2015; public hearings and comment periods were held in May and November 2015.

When the vote on Petition 513 finally came before the Board at a public meeting on February 18 2016, it failed to pass, largely for two reasons: First, it was argued that the suggested amendments were either redundant or *less* stringent than the existing standard (for example, by stating that adult film would not have to comply to the parts of § 5193 related to sharps record-keeping). This automatically violates § 142.3 of the Labor Code, which states they cannot adopt a less effective measure than what is already in existence (COSHSB, 2016a). Second, some 100 porn professionals asserted that they were not consulted in the development of the amendment and that it would make their work impossible or force it underground. The Board immediately sent the proposal back to Cal/OSHA to convene another committee, this time with more emphasis on porn industry participation throughout the process.

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<sup>94</sup> Any member of the public may submit a petition to add or revise occupational health and safety standards in the state. These petitions are submitted to the Occupational Safety and Health Standards Board. The Board is the standard-setting agency, and has the power to either deny the petition, or to grant it in whole or in part. Often, approval is limited to the appointment of a subject/industry-specific advisory committee. This committee may review and draft the contents of the petition before it goes to public hearings, or may suggest that no further standard be developed.

#### 4.5.3 AB 332, AB 640, & AB 1576 (2013-2014)

During the protracted period that Weinstein's original Petition 513 was moving through the Cal/OSHA process (from 2009 to 2016), three bills were introduced by Assemblymember Isadore Hall III (D) with AIDS Healthcare Foundation as the primary sponsor: AB 332 in May 2013, AB 640 in September 2013, and AB 1576 in August 2014. All aimed to add or amend sections of California's Labor Code to introduce porn-specific elements, such as compelling producers to pay for hepatitis B vaccination and performer STI testing, to maintain a health and safety program and an exposure control plan, and to use condoms for all filmed vaginal and anal intercourse. All three bills died at the Senate Appropriations Committee. This committee reviews the fiscal impact of proposed bills, which indicates that these bills failed to pass for primarily economic reasons as they did not represent a convincing cost/benefit trade off.

#### 4.5.4 Petitions 557 & 560 (2016)

When Petition 513 failed, Weinstein immediately submitted Petition 557 in February 2016, which was nearly identical. On its heels came Petition 560, filed by then-Executive Director of the Free Speech Coalition, Eric Paul Leue, in May 2016. Leue's petition sought to amend Title 8 §5193 by granting an exception to the Personal Protective Equipment (PPE) provision, in light of the industry's existing testing protocols. This again violated § 142.3 of the Labor code, as they argued testing was not at least as effective as condom use would be (COSHSB, 2016b).

Both Petition 557 and 560 were granted to the extent that an advisory committee was convened in January 2017, which included "AHF (AIDS Healthcare Foundation), FSC (Free Speech Coalition), and a diverse cross section of the adult film industry" (COSHSB, 2016c, p. 3). In July

2017, the Division concluded that further adult film-specific rulemaking would not be pursued (COSHSB, 2019a).

#### 4.5.5 AB 2389 (2020)

The latest attempt, at the time of writing, to slip adult-industry specific health codes into California law was AB 2389. This Assembly Bill was authored by Assemblymembers Cristina Garcia (D) and Lorena Gonzalez (D) in February 2020, although Gonzalez pulled her support once she learned that there was no actual performer backing of the bill (APAG, 2020a). AB 2389 sought to introduce mandatory business licensing for all participation in adult entertainment, including porn performance. Licensing would be contingent on completing regular training about industry health and safety (at the performer's cost), including information and resources on STI risk as well as abuse and human trafficking. This bill was laid dormant in May 2020 when California Assemblymembers were asked to only advance COVID-19 specific legislation, though it is possible it will eventually be resurrected (APAG, 2020b).

#### 4.6 No Consultation

*“One of the universal characteristics of regulation of the adult industry is that the proposed regulations come from people who are not only ignorant of the industry, but hostile to it.”*

- Jeffrey Douglas, FSC Board Chair and criminal defense lawyer

As the above list of bills and petitions demonstrates, California has been the site of repeated attempts to pass legislation that would, among other things, enforce condom use in porn production. Throughout these policy attempts performers, producers, and other adult film

stakeholders have not been consulted. The materials I reviewed (e.g. petitions, press releases, social media, meeting minutes) and the porn professionals I spoke with all called for more thorough and respectful engagement from policy-makers and the public at large. For example, a Change.Org petition against AB 1576 erected by performers underscores the degree of silencing they felt:

AB 1576 was drafted without performer input or consent—a point that was continually hammered home by the over 650 performers who openly opposed the bill. Even with the number of performers who vocally opposed AB 1576, the bill’s author continued to hold the line that he needed to “speak on behalf of those who do not have a voice”. (Stop AB1576, 2014, para. 1)

Regarding this bill, Diane Duke, then head of industry trade association the Free Speech Coalition, made the following statement:

Assemblymember Hall said today that he’s speaking for people without a voice, yet the bill has been overwhelmingly opposed by performers and performers’ groups. That he could say that with a straight face after dozens of performers spoke out against him is incredible. It’s not that they don’t have a voice, it’s that he’s not listening. (FSC, 2014a, para. 3)

This ongoing dismissal of performer voices was reflected in the introductory text to Petition 560, authored by the subsequent Free Speech Coalition Executive Director, Eric Paul Leue:

In a prior attempt at a rulemaking on this subject, the true stakeholders were left to the side without regard to concerns raised by a majority of regulated employers and performers. [...] Therefore, the petitioners request to be fully engaged and considered in any advisory committees that are convened to develop the standard as well as any hearings on the matter. (COSHSB, 2016d, p. i)

The next Free Speech Coalition Executive Director, Michelle LeBlanc, would uphold this attitude when faced with AB 2389:

We are not against regulations or laws that support and protect adult performers, but this isn’t one of them. You’ve heard us say this before: ‘Nothing about us without us.’ We were not invited to participate in the drafting of this bill. As a result, we have a bill that treats performers like criminals, and performers should be outraged. (FSC, 2020b, para. 1)

This lack of consultation, at all levels of debate and drafting, was a common theme in interviews.

Lawyer and Free Speech Coalition Board Chair, Jeffrey Douglas, described an early academic forum on adult industry health, held at the UCLA Fielding School of Public Health, as

a forum that was nominally supposed to be all stakeholders, but once we got in the room we discovered that [...] performers were given no place at the table. Neither were the production companies. We were just sitting, supposed to be silent. [...] That is always the case with the adult industry, and so it inevitably results in ineffective regulation with uneven and therefore unfair enforcement.

Producer *Nailah* attended several Cal/OSHA hearings. She said that the policy-makers present

didn't even want to hear from the industry. They didn't want to hear from anybody. They were not taking our input [...] When all the industry folks came up to talk, [the Assemblymember who sponsored the bill] turned his back. He literally turned around just to face the panel, literally turned his back while everybody else spoke.

Performer and producer *Daisy Sky* succinctly articulated the double-standard in how porn performers were treated at these Cal/OSHA hearings:

Cal/OSHA would never dream of making a policy for a construction site without consulting the construction workers, or a policy for a hospital without talking to the nurse's union. Yet for some reason they think that they can make a policy for the adult industry without consulting labour.

Many argued that when AIDS Healthcare Foundation campaigns did present the perspective of the adult industry, it was always from ex-performers who had particularly negative experiences in the industry. Indeed, the minutes of one Cal/OSHA meeting on Petition 513 record only six “former Adult Film Performers” speaking in support of AIDS Healthcare Foundation’s petition, whereas several dozen current performers, as well as many producers and directors, spoke in opposition to it (COSHSB, 2016e, emphasis added). Several of those I interviewed described AIDS Healthcare Foundation’s exclusive use of ex-performer perspectives as unbalanced and unrepresentative:

Basically, two people who are now retired were found by [AIDS Healthcare Foundation] and paid for their time, because you can't even find anyone currently performing who agrees with AHF's position.

[*Daisy Sky*, performer/producer]

[AIDS Healthcare Foundation] will trot out the occasional performer that's no longer shooting, that was victim of a bad director or was part of an STI outbreak in the industry because something went wrong. But they ignore the thousands of shoots that happen every month, everywhere, that don't have these issues.

[Jesse Garza, marketing manager]

The big problem is they wanna make these policies and these laws and they wanna have all these studies and things like that, and they're not really including us. Or they'll purposefully find people who had bad experiences to support their negative view of adult entertainment. And that's not fair. 'Cause I mean, of course not everybody's experience is gonna be good. But not everybody's is bad.

[Jasmeen Lafleur, performer/producer]

Some have argued that only ex-performers would feel free to align with the AIDS Healthcare Foundation or argue in favour of mandatory condoms. In an op-ed on Measure B, for example, porn critic Gail Dines suggested that “[n]owhere will you find a currently-employed porn performer talking honestly about the type of bodily injuries that occur on the set for fear of industry retaliation” (2012, para. 11). But I found that most of the performers I spoke with were highly critical of certain working conditions, in our interviews but also publically on social media and at trade shows (see also Berg, 2021).

Active performers are quick to acknowledge power imbalances and exploitative conditions where they exist, especially as production and distribution channels evolve in ways that give performers more autonomy (which I discuss further in Chapter 7). However, even those performers who agree there is pressure to work without condoms and who want more agency around requesting and using condoms when they want, did *not* think state-designed and enforced regulations were the answer to that problem. They wanted industry-operated mechanisms that would allow them the option to use condoms and other barriers on a case-by-case basis. Indeed, none of the porn

workers I spoke with are opposed to regulation *per se*; they are opposed to regulations created by people who are ill-informed and judgmental of our industry. As performer/producer Michael Vegas told me, “We all want regulations that work for us. Nobody’s saying ‘don’t regulate’”.

The most commonly proposed solution is that regulations be conceived by industry insiders who understand and respect performer needs:

I really don’t like the idea of politicians coming in and putting regulations on the industry. But I do think that the industry as-a-whole needs to be more accountable for what we’re doing. [...] I think it’s going to be better for everyone if the industry is where that change is coming from, rather than politicians making assumptions about what we need.  
[Courtney D, performer/producer]

When people that aren’t in the industry start to regulate everything [...] it’s no help to us. It’s just how people from the outside think we should behave versus actually seeing how things function and how best to benefit performers at all levels.  
[Mercy West, performer/producer]

In fact, many producers and performers welcomed the idea of collaborating with health authorities to ensure safer working conditions:

We’ve been attempting to get OSHA to be [the body that regulates the industry] but apply regulations that make sense for the industry, because right now they don’t. Overall, we’re not opposed to regulation. But we are opposed to regulation that really keeps us from doing our job or doesn’t keep us safer.  
[Chanel Preston, performer/producer]

I think government should be soliciting our communication. They should be soliciting our information. They’re not on porn sets, they’ve never been on porn sets, except to come and issue citations. And that’s not the knowledge they need. [...] These are the people they should be talking to, to frame their regulations. Regulations that work for us. If they would get on board with us, they would be a real partner in the argument, or in the relationship. It would make us want to be a part of that argument instead of constantly having to battle it.  
[Eric, performer/producer/director]

However, many doubt that regulators would entertain a truly collaborative effort because, as lawyer *Felicia* said, “congress people and senators aren’t usually happy to be seen palling around

with the porn lobbyists. There is still that stigma to overcome.” Marketing manager Jesse Garza made a similar point:

It would go much better for [Cal/OSHA] if it was a collaborative effort. It would make the industry look very good as well, and I think the industry would play ball. [...] But I don’t think those politicians are willing to play ball in that way, because then they’d have to admit that they’re working *with* the porn industry.

An additional implication here is that a refusal to collaborate demonstrates that regulators’ and policy makers’ motives are disingenuous. As performer/producer *Daisy Sky* points out, if they had a genuine interest in supporting the industry and its workers, they would meet with those impacted:

I’m certainly interested in fighting for sex worker rights and helping people with HIV and of course helping my own performer pool be safer. But the ways in which these [regulations are being advanced] betray that it’s not for the reasons [AIDS Healthcare Foundation] claim. It’s not because of transmission on set, because that isn’t happening. It’s not because of care for performers. Because if it was, [Weinstein] would meet with us.

So troubling was this persistent lack of consultation regarding health in the industry, it inspired the formation of the Adult Performer Advocacy Committee in 2012. As one of their founding members, performer/producer Chanel Preston, recounted:

At the time when [the Adult Performer Advocacy Committee] formed, it was right when we had quite a few HIV scares, we had quite a few shutdowns. Also we had just started testing for syphilis because we had a shutdown because someone contracted syphilis, and at that time we weren’t testing for syphilis. So a group of us got together and were like: this is absurd. We have people speaking for us, making decisions for us. We are the performers, we are the ones taking the risk, we need to step up and we need to have a voice. We need to be our own voice.

The formation of this committee would prove an invaluable organizing and campaigning tool, as AIDS Healthcare Foundation was about to embark on a much more public version of their crusade.



## 4.7 Ballot Initiatives

Active performers and other porn professionals were never involved in the drafting of laws intended to regulate occupational health in the adult industry. Encouragingly, that lack of stakeholder involvement was at least partly responsible for the failure of the above-mentioned bills and petitions. Cal/OSHA was duty-bound to make space for testimony from industry professionals, as some degree of consultation with those impacted by proposed occupational health law is mandated by their process.

In response, AIDS Healthcare Foundation strategically pursued another avenue for mandating condom use in porn, one that does not require such consultation and which can capitalize on public ignorance of the issue at hand. California is one of many U.S. states that allow laws to be passed through what are called ‘ballot initiatives’, which enable any citizen or organization to propose a new law or amendment and have it adopted through a public vote.<sup>95</sup> To date, the AIDS Healthcare Foundation has proposed mandatory condom laws through the ballot initiative process three times: a citywide ordinance, county-wide Measure B, and state-wide Proposition 60. Each is described below in turn.

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<sup>95</sup> The person or group proposing a ballot initiative must obtain sufficient signatures from the general public through a formal petition process. The required number of signatures fluctuates year-by-year as it is based on the number of votes cast for the governor in the preceding election. The proposed law can be placed on the ballot of a city, county, or statewide election, to be voted on by the general electorate (or in some cases, the city council). Generally, the proposal must earn 50% + 1 ‘yes’ votes of those citizens who opt to vote on the measure. If the proposal passes, it is automatically enshrined into law five days after the election results are certified, unless otherwise specified in the measure (Ballotpedia, n.d.; California Secretary of State, 2020). The various ballot initiatives processes are complicated; this description outlines the process to the extent necessary to understand the bills in question.

#### 4.7.1 City of Los Angeles Safer Sex in the Adult Film Industry Act (2012)

AIDS Healthcare Foundation first targeted the municipal level, gathering sufficient signatures to qualify a proposed measure for a City ballot in January 2012. Rather than putting the proposal before the voters, however, “City Council—anticipating that the measure would likely have passed—voted instead, as permitted by law, to adopt that measure outright in an 11 to 1 vote” (Business Wire, 2013, para. 2). The ordinance made the issuance of film permits for adult movies conditional on their use of condoms. To avoid this, many producers simply opted not to get a permit, or shot either in-house or outside the city limits (G, 2021). In response, AIDS Healthcare Foundation moved on to support a broader, County level proposal, Measure B.

#### 4.7.2 County of Los Angeles Safer Sex in the Adult Film Industry Act: Measure B (2012)

AIDS Healthcare Foundation then obtained sufficient signatures to have the County of Los Angeles Safer Sex in the Adult Film Industry Act (known as ‘Measure B’) placed on the November 2012 ballot. Measure B passed with 56.96% ‘yes’ votes and came into effect on December 14, 2012. The bill applies to L.A. County only, and requires producers to complete blood-borne pathogen prevention training and have a written exposure control plan, to purchase an “adult film production public health permit”, and to enforce condom use for all vaginal and anal penetrative sex. The bill also made sweeping allowances to conduct unannounced inspections of any filming location suspected of violations (which includes private residences—see Chapter 3). Since its passage Measure B has been contested and largely unenforced, variously cited as impractical at best and unconstitutional at worst (Abramovitch, 2016; Berg & Penley, 2016; Bergman, 2014; Kraus & Rosenberg, 2016). Still, the measure had substantial

ramifications on the industry. There has been a marked decrease in the number of adult entertainment film permit applications in L.A. County, and many productions moved out of the county and even the state to avoid having to comply (Berg & Penley, 2016; COSHSB, 2019b; Ng, 2016; Sullivan & McKee, 2015).

#### 4.7.3 California Safer Sex in the Adult Film Industry Act: Proposition 60 (2016)

Third, AIDS Healthcare Foundation attempted to pass statewide legislation when they again collected signatures and submitted The California Safer Sex in the Adult Film Industry Act (known as ‘Proposition 60’), which was included on the November 2016 election ballot. This time, however, the initiative was narrowly defeated, with 53.67% of ‘no’ votes. The measure would have done several things: primarily, it would have required the use of condoms for vaginal and anal intercourse, but also would have required producers to pay for STI testing and vaccinations; imposed certain film permit, health license, on-set signage, and record-keeping requirements; attached steep fines to violations of the above; and empowered any California citizen to file a civil action against a producer believed to have acted in violation of the above. The state would have covered the legal fees of the plaintiff if they won, but of the defendant only if the court found the plaintiff’s case was “frivolous or in bad faith” (§6720.6.(d)). Any penalties recovered by the plaintiff would be split 75% to the state and 25% to the private citizen, creating a lucrative incentive to file an action. This last point in particular caused great controversy as it would have greatly threatened the privacy, and therefore safety and wellbeing, of adult film performers (Blue, 2016; Leue, 2016).

#### 4.7.4 Capitalizing on Ignorance

The ballot initiative process is intended to put “more control of California politics directly into the hands of the people” (SOS, 2019, p.2) by “giv[ing] California citizens a way to propose laws and constitutional amendments without the support of the Governor or the Legislature” (OAG, 2021, para. 1). Despite its laudable democratic intentions, ballot initiative processes throughout the U.S. have been criticized as disadvantageous to already marginalized groups by evoking the ‘tyranny of the majority’, that is, the tendency for majority rule to pursue initiatives regardless of the cost to minority subgroups<sup>96</sup> (Farley, 2020; Gamble, 1997; Lewis, 2011). The process is also financially prohibitive to the average citizen, so it has been “taken over” by “[l]arge corporations, wealthy financiers, and well-financed special interest groups” (McInnis, 2019, p. 70). Finally, some argue that ballot initiatives enable misrepresented laws<sup>97</sup> to be passed by an uninformed public (Queen & Saunders, 2017<sup>98</sup>).

By placing the vote to the general public, AIDS Healthcare Foundation had a greater chance of getting a condom law passed because they could appeal to the public’s complete ignorance of pornography production protocols. As producer/director *Nailah* said of this tactic,

*Nailah*: [AIDS Healthcare Foundation President, Michael Weinstein, was] playing on the fact that people don’t understand the industry, don’t understand how it works and how it’s multifaceted. All they hear is ‘oh, condoms good!’

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<sup>96</sup> Further, Farley (2020) found that as racialized groups grow in size within a given electorate, discriminatory ballot initiatives are more likely to pass—suggesting that the ‘racial threat hypothesis’ plays a role in popular backlash against non-white interests.

<sup>97</sup> Technically, “[t]he Elections Code imposes certain criminal penalties for abuses related to the circulation of initiative petitions. It prohibits circulators from intentionally misrepresenting or intentionally making any false statement concerning the contents, purport, or effect of the petition” (SOS, 2019, p. 15). However, voters are “informed and influenced by advertising campaigns funded by various political advocacy groups. Millions of dollars are raised and spent each election cycle to do this” (Queen & Saunders, 2017, pp. 324-325).

<sup>98</sup> See Queen and Saunders (2017) for how this legislative bypass initiative process was also used to pass Proposition 35, a highly problematic bill ostensibly targeting human trafficking.

Valerie: ‘Occupational health, *finally*.’

*Nailah*: Right, ‘*finally*’. They don’t understand that there already are systems in place.

Indeed, the lobby group in support of Proposition 60 called itself *FAIR: For Adult Industry Responsibility*, implying that the industry had no safety protocols whatsoever in place and was not behaving responsibly.

Many of those I spoke with encountered this ignorance when dealing with the public, be they friends and family, fans, or strangers: “People aren’t aware that there *are* standards in the industry”, performer/producer Mercy West told me. “They don’t even know that [industry testing is] a thing, like they think people are just going out and doing whatever and killing themselves.”

Performer/producer Dave Dixon similarly lamented:

When we say that the public is uninformed, they don’t know what the Free Speech Coalition is or that it even exists or that there’s a database of performers and that all of our testing goes in there and that if anything comes up positive there’s repercussions and work stops. [...] I don’t think the public realizes how seriously we take our testing. You know? They probably think that it’s all just a bunch of people getting together, having unprotected sex, maybe getting tested, maybe not.

This misinformation is perpetuated by media portrayals, said performer/producer Courtney D: “I think there are a lot of things that are blown out of proportion. Like the way you’d read it in those newspaper articles is that every single performer wishes that they could use condoms and the studios are forcing it all on us at every turn.” Public education, suggests performer/producer Alex Coal, could help to correct these misperceptions:

People that I have talked to, once you tell them, ‘no, [a mandatory condom law] actually doesn’t help and here’s what we already do to prevent things like that’, they go ‘oh shit, I had no idea that you get tested every 14 days’ or every 7 days for some people. So it’s very frustrating. But I think education is the way to fix it, because the majority of people just don’t understand any of how it works.

Indeed, neither the campaigning done by the AIDS Healthcare Foundation nor supportive mainstream media offered a full and accurate account of the frequent testing, contact tracing, and

the other harm reduction methods used on porn sets. By using ballot initiatives to propose mandatory condom laws, AIDS Healthcare Foundation entrusted the voting public with a decision about how porn workplaces should be regulated, despite the public having inadequate knowledge of how those workplaces actually operate. One might then argue that it was the porn industry's own responsibility to ensure that information about existing protocols was easily available to the public—and this they did, as part of the oppositional campaigns mounted against both Measure B and Proposition 60. Granted, both laws were problematic on a variety of levels, and so the messaging against them was also multi-faceted: the anti-Measure B campaign emphasized the waste of tax payer dollars required to enforce the law, and the potential loss to the California economy if the industry relocated; the anti-Proposition 60 campaign pointed out the risks to performer privacy and safety that would result from the civil action aspect of the law. But both campaigns also sought to educate the public on existing occupational health measures, the effectiveness of that system, and the reasons that performers prefer to have a choice around whether or not to use condoms in their work.

For example, during the anti-Proposition 60 campaign in 2016, queer San Francisco-based production house Crash Pad produced a series of public service announcements: “Adult Performers Talk Safer Sex”. These shorts featured performers in frank discussion about the many safer sex protocols they use on set. In this retweet about the series from Marketing Director Jiz Lee, we see the message “Adult performers have many safer sex options. We’re knowledgeable and risk-aware”, along with the hashtags #NoProp60 and #PornStarsforPublicHealth. Here, performers are presented as sexual health experts who do not require external regulator intervention, as they already avail of a variety of barrier and non-barrier risk reduction techniques:



**Image 2**

*Tweet Promoting the Adult Performers Talk Safer Sex Video Series*

Source: Twitter.com

<https://crashpadseries.com/queer-porn/adult-performers-talk-safer-sex/>

Through social and traditional media, individual performers, production studios, the trade association, and other supporters spent enormous time and resources explaining that the existing method of risk reduction

has worked well for our industry and WE have not asked for a change. This initiative has been proposed from people who are NOT a part of the adult industry, but wish to impose their idea of ‘safety’ on us. (Marcell, via Facebook, November 5, 2012, para. 1)

Yet this type of campaigning was unsuccessful in stopping Measure B, and only narrowly managed to secure a No vote on Proposition 60. The reason for this, I argue, is simple: porn

performers are rarely trusted as the experts of their own lives. They are either barred from sharing their expertise, or what they share is not believed or respected. In the next chapter I explore some of the ideological underpinnings of this epistemic injustice.

#### 4.8 Conclusion

There have been numerous attempts to regulate the California porn industry's health and safety protocols. In this chapter I have aimed to document the trajectory of these attempts, paying special attention to the ways in which industry-developed protocols were dismissed and adult industry voices were ignored. This is especially apparent in the AIDS Healthcare Foundation's efforts to pass porn health policy via ballot initiatives, a process that eliminates any requirement to consult with adult-industry representatives and can capitalize on the voting public's lack of knowledge surrounding porn industry practice. Porn professionals campaigned against these measures, and sought to educate the general population about the industry. As the next chapter discusses, however, many presumptions about the industry and its workers inhibit understanding and appreciation of the health protocols that have been developed by the industry itself.



## CHAPTER 5: “DOUBTED. VILIFIED” – EPISTEMIC INJUSTICE IN PORN POLICY

### 5.1 Introduction

The last chapter discussed how porn industry voices were silenced and ignored throughout various specific attempts to pass health policy. In this chapter, I continue the argument that this refusal to listen to porn performers’ marginalized but expert knowledge constitutes epistemic injustice. To reiterate, epistemic injustice is the state of being wronged in one’s capacity to know and be known (Fricker, 2008). Many marginalized communities suffer epistemic injustice because their knowledge is not deemed credible and their experiences are not part of dominant understanding. However, I argue that sex workers are subject to a unique form of epistemic injustice owing to sex worker stereotypes, themselves embedded in a persistent sex exceptionalism. Filippa Fox (2018) writes about the specific epistemic injustice suffered by sex workers in relation to health policy:

It is because of this durable epistemic injustice that it does not occur to many non-sex workers that we have uniquely useful, nuanced, and plural perspectives on our own health and work. Although we actively resist, most non-sex workers continue to dismiss the epistemic resources we develop. They maintain their ignorance about our lives while simultaneously claiming to have expertise over them. For sex workers who experience compounding historical injustices, such as transfemme workers, Indigenous and First Nations workers, or Black workers, this ongoing exclusion from the dominant social imaginary is even more thorough and violent [...] the marginalization of sex workers makes possible the endurance of myths which are at odds with our lived experience. (p. 198)

The epistemic injustice suffered by porn performers advocating for appropriate health policy was well-articulated by adult industry labour lawyer, Karen Tynan, during our interview. She attended many of the Cal/OSHA hearings regarding proposed porn production regulations. A regulation addressing the bending and lifting done by hotel housekeepers was also making its way through

the Cal/OSHA process at the same time, so the large hearings would often address both proposals within the same meeting. As such, Karen explained, housekeepers and porn performers

were kind of overlapping in these big hearings. And what I found was, Cal/OSHA, regulators, attorneys, advocates: they wanted to listen to these housekeepers. They took everything they said as these kernels of wisdom. The housekeepers were treated much better than performers. [...] [They're] listening to everything [the housekeeper] says. And you have another woman, maybe same age, does different work, and you're discounting everything she says. Stunning to me.

Valerie: Yeah, they're not trusted as the expert on their own job.

Karen: Not trusted at all. And in fact, more than not trusted. *Doubted. Vilified.*

In this chapter, I propose that a hyper-focus on mandating condom use, and dismissal of other harm reduction methods that are more suited to porn production, is a form of epistemic injustice couched in the mistrust of performer testimony. I suggest that this mistrust of porn performers is fueled by several interrelated assumptions about sex work: that sex workers require rescuing, that sex work is exceptional, and that 'risk-taking' in the context of sex work is not rational or valuable and thus one cannot consent to it. I close the chapter by pointing out that porn professionals are not opposed to regulation *per se*, but simply want those regulations to come from a respectful and informed place. This will lead us into the following chapter, which more deeply explains how regulations proposed by outsiders—especially mandatory condom use—fail to understand, respect, or meet the needs of those working in porn.

## 5.2 The Foundations of Epistemic Injustice

*“Sex work is always getting the ire of everybody [laughs] Concerned citizens want you to wear condoms. But do you actually know what their jobs are about and how that would affect them? And how this could exclude certain folks? But that's not what they're actually after, right? It's a morality thing. We want to keep you safe by making your decisions for you.”*

- Kate Sinclair, producer

In the above quote, producer Kate Sinclaire satires the idea of protecting sex workers by deciding what is best for them. Certain subjects are more swiftly labelled incapable of making decisions in their own best interests: young people, poor people, racialized people, femme people<sup>99</sup>, and very often, sex workers. As Filippa Fox (2018) describes, even sex workers with public health training and expertise like herself are excluded from health policy decision-making, compelled by stigma into acts of “self-erasure” (i.e. the use of a pseudonym for publishing). This “speaks to the epistemic injustice sex workers face in scholarly and policy dialogues about our health” (p. 197). Citing José Medina, Fox points out that mainstream understanding of an issue—such as sex worker health—is limited by *whose* knowledge is recognized as valid and valuable. Sex workers, especially those who are poor, racialized, migrant, and/or working in low-income countries, “fail to be recognized in the dominant social imaginary [...] as subjects who can speak for themselves” (p. 197). Consistent with the erasure of sex worker voices on all other aspects of their lives, the overarching assumption is that sex workers do not understand their own health needs. As a result, there is a long legacy of political actors advancing initiatives intended to ‘help’ sex workers, initiatives crafted without sex worker input. These projects take for granted that it is politically just and morally virtuous to ignore sex workers’ ideas about what would actually be helpful in favour of the ‘expert’ opinion of medical and legal professionals who are disconnected from sex worker communities and realities. In what follows, I explore this ‘save the sex worker’ rhetoric as it relates to mandatory condom laws. I argue that two rhetorical strategies are used to justify mandatory condom use as ‘in performers’ best interest’: a labour rights strategy and a gender equity strategy.

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<sup>99</sup> That is, people of any gender identity who have a feminine gender presentation.

### 5.2.1 Save the Sex Worker: Labour Rights

California-based performers, in this and previous studies (Berg, 2021; Tibbals, 2012) have consistently stated that they prefer to have choice around whether or not to use condoms. None of these performers trust external bodies to regulate porn health policy appropriately, whereas most do express some trust in the effectiveness of the industry's internally-developed PASS protocol. Most performers feel regular testing strikes the correct balance between enabling the work to be done within an acceptable level of risk. Indeed, performers who could not use PASS, either because they lacked access to a draw centre or because the fees were prohibitively expensive, typically wished they had access to it or a similar testing system. No one desired unmitigated government oversight as the solution.

The effectiveness of the PASS system is a source of pride for many in the industry. As performer and producer *Daisy Sky* said:

We took it upon ourselves to self-police and to look out for our own sexual health. So it was upsetting to have someone coming in and attacking that. Especially when it had been over 10 years since anyone had contracted HIV on a PASS-controlled set. We have taken such precautions to keep people safe.

The amount of time that has passed since a case of on-set HIV transmission is frequently cited as proof of the industry's self-regulatory competency. Press releases of the Free Speech Coalition, the trade association operating PASS<sup>100</sup>, often remind readers that “[t]he adult film industry has not seen an on-set transmission of HIV on a PASS-regulated set in over a decade” (FSC, 2018b, para. 4) or that “we have not had a transmission of the [human immunodeficiency] virus on a PASS-compliant set since 2004” (FSC, 2019c, para. 3).

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<sup>100</sup> As noted in previous chapter, PASS became an independent organization in May of 2021.

Despite the effort that the industry has put into self-regulation and the relative success of that system, the AIDS Healthcare Foundation advanced the narrative that by pushing for mandatory condom use, they alone were advocating for the health of porn performers. Their promotional materials frequently talked about defending the rights of porn workers where no one else will, framing the issue of condoms as one of labour rights. As Michael Weinstein said in a press release following the closure of Adult Industry Medical, the aforementioned performer health clinic:

Now that [Adult Industry Medical] has closed—and the industry ‘fig leaf’ is gone—the responsible thing for the industry to do is to put performers’ health first and require condom-use on all adult film sets. Testing adult film performers for HIV and other sexually-transmitted diseases is important, but has never been an effective substitute for safer sex and condom use. Performers were poorly served by Adult Industry Medical and are poorly served by an industry that places profits above worker safety. If the porn industry won’t protect its own workers, it is time for the Los Angeles County Department of Public Health—the government body charged with safeguarding the health and welfare of its citizens—to enforce condom use on all adult film sets in the County. (c.f. Romero, 2011, para. 16)

As noted above, the AIDS Healthcare Foundation was instrumental in closing Adult Industry Medical. As Shachner (2015) wrote of this irony:

The [AIDS Healthcare Foundation] asserts that it is primarily concerned with performer health and has no moral qualms with the content of adult films, but shutting down the [Adult Film Industry’s] successful and trusted healthcare provider was a strange way of showing support for performer health. (p. 359)

The AIDS Healthcare Foundation has repeatedly argued that their advocacy seeks to ensure that porn performers enjoy the health protections of other occupations. The website for their Measure B campaign stated that “the adult film industry will be held to the same workplace standards as other businesses in Los Angeles County” (Yes on B, n.d., n.p.). It continued:

By voting yes on Measure B, Los Angeles voters will be able to ensure a safe working environment for one of the most overlooked professions in the County [...] People working in adult film should be entitled to the same clean and healthy workplaces the majority of Angelenos enjoy. (Yes on B, n.d., n.p.; see also Webber, 2015)

An AIDS Healthcare Foundation press release following the failure of condom bill AB 1576 echoed this language of fighting the good fight for the downtrodden worker:

Assemblymember [Isadore] Hall [who authored AB 1576] is a passionate advocate for workers and we commended him for his courage. [...] Hall's legislation would have provided statewide uniformity needed to ensure that the thousands of actors employed in this multi-billion dollar industry are given reasonable workplace safety protections needed to reduce exposure to HIV and other Sexually Transmitted Diseases. (AHF, 2014, paras. 4-7)

Public health scholars writing on the issue similarly argue that they are concerned for the occupational health rights of porn performers. For example, in an editorial by Klausner and Katz (2011), they write, “[w]hen having sex becomes work, the persons involved should be treated like workers, with employers accepting responsibility for the occupational health of the workers. Pornography sets should be no different from construction sites—hard hats required, no exception” (p. 650). Some occupational and public health scholars acknowledge performer complaints about condom use, but do not take them seriously (Klausner & Katz, 2011; Kluger, 2014; McCarthy, 2015; Steinberg et al., 2012). They, like sociologist David Schieber (2018b), typically frame complaints of condom rash and chaffing as a “posthoc justification” for not using them. Schieber argues that the “rhetoric of pain” is a party line that performers are pressured into by agents and producers, but that in reality, most mainstream sets do not offer performers any meaningful choice as they will be blacklisted for asking to work with a condom (Schieber 2018b: 385). Certainly, some people did tell me (and I know from my own experience) that being a condom-only performer reduces the amount of work available to you. While many studios legitimately offer performers the choice, others hesitate to hire back someone who requested a condom if there are other performers willing to work without one. Acknowledging that these coercive elements of labour are an ingredient in performers’ decision-making, however, is different than dismissing outright whatever performers say about condom burn and comfort. The

former respects performers as creative and strategic agents navigating an inherently coercive economic system, whereas the latter treats them as victims of false consciousness<sup>101</sup> requiring rescue. To illustrate: one of the conclusions of a UCLA Reproductive Health Interest Group presentation made at the 2011 American Public Health Association annual meeting conceded that:

Industry performers may have different priorities than public health officials *who wish to protect them*. A performer may be mostly concerned with issues of privacy, wages, and ability to work, while public health officials may focus on STI prevention. All parties must be aware of each others' priorities to negotiate an acceptable compromise. (Cohen et al., 2011, p. 1, emphasis added)

What is notable is that even while acknowledging the very calculated, rational reasons that workers might have different risk assessments than public health, the language of protection betrays the underlying paternalism. It locates the need for change not within capitalism or the organization of labour, but within the individual and porn community mindset. Whatever actual problems of coercion or exploitation are present in the adult industry, these cannot be addressed in an environment that presumes sex workers are stupid, gullible, or inherently vulnerable.

Attention to the subtleties of this paternalist language is important, because these narratives have an impressive power to drive policy. Adult labour lawyer Karen Tynan believes that the employees who spearheaded OSHA's involvement in regulating porn production were primarily motivated by the idea that producers are a "bad actor" towards workers, and that condom laws could save exploited performers:

There had been sporadic times [that Cal/OSHA got involved in the porn industry] in the early 2000s [...] but never this big push. In my view, it was a push that there were two

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<sup>101</sup> False consciousness is a concept derived from Marxist theory to describe when a subordinated class unwittingly embodies the ideology of the ruling class due to a fundamental misunderstanding of power and social relations (e.g. a labourer endorsing their own subordination under capitalism, a woman endorsing her own subordination under patriarchy).

people within OSHA in the Oakland office that were intrigued, interested, and fired up about this fight and about condoms and about the adult industry as a bad actor towards the performers.

Lobbyists and law makers believed their efforts would protect performers from being coerced or exploited by producers more interested in profit-margins and health protections. However, when they tried to craft legislation to ensure producers did not take advantage of workers, they did not realize that many performers produce their own content—often precisely in order to avoid reliance on potentially exploitative producers. For these small-scale performer/producers, the financial burdens of the necessary permits, training, or performer tests and vaccinations entailed by proposed regulations (fees calculated with large-scale studios in mind, rather than prorated according to production size or annual income, for example) would actually harm their ability to continue to operate independently. As lawyer *Felicia* questioned: “I don’t know how they can craft a regulation that’s going to benefit performers over some of the people who are producing, because there’s such an overlap now, it’s hard to even separate out who are only performers and who are only producers.” Performer/producer Chanel Preston, who was also a founder of the Adult Performer Advocacy Committee, explained that “with Prop 60, one of our biggest arguments was that performers nowadays are also producers.” She estimated that “probably 80% of our members [at APAC] are also producers.” Writing about then-nascent Measure B, the Free Speech Coalition blog argued that:

[i]f Weinstein and his AHF cronies had any *real* contacts within the adult industry—not just disgruntled, paid former performers, but actual working members of the industry—he would know that many of the “pornographers” he is vilifying with his efforts are also performers themselves, or started in the industry as performers. (FSC, 2012b, para. 2, emphasis in original)

Rather than understanding and accepting that many performers are their own producers, Cal/OSHA and other regulators constantly framed female performers in particular as “bimbo idiots who are fighting against their own best interests”:



Over time some of them really did start to listen and to, I wouldn't say side with us, but certainly hear our concerns with honesty and earnest repose, I guess? [But] many of them still have a paternalistic, just generally shitty response to us. Many of them see us as you know, bimbo idiots who are fighting against their own best interests. No matter how much we stand up and speak, and speak very eloquently and intelligently about what we do, it's like we can't break through that barrier with a lot of them.  
[Adela, performer/producer]

### 5.2.2 Save the Sex Worker: Gender Rights

Adela's reference to 'bimbos' is important, for while mandatory condoms were consistently framed in the language of universal worker rights, the worker in question was usually gendered.

Industry lawyer Karen Tynan told me:

What I found with defending certain companies and also with going to the hearings about new regulations, was that there seemed to be a lot of questions, and I would say attacking language, towards women who did heterosexual porn, around what a woman chose to do. [...] I always had this sense that women who performed with men were attacked more, judged more, for that choice and for saying they didn't want to use condoms and for saying that they wanted to have a voice in the process. [...] And in these meetings, they would talk about 'oh you know all these STIs could damage her fertility when she wants to have a family in the future, when she *finally* comes to her senses and abandons it.

Karen describes how a gendered lens was cast upon the problem of porn and STIs: women in porn are perceived as distinctly vulnerable and unable to make their own decisions, but furthermore, their sex work fate is described as especially tragic because of how it disrupts their femininity.

The paternalist preservation of normative white femininity is an unspoken feature of what is typically referred to as 'carceral feminism', a decades-long convergence between feminist, conservative, and (neo)liberal political strains, anti-violence and victim's rights advocacy groups, and evangelical organizations. A central belief of carceral feminism is that expanded state control can correct the harms of sexual and gender-based violence (Bernstein, 2010, 2017; Bracewell,

2019; Critical Resistance and Incite!, 2003; Kim, 2018; Lancaster, 2017; Maynard, 2012).

Carceral feminism thus seeks to address issues such as “sex trafficking”<sup>102</sup>, pornography, and sex work, by increasing the powers of the strong (e.g. police, prisons) as well as the ‘soft’ (e.g. social work, healthcare) arms of the state through, for example, greater policing, harsher sentencing, or increased surveillance. These disciplinary bodies are seen as the appropriate avenues to secure sexual and gender justice, rather than considering solutions emergent from within communities themselves. Specifically, carceral feminist solutions directed at women in the sex trade—often unilaterally referred to as ‘victims of sex trafficking’—have advocated abolition of sex work and criminalization of clients rather than listening to solutions proposed by the actual women in question, especially when the purported victims are poor, migrants, or racialized (Krüsi et al., 2016; Maynard, 2012). Public health has long played a role in such rescue missions, as women doing or suspected of sex work have been subject to extensive disciplinary action at the hands of public health for as long as the discipline has existed (Walkowitz, 1980). Bracewell (2019) has linked this reliance on the state to what Iris Marion Young (2003) calls “the logic of masculinist protection”. In a classically gendered way, women are cast as fragile and helpless, in need of the gallant (male) carceral state to protect them from the world’s dangers.

AIDS Healthcare Foundation, and their collaborators and supporters, have tapped into this logic by directing the conversation of condom use towards straight porn. Any successful mandatory condom law would equally apply to gay porn, and in 2013 AIDS Healthcare Foundation filed

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<sup>102</sup> While sex trafficking certainly exists, I use the term in scare quotes to underscore how it is intentionally and strategically defined so broadly by carceral feminists as to include consensual sex work as well. In Chapter 6 I develop further the issue of how anti-trafficking discourse is problematically deployed by the contemporary anti-porn movement.

complaints to Cal/OSHA over several gay bareback productions<sup>103</sup> (Pardon, 2013). Yet much of their public campaigning, argumentation, and legal pursuits have centered on straight production. This is in part because for many years, gay productions were more likely to already be using condoms; additionally, straight production dominates in L.A. County, where the bulk of AIDS Healthcare Foundation's campaigning occurred (Calvert & Richards, 2007; Langner, 2015). As legal scholar Bailey J. Langner writes, "the mainstream discourse related to the Measure B campaign and the lawsuit focused exclusively on issues as they pertained to straight porn while claiming to talk about all porn generally" (Langner, 2015, p. 201). Yet this focus persisted even as gay porn migrated away from condom use. Some have suggested that AIDS Healthcare Foundation maintained a hetero-focus in their campaigning in order to garner broader public sympathy. As director and producer Colin Rowntree explains:

I think the regulators and people like Weinstein, they go right for the straight porn industry because 'we're defending the poor little women'. And once you get to the gay thing, 'oh they're just faggots, let's just get away from that because we're not going to get public sympathy for a bunch of gay guys that are doing each other in the butt. Let's protect Suzy from Kansas.'

Focusing on heterosexual porn, as Colin points out, is strategic: it enables ciswomen to be centered in such a way that mandatory condoms can be framed as protecting 'vulnerable' women. In referencing Kansas specifically, a state that is 86.4% white (USCB, 2019), Colin also points out the implicit racism in who is considered worthy enough of protection to garner widespread public sympathy.

The vulnerability of ciswomen is evoked in both social and biological terms. Regarding the latter, reference is made to how, if they take a receptive role in penetrative heterosexual encounters,

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<sup>103</sup> This is the string of complaints that led to the above-mentioned case where it was determined that state bloodborne pathogen protocol § 5193 does apply to adult film and requires condom use.

ciswomen are more susceptible to STI and HIV infection than are cismen. For example, the Measure B campaign website made note that: “women in the adult industry are at the highest risk of infection. For instance, three quarters of all cases of gonorrhea and chlamydia were reported in women during a four year period” (Yes on B, n.d., n.p.)<sup>104</sup>. More insidiously, though, is the evocation of ciswomen sex workers as socially vulnerable because they are deemed incompetent, highly exploitable, and easily duped; or ‘bamboozled’, as industry lawyer Karen Tynan calls it:

Cal/OSHA and AIDS Healthcare Foundation, they never really wanted to talk about [how performers know what’s best for them]. They wanted to say, ‘we know better’, that was always their message: ‘We know better. You performers are getting bamboozled by the production companies. If you just listen to us and use condoms, everything’s gonna be better.’

Karen’s reference to production companies is of key importance. For it is not just the trope of the vulnerable woman, but of who she is vulnerable to, that animates the ‘save the sex worker’ narrative. The very definition of what a sex worker *is* in the collective imagination is generally a ciswoman, sometimes a transwoman, needing protection from a (usually racialized) male ‘pimp’ (Mensah, 2018). By tapping into this collective understanding of who a sex worker is, organizations like the AIDS Healthcare Foundation can readily push the narrative that they seek to help and support women who would otherwise suffer at the hands of exploitative producers.

Performer and producer *Daisy Sky* described how those working with Cal/OSHA were often

infantilizing us and considering us victims and going over our heads. There were a lot of accusations around the time of the fight against Prop 60 that we were being manipulated or controlled by producers who were telling us that we had to [fight that measure]. I want to make it very clear that everyone who went up to these hearings did it for no monetary gain, under no duress, and out of their own interest in protecting their health and their way of life.

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<sup>104</sup> There is evidence to suggest that in a penetrative encounter, vaginas are more biologically susceptible to infection than penises. Regarding gonorrhea, the per-act risk ratio for infection is 20% for vaginal-to-penile transmission, but this raises to 50% for penile-to-vaginal transmission (Kirkcaldy, 2019). In the case of HIV, the risk of transmission for a single act of vaginal intercourse is about 0.08%; some studies find the risk of penile-to-vaginal or vaginal-to-penile are identical, whereas others find the penile-to-vaginal risk is about twice as high as the vaginal-to-penile risk (Barré-Sinoussi et al., 2018).

Performer and producer *Adela* related this infantilizing treatment to broader public attitudes about sex work:

There's this inclination to treat women, especially in the adult industry, as fragile and helpless. People assume we lack agency, and that contributes to our lack of agency in certain situations. [...] People get concerned about me as a performer because they think I'm being objectified and I'm being used and at work the directors only care about my body and how I can make them money. And like, *that's a fucking job*. Like when you go to Starbucks, you don't sit and hem and haw and fret about the fact that this person is on their feet all day, exposed to very, very hot water and potentially dangerous conditions of their own. You don't ask her, 'well did your parents abuse you? Are you a drug addict?' Like you don't ask them these questions even though they're using their body, they're serving you in one particular way, you don't think about them in any other scenario except 'this is the person who's making my coffee. I have my coffee, they're out of my life now. I never think about them again'. But because the work we do, the labour we do is sexual, they can't extend that same concept to us.

On the one hand, external bodies have argued that porn labour needs to be treated like other forms of work, with occupational health measures similarly imposed. Yet on the other hand, there remains a tendency to view sex work as atypical and exceptional. In the next section I explore how this sex work exceptionalism contributes to the undermining of sex worker credibility.

### 5.2.3 Sex Work Exceptionalism

*Adela's* analysis underscores the role that sex work exceptionalism plays in the assumption that (women) sex workers are inherently vulnerable. Sex, as a type of human experience and interaction, is treated as inherently "special" (Jackson & Scott, 2010, p. 2; see also Webber & Brunger, 2018). Following from this, sex work is unquestioningly framed as categorically distinct from other kinds of labour, and the exploitation of porn work is treated as categorically distinct

from the exploitation of other labour under capitalism<sup>105</sup> (Habib & Berg, 2018). As Helen Hester & Zahra Stardust (2020) write:

Whereas the struggle for sex workers' rights understands work as the problem with sex work, the rescue industries assume it is the sex. Indeed, anti-sex work discourse tends to scoop up the problems with work in general, and project them onto sex work in particular. In setting sex work apart as a unique vehicle for precarity, vulnerability, and coercion, and in holding it up as the privileged example of Big Bad Work without addressing the complex and systemic web of labour relations under capitalism, it lets wider cultures of labour off the hook. (pp. 77-78)

Many major disciplinary institutions (e.g. law, psychology, medicine) also support that notion that sex exacerbates all things: sexual crimes are worse than other crimes, sexual psychopathologies are worse than other psychopathologies, sexual infections are worse than other infections. Throughout social and political life, it is often insinuated “that sex *in itself* is bad or harmful” (Halperin 2017, p. 4, emphasis in original). Yet this is not how most sex workers experience their work. As Heather Berg (2021) writes, “porn workers insist that the sex in sex work does not on its own make its workplace harms more serious” (p. 27). Whatever harms might be incurred during sex work are not innately worse than the harms experienced in other types of work. This notion is difficult for many non-sex workers to accept. *Adela* offered one theory for why this is the case: a kind of pseudo-empathy (Langton, 2009) whereby non-sex workers cannot imagine someone having a different experience of sex labour than they themselves would have:

People love to project their personal feelings about sex onto us. Like, if you're someone who has only ever had sex with your husband and you are a church-going person, you have a very specific view of sex and personal visceral reactions to sex or sex with strangers or kinky sex or whatever. When you personally think about yourself being put in a situation that you see these women on the screen being put in, you can only

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<sup>105</sup> This is not to say there are no activities specific to sex work. As will be discussed in the next chapter, the failure to understand the specific needs of porn workers contributes to the creation of poorly-suited health and safety protocols. The need to tailor protocols to the work being performed is universal. The exceptionalism I refer to here is the blanket assumption that all forms of sex work are uniquely dangerous, degrading, or exploitative when compared to all other forms of work, due solely to its sexual nature.

comprehend your personal feelings. Like ‘if *I* were in that situation, I would feel humiliated, mortified, and like I was in danger and afraid and in pain.’ You have all these negative ideas of how *you* would feel and because especially in this situation, we’re not accustomed to putting ourselves in the shoes of someone else or imagining that there are different ways to experience or view the world. You just imagine that ‘this woman must be feeling what I would be feeling, so she *must* feel terrible because *I* would feel terrible’, without considering that maybe she just views sex differently or has different experiences or has a different perspective. I think that’s not something that really occurs to people.

Nor did it necessarily occur to the regulators themselves. As Karen Tynan said of the Cal/OSHA employees who spearheaded much of the activity around porn regulation, “I think that they both had very deep, deeply held beliefs. And I could never kind of move the needle on their beliefs about the industry.” She believed these employees’ personal ideas about sex and porn drove their judgement of the industry and their interest in regulatory intervention. Similarly, as producer/director Vito Vee Soho and I talked about some of the more medically contentious sex acts that we’ve seen in porn, he brings up “rainbow showers”:

Vito: I saw some vomit play also, [vomiting] and then eating the vomit back.

Valerie: Yeah, I struggle watching that stuff.

Vito: Well take your feeling as a reference, and retrograde it like five times and you become a vanilla law maker.

Vito is implying that regulators, or “vanilla law makers”—‘vanilla’ meaning sexually naïve or normative—feel such a degree of disgust for sex acts found in porn<sup>106</sup> that they cannot possibly regulate in a neutral, evidence-based manner. But for regulators to sincerely support performers’ health and safety would require that they commit to challenging their personal and institutional beliefs about sex, certain sex acts, and sex work. That is because personal, visceral beliefs about sex—either in general or regarding specific acts—influence what one believes people can truly consent to, and thus whether or not they are being exploited and need to be ‘saved’. In the next

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<sup>106</sup> I do not mean to infer that vomit play is a ‘common’ porn sex act. A search of PornHub on June 9 2020 for “vomit” only returned 204 results out of 12 199 800 uploads (0.001672%). But Vito’s point is that regulators are likely to be disgusted by many common porn sex acts such as anal sex, S&M, and fisting.

section, I discuss the linkage between whether an activity is considered rational or valuable and whether someone is considered capable of consenting to that activity.

### 5.3 Rational = Valuable = Consentable

As legal scholar Karla O'Regan (2020) illustrates, our ideas about what is reasonable influence what we imagine people can agree to. For an act to be consent-eligible<sup>107</sup>, certain conditions must be met regarding the subjects' perceived knowledge, awareness, and reasonableness. In order to be considered a consenting subject, "[o]ne must first demonstrate a capacity to consent" but further, "the acts to which one is consenting must not be irrational or unreasonable" (p. 20). To be considered 'rational', acts must meet a certain threshold of normalcy. On the other hand, when the acts in question appear 'irrational', one reflex is "to negate the defendants' consent" (p. 36) by suggesting that the act was in some way coerced or resulted from a lack of information, or an otherwise unsound mind unduly influenced by mental impairment, intoxication, or religious sentiment (as in the case of refusing medical treatments). Citing Lori Beaman, O'Regan points out how refusals of care on religious grounds are only granted when they are at least somewhat recognizable to the dominant culture, and thus, tangentially 'rational' (see also Gray & Brunger, 2018). On the other hand, religious, spiritual, or other beliefs that

lie outside that hegemony are often constructed as harmful, or as potentially resulting in harm, and thus their limitation is justifiable. Thus, the law's assessment of what behaviour might fall into excessive categories of 'risk' is mediated by consent's precondition of rationality—itsself constructed with shared understandings or common sense 'community standards'. (p. 37)

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<sup>107</sup> I discuss consent in brief here, but the subject is taken up more thoroughly in Chapter 8.



The notion of ‘community standards’—that is, the values of the majority—is crucial, because what is considered rational enough to be eligible for consent also hinges on specific notions of what serves the “‘public interest’” (p. 35, see also Weait, 2007, p. 16). O’Regan evokes the example of an English court case, *Brown* (1993), involving consensual sadomasochistic activity. The court ruled that while the defendants were unquestionably willing to engage in the activities, they could not rightly use the defense of consent because “‘the infliction of bodily harm *without good reason* is unlawful’” (*Brown* (n 42) 16, emphasis added, c.f. O’Regan, 2020, p. 35).

O’Regan comments that

[w]hereas the court in *Brown* was able to recognise the underlying rationale for such risk-associated and purposely harmful activities as tattooing, ritual circumcision, and violent sports, it viewed the sadomasochistic activity of the defendants as lacking in good reason and thus contrary to the ‘public interest’. (p. 35)

Here we see that what is considered ‘reasonable’ is also bound up in what is considered ‘valuable’ to the broader society. How we treat our own body—as with sex and/or work—is an area of particular contention, as far as determining what is considered reasonable and therefore what is of value to the public interest versus what is a harm. O’Regan writes:

There is perhaps no other place in law where rhetoric about the ‘common good’ and acceptable cultural values is found as explicitly as it is in the criminal law’s consideration of consensual bodily harm [...] the law’s use of consent’s preconditions (of voluntariness, knowledge, and rationality) works to authorise some forms of violence while outlawing others. Thus, even voluntary and well-informed decisions to engage in self-harm can be overridden if the activity in question is deemed to be ‘unreasonable’ or without social value. (pp. 113-114)

Acts that are not considered valuable are not deemed reasonable, and thus whatever risk they entail is simply not ‘worth it’. Sex work exceptionalism is at play here as well. Other professions that involve undergoing extreme physical acts for an audience are similarly understood as risky—for example, contact sports or circus performance. However, players’/performers’ consent is validated because the potential harms are understood as “‘reasonably foreseeable risks’” (p. 125) of

the game or activity, and because those professions are seen as having sufficient social value to merit the risk: values such as providing entertainment and relaxation, serving as a foundation for nationalism and patriotism, or as O'Regan suggests of contact sports specifically, shoring up gender norms through the production and policing of hegemonic masculinity. The bodily harms of sport are 'reasonable' because they fulfill "culturally desirable" forms of masculinity (p. 132), whereas the perceived bodily harms of porn are unreasonable because they directly violate culturally dominant forms of femininity that hinge on sexual selectivity. This double standard is also apparent in a "class frame [that] is often employed to portray [sports] players who do 'play through the pain' as more hard-working and thus valuable" to capital (p. 142), whereas porn performers who 'play through the pain' are perceived as exploited<sup>108</sup> and oppressed by capital. While in sport, "athleticism is assessed on the basis of occupational achievements (themselves often signified by risk-taking, violence, and injury)" (p. 142), risk-taking or injury in porn is taken as proof that the sex acts in question are not occupational but abusive. So long as the athlete "economizes" their bodily capital by only engaging in the violence of their sport to the degree and for the reasons needed to maintain and grow their career, their risk-taking is not only reasonable but "examples of a player's estimable work ethic and occupational ambition" (p. 145). The same appreciation for the strategic management of bodily capital is not granted to porn performers growing and maintaining their careers.

Narratives of porn exceptionalism have painted the work as unduly risky, but many types of work entail risk of injury and some jobs are especially deadly. In the United States, there were 5250

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<sup>108</sup> As O'Regan notes, leisure and masculinities scholars have commented on "the exploitative nature of sport [...] a factor further complicated when the distinctive class [and race] locations of many contact sports players are considered" (143). My key point here, however, is that popular discourse generally respects and valorizes athletes and their work in ways that porn performers have never benefitted from.

recorded workplace fatalities in 2018. The occupations with the highest death rates were logging, fishing, airplane pilot and flight engineers, and roofers. Truck drivers had the highest death count (BLS, 2020). Globally, the International Labour Organization estimates over 6000 work-related deaths per day, with the construction industry exhibiting disproportionately high death rates (ILO, n.d.). In Canada, there were 1027 recorded workplace fatalities in 2018, including death from disease directly linked to employment. The deadliest industries were construction and manufacturing (AWCBC, 2019).

Again, unlike pornography these industries are considered valuable, because they are highly ‘productive’: construction, transportation, resource extraction. The risks associated with them are accepted as the unfortunate but necessary cost of their inherent social value in driving capitalist colonial projects of ‘development’. And while much agitation on the part of workers has gone into making these safer for the most geopolitically privileged labourers among them (Abrams, 2001; Sass, 1998) a certain degree of risk is deemed acceptable in exchange for the associated gains.

On the other hand, sex (unless explicitly procreative) is considered non-productive (Paasonen, 2018a), and porn’s content is viewed as “un-goal-oriented [...] play and pleasure for its own sake, which is antithetical to a neoliberal notion of success” (Arroyo, 2018, 36:07 – 36:30).

Historically it has been difficult to get sex work recognized *as work*, let alone valuable work. In response, a common tactic in sex worker movements has been to argue for sex work’s various contributions to social, psychological, or economic life. This is also true of the porn industry’s fight for respect and autonomy in matters of occupational health regulation. In a campaign video in opposition to the Measure B ballot initiative, performers Tera Patrick and Ron Jeremy critique

the sex work exceptionalism that views porn health risks as graver than those of other industries: “Every day, on average, 12 people lose their lives by simply doing their job” says Patrick (Braun, 2012, 0:05-0:11). Jeremy continues, “Since the year 2000, over 60 000 Americans have died on the job. Only 6 performers have tested HIV positive in the same 12 years” (Braun, 2012, 0:11-0:22). They then balance the health risks that do exist in porn against the industry’s economic value, warning that “a 20 billion dollar industry and 10 000 jobs” will leave L.A. County if the measure passed (Braun, 2012, 1:00-1:05). This ad attempts to minimize and justify the risks of porn through a direct economic valuation, so that these risks might be deemed rational and valuable according to the mainstream logic of capitalism. However, the argument was not persuasive. I would argue that this is in part because the money-generating aspect of porn production has never gone ignored—this is not the kind of value that mattered in this ideological battle. In fact, the (often inflated; Sullivan & McKee, 2015) dollar value of porn’s annual global revenue is routinely advanced by anti-porn commentators as evidence that the industry is exploitative. Underscoring porn’s profitability therefore actually supported paternalist claims that performers need protection. It is porn’s *social worth*, not its economic impact, that regulators and critics dismiss. Porn is not seen as contributing to collective well-being or fulfilling ‘higher-order’ needs, since it is usually treated at best as a facilitator for ‘base’ physiological/masturbatory needs. As Ian O’Brian of PASS said, “we dismiss [the value of] pleasure, desire, feeling”. As such, sexual risks taken in the name of making porn are not treated the same as occupational risks taken in the name of other industries, no matter what their comparative financial worth.

In summary: porn work is not considered valuable, the sex acts of porn are not considered reasonable, and so consenting to sex that is (rightly or wrongly) considered ‘high risk’ for work

purposes falls outside the protected sphere of rationality. As a result, regulators and legislators struggle to see these sexual decisions as consensual, assuming that performers lack the capacity to consent because they are either uninformed about risk or have been duped and exploited by producers. This perpetuates the ‘save the sex worker’ mentality at the root of epistemic injustice. Performers’ decisions are dismissed, and their solutions are devalued.

I am not suggesting that the answer is to triumph the social value of porn or insist upon how it serves the common good. The limits of this approach have been well discussed by Heather Berg (2014a, 2014b). Much mainstream sex worker organizing has focused on legitimizing sex work as socially valuable, as educational or care work, even ‘honourable’ or ‘sacred’. While this type of organizing has positively impacted sex workers in many ways, it also buys into the “social necessity debt” wherein workers are “evaluated based on the perceived necessity of their work to the reproduction of society” (2014b, p. 163). Unlike productive work, *reproductive* labour refers to those jobs that do not produce things so much as “affects, bodies, desires, social systems, and so on” (2014b, p.166). This work, whether it is waged or not, is often feminized care work: nursing, teaching, child-care, housework, and sex. Conceding the terms of the social necessity debt enables “easy appropriation by capital” (2014b, p. 167) in that positioning one’s work as socially indispensable makes it exceedingly difficult to refuse or resist the conditions of that labour. It buys into capitalist work ethic rather than challenging it, but here with an added moral dimension because these jobs are supposed to be done not for the money, but out of a dutiful sense of love and responsibility. Fighting for rights by claiming reproductive value therefore limits

the radical potentiality of mainstream sex worker organizing, pushing workers to deliver demands in terms of redemption rather than refusal. So we see a focus on workers’

altruistic (and explicitly noneconomic) motivations for entering sex work and on the contributions sex workers make to clients and the community. (2014b, p. 174)

Insisting that sex work is valuable according to the logic of capitalism, and that sex workers therefore deserve rights *because* their work is valuable in these ways, makes access to justice contingent. Any such argument sets up criteria that inevitably exclude some workers, namely those who lack the “class, regional, and racial capital” (2014b, p. 174) required to be the right kind of ‘respectable’ sex worker, that is, “the altruistic care-worker-as-public-servant ideal” (2014b, p.174). Such hierarchies of respectability may confer a degree of acceptance to sex workers whose geographic, race, and class privilege enables them to fit the image of a good worker: the self-possessed, tax-paying small business owner doing work that ‘fulfills’ them and does good in the community, in order to support mainstream upper/middle-class consumption patterns. But such hierarchies do nothing to challenge the continued oppression of workers who are assumed to be less agential, who are not ‘in love with their work’, and who do not buy the right things with their money. True justice cannot be achieved within and by appealing to the terms of the oppressor. And epistemic justice—trusting that porn workers understand their own jobs best and allowing them to design their own health and safety protocols rather than seeking to regulate them ‘for their own good’—cannot be contingent on the perceived reasonableness, rationality, or value of the work in question.

## 5.4 Conclusion

In this chapter, I have suggested that the dismissal of performer voices and of industry-developed health protocols is a form of epistemic injustice, in both senses, derived specifically from presumptions around sex and sex work. While workers in other occupations—particularly those

who are migrants, people of colour, poor people, and women, gender non-conforming, and/or 2SLGBTQ+ folks—may also find themselves subject to epistemic injustice, I have argued that the epistemic injustice suffered by sex workers is uniquely grounded in presumptions about sex work, which are themselves rooted in sex exceptionalism. For one, performer testimony has been ignored, dismissed, and attributed to coercion, because performers—especially women performers—are not seen as credible subjects. Secondly, performer testimony is ignored because it is simply unintelligible to outsiders: sex exceptionalism produces and upholds a gap in collective understanding that prevents outsiders from making sense of performer experience. The general public cannot relate to the strategic balance of risk and reward displayed by performers in their work, and revert to paternalism. The result of this injustice is that the regulations proposed by external government and special-interest groups are ill-suited to the realities of porn work. The next chapter explores these incompatibilities, further illustrating the disconnect between regulators and those they wish to ‘protect’.

## CHAPTER 6: ILL-FITTING PROTOCOLS

### 6.1 Introduction

When occupational protocols for porn are developed without worker consultation, the resulting regulations that may seem logical from a biomedical perspective, but do not actually work for the unique health needs and labour conditions of performers. As was documented in Chapter 4, several attempts to develop occupational health and safety protocols for the industry have been pursued by government and special interest groups. Mandatory condoms are the key feature of each of those bills, petitions, and ballot initiatives. In Chapter 3, I introduced the point that condoms are not the preferred risk reduction method for straight, mainstream porn production. In this chapter I will expand upon why mandatory condoms are inappropriate for the porn industry. First, I revisit the fact that Cal/OSHA has applied protocols designed for the healthcare context to pornography, rather than considering a tailored approach. The insistence upon condom usage reflects familiarity with condoms as the default sexual health technology, and mirrors the use of personal protective equipment (PPE) common to healthcare.

Next, I expand upon the three key complaints against mandatory condom use that I briefly mentioned in Chapter 3: 1) financial and aesthetic concerns, as it is believed that consumers prefer condom-free porn; 2) practical concerns, because filming with condoms can introduce logistical issues such as difficulty maintaining erections; and 3) health and safety concerns, as many performers assert that occupational condom use irritates vaginal and anal tissues, causing



what is widely referred to as ‘condom rash’, and that this causes pain and actually increases the risk of contracting an STI if one is present.

Following this, I introduce the ‘Hierarchy of Controls’, an occupational health and safety framework used to determine the most appropriate hazard controls for a given context. According to this framework, PPE should actually be the last resort. I suggest that the industry-developed PASS testing protocol occupies a higher rung in the hierarchy than condom use would.

Cal/OSHA has rejected such an interpretation, arguing that PASS protocol would be less effective than condom use. I propose that Cal/OSHA’s position is founded on three suppositions: 1) a different conceptualization than the industry of what the hazard itself is; 2) a definition of ‘effective protocol’ that does not take the viability of the industry into consideration; and 3) a disregard for the implications of the higher-quality diagnostic tests employed by PASS compared to those used in public health screening. I unpack each in turn to argue that these assumptions demonstrate a failure to consider the specific context of porn production and its unique health and safety needs.

Finally, I discuss the shifting terrain of STI and HIV prevention. Condom-only approaches to safer sex messaging have always been inadequate; they are increasingly less relevant given advances in the pharmaceutical treatment and prevention of HIV. Regulatory bodies’ preoccupation with condoms is therefore outdated and not evidence-based.

## 6.2 “A really unique industry”: The Need for Tailoring

*“Making rules and regulations for an industry without including the industry and the people who work in it is idiotic. It just doesn’t make sense.”*

- *Eric*, performer/producer/director

While I have argued in the last chapter that sex work exceptionalism—the insistence that sex work is categorically more exploitative than other kinds of work—impedes the development of just and appropriate workplace regulations, that is not to say that porn production should adopt the same protocols as other workplaces. On the contrary, a key problem with regulatory attempts is that rather than meaningfully involving adult film stakeholders, the proposed regulations have been transplanted to the porn context from inappropriate models and so are not suitable or feasible for the realities of the work. In the last chapter, I argued against the blanket assumption that all forms of sex work are uniquely coercive or degrading by virtue of their sexual aspect. This is a separate issue from the need to tailor health and safety protocols to the specific needs of sex workers. In all forms of work, protocols need to be uniquely adapted to the labour performed. A sex-exceptionalist attitude might, for example, treat all forms of sex work as innately high risk and dangerous, applying more prohibitive protocols than would be considered necessary or acceptable in another industry. An appropriately tailored approach, on the other hand, considers the unique elements of porn production, not because it is about sex, but because of the specific labour logistics. These logistics can only be understood by the workers themselves.

As lawyer *Felicia* summarizes here, the problem is not with regulations, but with ill-suited regulations that do not address these logistics:

I'm not against regulations. I think that regulations that have been proposed though have all been terrible. If the industry came together and came up with a regulation that they thought would work within this industry—it's really a unique industry, it's a *really* unique industry—I could support it.

The text of Petition 560, a regulatory proposal authored by the industry trade association, the Free Speech Coalition, also underscores the uniqueness of porn work:

The petitioners represent thousands of workers employed in the adult film industry throughout California and they understand *the unique needs and issues* these workers face in their profession. The petitioners are fully prepared to assist in the development of a standard that provides a healthy and safe workplace which provides protection for the workers in this *unique* profession. (COSHSB, 2016d, p. 0, emphasis added)

Centering performers in protocol development is so necessary because of the specific and intricate procedures of porn production. The risk profile of a given scene is deeply contingent on a multitude of factors that are simply not apparent to the average outsider who is not familiar with how pornographic content is prepared for, filmed, and edited<sup>109</sup>. Knowledge of other work contexts that involve bodily fluids does not adequately prepare one to effectively regulate pornography production. Because porn work has not traditionally been understood from the perspective of labour logistics, the frameworks produced by mainstream occupational health and safety systems are less able to comprehend, and sometimes unwilling to accommodate, the unfamiliar risk/reward trade off involved. As a result, the suggested standards make no sense for the industry, from being generally out of touch to deeply contradictory to how things actually operate. Lawyer and Free Speech Coalition board chair Jeffrey Douglas articulates this divide between regulator norms and industry norms, and how this impacts the regulatory relationship:

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<sup>109</sup> For example: the relationship between performers (some are romantic partners and/or may be monogamous or fluid-bonded—an agreement to share sexual fluids within a limited number of relations and to not share fluids outside of those relations), the sexual activity of performers in the days or weeks prior to the scene, the STI/HIV status of performers, the testing protocols used, the specific sex acts that will be performed in the scene and if they involve fluid exchange or not, whether or not any of those acts will be simulated in some way (a fact which the camera angles or editing process may obscure in the final product), the degree of friction and/or lubrication involved in the selected positions, and so on.

For good reason, there will always be suspicion of seeking external regulation because, in part, there's just such a huge cultural gap between sex workers and the class and the culture of regulators. It's even greater than it is with the gap between [sex workers] and regular folks. [...] Regulators, almost by definition, live in a world of norms and standards. And it's very difficult to create unique sets of regulations and set aside the attitudes of norms when you're dealing with a divergent—if not deviant—group. And so I think that instead of seeing divergent groups as divergent, they see them as deviant. And so the thought is we need *more* intrusive regulation because they are so far from the norms.

Performer and producer *Adela* also framed this impasse between regulators and the industry as the result of the “protocol oriented” culture of regulators:

The reason [we couldn't make regulators understand our perspective] I think is because they're very protocol oriented: Establish a protocol. Follow the protocol. Extrapolate based on established protocol. They already have a protocol when it comes to blood and other potentially infectious materials. And that was established on a surgical table. They were trying to impose this established protocol about blood and body fluids that was established within an ER surgery room in which you have doctors coming into contact with people's blood, and trying to just push that and make it fit on the adult industry. But it doesn't fit because doctors don't know their patients. They don't know the history of their patients. They certainly don't have an HIV RNA or a PCR RNA test within the past 2 weeks verifying that this patient has been officially HIV negative at least as of at most 14 days ago. So it doesn't fit, it doesn't convert. But because they are protocol oriented, they have this very strict and structured understanding of what can and should be allowed.

As *Adele* says, protocols developed for a healthcare setting do not fit porn production. Performer and producer Chanel Preston outlines the general impracticality and infeasibility of those regulations:

The [OSHA] regulations are just too stringent, they don't make sense, it keeps us from doing our jobs. If we were to abide by the regulations exactly how they are now, we wouldn't be able to do our job [...] There's always going to be fluid exchange in the work we do. It's not an accident. It's absolute. It's going to happen. Essentially, we shouldn't even be having any fluid exchange according to OSHA regulations [...] but *our job* is to have fluid exchange.

Despite the unique role of body fluids in the work of porn performance, the idea of “creating a new protocol, a new vertical in fact, for this industry, wasn't something that [OSHA regulators] were really open to”, concluded *Adele*. Rather than thinking about creative ways to develop a protocol specifically tailored to porn production, regulators instead reached for condoms: they

mirror the use of PPE found in healthcare industry protocols, and are the most familiar and pervasive tool used for STI/HIV risk reduction. However, there are a number of reasons that performers and producers have opted to use other harm reduction methods in porn production. The next section explores these reasons.

### 6.3 The Problem with Condoms

The majority position among the porn industry professionals I spoke with is that mandatory condom use in porn production causes problems that outweigh any benefits it might add. As such, even those who did use condoms occasionally for work preferred to have the choice of when and how to use them. There are three main reasons for this: financial/aesthetic, practical, and safety.

#### 6.3.1 Financial and Aesthetic

The campaign poster below was created by a coalition of porn industry professionals in opposition to the Measure B mandatory condom ballot initiative. Several other public service announcements or satirical videos used similar visuals of porn actors clad in laboratory garb: safety goggles, face shields, masks, rubber gloves. While hyperbolic, this imagery speaks to what many consider a defining feature of contemporary pornography: the absence of condoms and the absence of “reminder[s] of real-world concerns” such as pregnancy and disease (as was argued in a failed lawsuit<sup>110</sup> brought forward by porn studio Vivid Entertainment following the passage of

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<sup>110</sup> Vivid pursued a First Amendment argument, claiming that “[r]equiring condoms in adult films would hinder their ability to ‘suspend...concerns [about pregnancy and disease] and allow audience members to

Measure B; Vivid Entertainment LLC v. Fielding et al., 2013, p. 10). Many felt<sup>111</sup> that imposing condoms would amount to an aesthetic-shifting, pleasure-destroying assault on porn's *raison d'être*. As such, a major concern was that condom use decreases marketability, and mandatory condoms laws would negatively impact already dwindling sales (McCarthy, 2015).



**Image 3**  
 Poster for the 'Vote No on Measure B' Campaign  
 Source: Twitter.com  
<https://twitter.com/EvilCSM/status/264760621910876160/photo/1>

suspend their disbelief. If condomless sex in adult films is inherently expressive, then requiring condoms would completely block that expression” (Vivid Entertainment LLC v. Fielding et al., 2013, p. 10).  
<sup>111</sup> This demonstrates the heterosexual bias of the mandatory condom debate, as condom use was relatively common in gay porn prior to and around this time.

News media will often repeat industry claims that condom-usage decreases sales (e.g. Lupkin, 2012). “Porn companies aren’t actually cavalier about their performers’ health and safety—if they were, the industry wouldn’t have invested so heavily in the rigorous testing structures currently in place,” writes journalist Lux Alptraum (2012, para. 3). She continues:

No, the actual reason why porn producers hate using condoms is that condom use hurts sales. Over the years, numerous large porn companies (including stalwarts like Vivid) have attempted to go condom-only; almost all have seen a sharp decline in sales that caused them to reverse course. (2012, para. 3)

While the industry reports condom-related declines in sales, little scholarly attention has been paid to consumer preference around condom use and, most importantly, whether or not this impacts their purchasing habits. The few studies that exist offer conflicting evidence regarding viewer preferences, and virtually no evidence of whether or not these attitudes influence their actual spending on porn.

For example, Downing and colleagues (2017) found that 50-65%<sup>112</sup> of men prefer condom-free porn, 3-9% prefer porn with condoms, and 29-45% have no preference. Of note though is that regardless of their condom preferences, 96% of participants accessed porn via free streaming websites, whereas only 10% also held a paid subscription to a porn site. Hence it is not clear that condom preferences would have any impact on actual dollars spent. Similarly, Galos and colleagues (2015) asked men who have sex with men (MSM) about a variety of porn preferences, including cost, medium, and content factors. While the use (or not) of condoms was ranked as one of the least important factors, cost was ranked as the most important, with all respondents preferring free content. So if condom attitudes do not impact sales, it may be because the

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<sup>112</sup> Where gender and/or sexual orientation were compared, all studies reviewed here typically found heterosexual men to be the most condom averse, with women and MSM being less condom averse (a broader gender and orientation spectrum was not described in any of the studies).

respondents in question do not pay for their porn regardless. Other studies of attitudes towards condom use in porn failed to gather any data at all regarding users' spending habits. Kraus and Rosenberg's (2016) study of college-going men found that the majority (64%) were both supportive of and not critical towards condom use in porn; 14-15% held ambivalent or indifferent attitudes; and 7% were both unsupportive of and critical towards condom use. While they gathered data on how much pornography respondents consumed, they did not gather data on where they consumed it (free or pay-site) and/or how much they spent on it. Downing and colleagues (2018) found that 34-58% of consumers (men and women) would be willing to watch pornography with safer sex messaging<sup>113</sup> in it, but did not ask whether or not they would be willing to pay for it. Wilkerson and colleagues (2013) found 42% of MSM prefer porn without condoms, 17% prefer porn with condoms, and 41% had no preference, but did not collect information on how these preferences relate to purchasing habits. In Nelson and colleagues (2017) study 79% of Black men preferred condom-less porn, but again no purchasing data was collected. Finally, one study directly measured California residents' support of Proposition 60, the mandatory condom ballot initiative, a few months before the vote took place. Wagner and Cabosky (2018) found that while most survey participants had a "neutral to moderate aversion" (p. 432) to condoms in porn, those who were more averse to condoms were less likely to support the initiative. However, no questions were asked about how the passage of the initiative would or would not impact residents' consumption and spending patterns.

In short, there is mixed data around whether or not mandatory condoms would negatively impact pornography sales. Very few studies about porn consumption ask questions about consumer

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<sup>113</sup> In this study, safer sex messaging included both discussions of condom use and PrEP.



spending (Marshall & Miller, 2019), therefore while studies may find that viewers are open to watching porn with condoms, it is not clear if viewers would be willing to spend money on porn with condoms. This leaves us without sufficient data to confirm or refute industry claims that condom use would significantly impact profits.

In the conversations I had with participants, many believed that visible condoms and other barriers do change how the film is viewed in ways that could potentially diminish viewers' enjoyment and therefore impact sales. Condoms are not a behind-the-scenes form of occupational protection, they become part of the film. As performer/producer Marcus Quillan argued, he would understand if a producer declined to work with a performer who requested a condom because

[condoms are] a thing you see, it's part of the film. It's not like [STI] tests [...] It's a different aesthetic, it's a different message, it's a different everything, if you have a condom or you don't. So I see a place for having them and for not. I wouldn't be that annoyed if a company was like 'this is a no-condom scene, are you ok with that?' and I was like 'no, can we use a condom?'—, like, for me to request it and them still say no, I do get that that's what they want.

Aesthetically speaking, condoms are the only *visible* way to communicate that safer sex practices are at play. A film is unlikely to show all the performers getting tested and sharing their results beforehand, or having a thorough conversation about preferred harm reduction methods. For better or worse, then, condoms offer a quick visual referent for safer sex. This is perhaps appealing to regulators who are concerned about pornography's potential to influence viewers'

safer sex practices<sup>114</sup>. This potential pedagogical component<sup>115</sup> has always been on the periphery of AIDS Healthcare Foundation's motivations for pushing mandatory condoms, and features in both scholarly writing (e.g. Grudzen et al., 2009; Taylor et al., 2007; Silvera et al., 2009) and news media (e.g. Girard, 2012; Schrimshaw & Downing, 2016) on the issue. As AIDS Healthcare Foundation's President, Michael Weinstein, told the Associated Press:

The No. 1 way that young people learn about sex in this day and age is pornography on the Internet<sup>116</sup>. In porn, real people are having real sex. They're transmitting actual diseases, and the audience knows it. It's not like a fictional Hollywood film. (Thompson, 2015, para. 5)

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<sup>114</sup> That said, both the Cal/OSHA webpage regarding health and safety in the adult film industry and the text of Proposition 60 specifically stipulated that there is no obligation for condoms to be visible in the final product. Their application need not be filmed and included in the final cut, and editors may avail of postproduction techniques to digitally remove them (such a process is, however, a tedious frame-by-frame process and prohibitively expensive for most producers). However, Proposition 60 also included a section indicating that any California resident could sue a producer if they watched the final product and *did not see* a condom being used. It is unclear how this contradiction would have unfurled had Proposition 60 passed into law.

<sup>115</sup> There is a sizeable body of literature that investigates the relationship between pornography viewing habits and condom usage (e.g. Braithwaite et al., 2015; Eaton et al., 2012; Luder et al., 2011; Mahapatra & Saggurti, 2014; Martyniuk et al., 2016; Nelson et al., 2014; Peter & Valkenburg, 2011; Schrimshaw et al., 2016; Stein et al., 2012; Wright et al., 2016), however there are flaws in this literature that diminish the value of its findings. Many of these studies failed to ask questions that distinguish between condom use with regular and/or monogamous partners versus condom use with casual and/or non-monogamous partners. Few studies asked about other risk reduction techniques being used, such as non-barrier birth control, STI testing, serosorting (matching sex partners by shared HIV status), or PrEP. These omissions seem to indicate a bias towards condom use as the only legitimate safer sex method. These studies also tend to identify a lack of condom use as a proxy to harm, rather than directly measuring outcomes like STI diagnoses or unintended pregnancies (notable exceptions to some of these concerns are Luder et al., 2011; Mahapatra & Saggurti, 2014, Peter & Valkenburg, 2011; and Stein et al., 2012).

<sup>116</sup> The literature regarding if and how pornography influences viewers has produced inconsistent results, is of poor methodological quality, features limited samples, and is biased against unconventional sexualities and sex practices (Byron et al., 2021; Harkness et al., 2015; Lim et al., 2015; Marshall & Miller, 2019; Rosser et al., 2012; Short et al., 2012). One of the more recent and highly publicized studies about where youth procure information about sex found that for 14-17 year-olds, porn was only considered a helpful source of information by 8.6% of the sample. Parents (31%) and friends (21.6%) were more commonly cited. Porn was, however, the most commonly cited source of helpful information for the 18-24-year-old group (24.5% of the sample), however this says nothing regarding why and how porn is being used as a source of information and to what effect (Rothman et al., 2021).

While some porn productions intentionally integrate safer sex or other educational elements into their films, most porn professionals agree that this is not the responsibility of the industry and should be an entirely optional project. Porn workers are deeply familiar with the concern that viewers may look to porn for sexual health information, but argue that holding porn accountable for this fact is a double standard. Other types of media are not expected to provide safety education, because they are understood to be entertainment (the classic refrain I heard is that the *'Fast & Furious'*<sup>117</sup> movies are not expected to teach people how to drive safely!). The problem is not that porn fails to provide safer sex information, but rather that people look to porn because they do not receive adequate comprehensive sexual health education elsewhere (Robinson et al. 2019; Shapiro & Brown, 2018). Indeed, many sexual education scholars and organizations suggest that media literacy skills, which enable people to critically engage with pornography and other sexual media, should be included in sexual health curriculum precisely so that pornography does not become the default sex information source (Dawson et al., 2020; Rothman et al., 2020; SIECCAN, 2019; UNESCO, 2018). To make the argument that porn entertainment should be responsible for sex education is itself a form a sex exceptionalism.

### 6.3.2 Practical

Porn performance is often compared to the work done by stunt actors: it involves bodies actually engaging, rather than pretending to engage, in acts deemed 'risky' under a controlled setting.

Famed stunt actor Jackie Chan wrote of his work,

There are so many safety and insurance rules to follow [...] I know they want to make sure that I'm safe when I do my stunt, but sometimes they insist that I use protective gear for even simple things, and that is frustrating. (c.f. Esola, 2009, para. 4)

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<sup>117</sup> *Fast & Furious* is a popular action movie franchise centered around illegal street racing.

Performers spoke similarly about condoms as unnecessarily complicating their work. Some raised concerns that condoms can decrease vaginal lubrication—several performers spoke of condoms ‘drying them out’. Others noted how they interfere with maintaining erections.

“Everyone seems to prefer the PASS system to barrier use” says performer/producer *Daisy Sky*, “at least with the people I’ve talked to. Between the chaffing and the difficulty holding an erection; honestly the guys have to do really difficult work.” Performer Dave Dixon agrees:

The guy has the harder job almost, he really does. Let’s say it’s a four hour shoot. Maybe you’re shooting for an hour, an hour and a half of actual shooting. But beforehand you’re still doing maybe at least an hour or two of stills [photographs], right? Where you’re sort of going through the motions, and the guy’s gotta stay hard that whole time. Then throw a condom into it and see how long it’s gonna take to shoot that scene. It’s impossible, it’ll never happen. When I shoot with a condom—which is rare, because I don’t like doing it—but if I have to, I have to take a Cialis or something beforehand. Otherwise I won’t be able to get the job done.

Dave speaks openly about what is sometimes considered one of porn’s dirty secrets: the use of erectile aids by performers with penises. Many performers described the use of drugs such as Viagra, Cialis, Levitra, and Trimex. As Malcolm Lovejoy says of this practice:

It’s not even to criticize it, it’s just to talk about something that’s happening in the industry. This is just a reality. Like most of the porn that people are watching, the guys are on Viagra or something, and we’ll see if there will be a health epidemic for people using that stuff in the future.

Malcolm alludes to the concern that repeated use of erectile aids could have long-term consequences on the health of performers. No research to my knowledge has been done with people who use erectile aids in an occupational context. There is a body of work on the ‘recreational’ use of erectile aids by those without a medical indication—that is, people without a diagnosis of erectile dysfunction. In these studies of the general population, erectile aids were typically used to counteract the effects of other recreational psychoactive substances that impede erection, and to augment sexual performance and pleasure (Chan et al., 2015; Harte & Meston, 2011; Korkeas et al., 2008; Smith & Romanelli, 2005). Condom-related erectile dysfunction was

another popular reason that people used these drugs without a prescription (Bechara et al., 2010; Korkes et al., 2008)<sup>118</sup>. There is a paucity of research on the consequences of such use, but studies suggest possible long-term side effects include cardiovascular problems, infertility, and psychological dependence (Glenn et al., 2007; Harte & Meston, 2012; Smith & Romanelli, 2005). Some of the individual performers I spoke with said they had no problem maintaining erections while wearing condoms if their co-star preferred they use one. Others, as mentioned above, agreed that having to use condoms increases the likelihood they will avail of erectile aids to complete their work. Given the protection offered by routine testing, for some performers the risk of drug side effects may outweigh any safety benefit added by condoms.

Condoms are not the only reason these drugs are employed, as many performers use erectile aids for non-condom shoots as well. But condoms are nevertheless considered an additional obstacle to smooth filming. There are costs associated with filming delays caused by condom failures, removal and reapplication, lubricant application, and taking breaks to develop and maintain erections. Rentals must be extended, cast and crew (hopefully) paid for extra time<sup>119</sup>. For many performers and producers, these delays and complications are part of the rationale for avoiding condom use where possible.

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<sup>118</sup> This being said, one comparative study found that those using erectile aids “were substantially more likely to report erection loss during sex while using a condom, condom slippage during sex, and early removal of condoms” than those not using erectile aids, indicating that these drugs do not guarantee effective condom use by any means (Sanders et al., 2009, p. 1454).

<sup>119</sup> Most often, however, cast and crew are paid a flat rate for a scene regardless of how long it takes to complete, further incentivizing a quick production pace.

### 6.3.3 Health & Safety

The public health officials commenting on or crafting porn policies have routinely argued that porn production should require condoms because it involves “prolonged intercourse that may result in inadequate lubrication and anogenital trauma or bleeding, resulting in exposure to semen, seminal and vaginal/cervical fluids, and blood” (e.g. Steinberg et al., 2012, p. 356). When speaking to performers themselves, however, this prolonged intercourse is precisely why condoms are considered inappropriate. Performers argue that filming with condoms can damage vaginal and anal tissues, causing painful micro-abrasions that actually leave them more vulnerable to infection. This position has been echoed in previous studies and other published commentary (e.g. Cohen, 2013; Schwyzer, 2012; Taormino, 2012; Tibbals, 2012), and many of the performers I spoke with agreed. They described how using condoms caused their vaginas, anuses, or penises to become chaffed, irritated, and “raw” after hours of filming. Frequently changing the condom or using lubricants did not help. People with vaginas described how this led to dryness, yeast infections, bacterial infections, urinary tract infections, and pain. “Every time I’ve done a condom scene I’ve gotten torn”, performer/producer Charlotte Sartre told me, even when the condoms were used on shared sex toys. Performer/producer Alex Coal summarizes the issues here, issues she had recently discovered having just moved from solo camming work to filming penetrative sex with other talent:

Condoms can be abrasive and if you’re shooting, I know that—I’ve just started shooting—you have to take really good care of your bits. You can get little micro tears and stuff anyway, just regular without condoms, and condoms kind of increase the chance that you’re gonna have some like, *internal rug burn*, almost [laughs] that can make you more susceptible to STDs. It can make you sick, like you can get yeast infections and UTIs.

Many also described how condoms were not designed to be used for the athletic, enduring sexual performances of pornography. Production styles can vary dramatically, and interviewees

described shoots requiring anywhere from 30 minutes to 4 to 6 hours of sex performance in a day. Even on the lower end of that spectrum, condoms were described as a concern:

People could be doing things for you know, half an hour, an hour, and that's a lot of friction [laughs], do you know what I mean? So I understand why condoms could be a problem at that point. And also just condom breakage, like they're not really meant to last that long, and so there's a lot of complications with that type of performance.  
[*Nailah*, producer/director]

Another producer, Kate Sinclair, similarly stated that while she only makes a few films a year, and usually works with performers who do not film in high volume, “if you bang out a shoot, 5 shoots in a day and produce [more], [...] yes, condoms can cause irritation and then that irritation makes you more susceptible to infection and all those sorts of things”.

Traditional occupational health and safety practice deems that before PPE is introduced into a workplace, it must be tested for comfort and effectiveness in that context (Reddy et al., 2019). Condoms are tested, but for personal, private usage: manufacturers ensure their integrity and durability using electronic, tensile, water, and airburst testing in accordance with regulatory bodies (FDA, 1998). The component materials are assessed for toxicity and biocompatibility (FDA, 2016). Trials have looked at adverse outcomes of private condom use. The majority seem to focus on slippage and breakage (e.g. Crosby et al., 2012; Hensel et al., 2016; Kalichman et al., 2009; Yarber et al., 2007). Research participants *have* reported mucosal irritation that they associate with condom use—14% of people with vaginas in one study (Crosby et al., 2005)—although condom-related genital irritation is often attributed to things like spermicide or latex allergy (e.g. Bircher et al., 1993; Hamilton, 2008; Marfatia et al., 2016; McCaul, 2020; McCleskey, 2020; Sivamani, n.d.). And while Haddad and colleagues (2012) note that condom effectiveness may be influenced by coital “intensity” (p. 392), there do not appear to be any studies examining the effects of regular, prolonged use of condoms under filming conditions

(extended hours, under hot lights, with frequent stopping and starting). Were condoms held to the same standards as other forms of occupational PPE, they should be tested under the relevant labour conditions to investigate possible mucosal irritation and how it relates to STI susceptibility, bacterial infections, or skin conditions.

The fact that condoms are designed for recreational use has frequently been pointed out by performers talking to mainstream media. As porn performer and sex work activist Lorelei Lee told Salon magazine, “Condoms are not created as industrial protection. [...] The machinations of performative sex are utterly different from that of private sex” (Clark-Flory, 2014, para.

5). Performer and former nurse, Nina Hartley, similarly stated that:

The average length of intercourse for most Americans is 10 minutes. [...] [For porn] it’s 30 to 60 minutes of thrusting. It doesn’t matter how much lube you use, it’s uncomfortable, it’s a friction burn, and it opens up lesions in the genital mucosa. I could handle two to three condom scenes a month. But actors are paid by the scene, and I couldn’t do three in a week. (c.f. Dovey, 2014, para. 41)

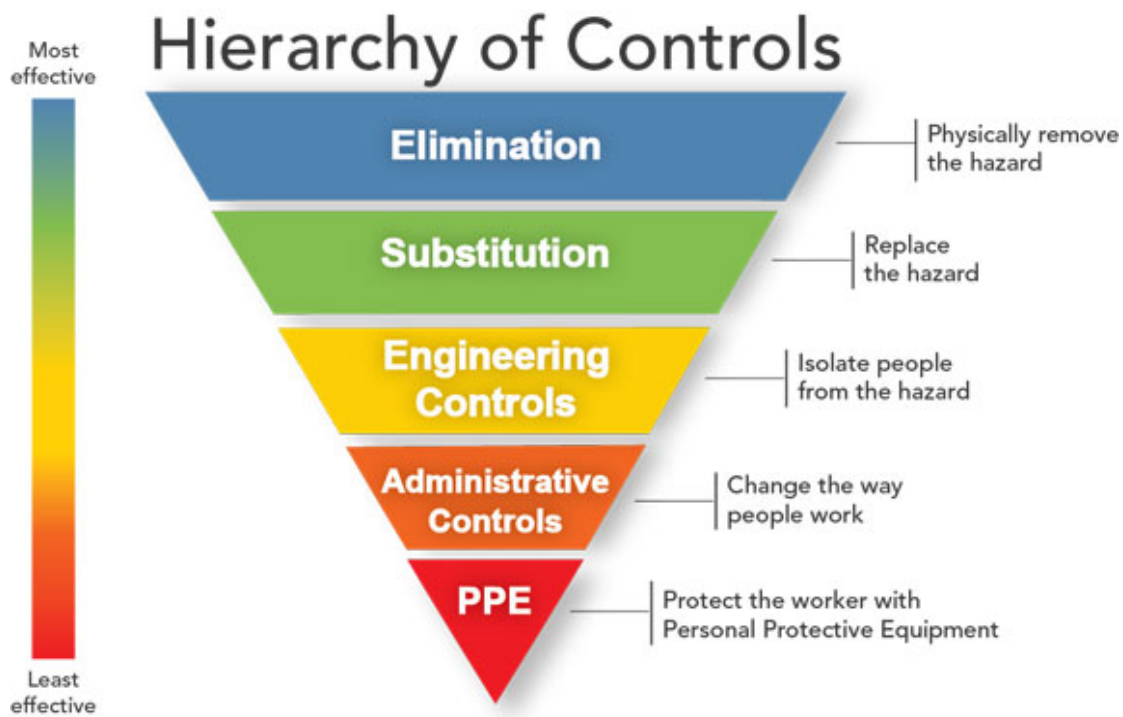
In short, tools developed for recreational sex are not necessarily appropriately designed for sex work performance.

## 6.4 Condoms and the Hierarchy of Controls

There is, in all occupational health contexts, a spectrum of possible controls. Most occupational health and safety scholars argue that PPE is actually the least desirable or effective of OHS protocols (Rosenberg & Levenstein, 2010). This argument is usually directed towards equipment such as hard hats, noise reducing earmuffs, or air-filtering breathing apparatuses, but the same concerns apply to condom use in porn. Effective PPE usage requires individual behavioural



adherence, but workers often resist PPE or wear it incorrectly since it “is frequently uncomfortable, is rarely fully protective, and is sometimes hazardous to the health of workers wearing the equipment for long periods of time” (Rosenberg & Levenstein, 2010, p. 240). It “can also impact human senses and even decrease performance” on the job (Morris & Cannady, 2019, p. 38). Instead, the ‘Hierarchy of Controls’, visualized in the diagram below, suggests that instead of relying on PPE, several other more effective strategies should be implemented first where possible:



**Image 4**

*Diagram Illustrating the Hierarchy of Controls*

Source: Centers for Disease Control and Prevention<sup>120</sup>

<https://www.cdc.gov/niosh/topics/hierarchy/default.html>

<sup>120</sup> Disclaimer: use of this material does not imply that the Centers for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, Health and Human Services, or the United States Government endorse me, my research, or my findings. This material is available on the agency website for no charge. <https://www.cdc.gov/other/agencymaterials.html>

According to the hierarchy, it is better to change the work environment itself, or how the work is completed, than to simply put PPE between the worker and the hazard in question. For example, it is more effective to clear the boat deck of debris so it is safer to walk along, than to require everyone to wear a life jacket in case they fall overboard. The hierarchy of controls is a fundamental and widely accepted staple of occupational health and safety theory. In practice, however, there is an over-reliance on administrative solutions and PPE, as these are usually cheap and easy to implement (Liberati et al., 2018; Morris & Cannady, 2019). This is inappropriate, because “the fundamental goal of a safety professional is to eliminate hazards, not just work around them” (Morris & Cannady, 2019, p. 38). Instead, the most protective control is the elimination of the hazard altogether: the top layer in the control hierarchy

Arguably, this is what the PASS system aspires to do: regulate the film set to eliminate the hazard of infectious bodily fluids. Granted, testing does not guarantee absolute elimination of infectious bodily fluids. While the evidence suggests that testing has effectively eliminated HIV—the prime concern, given its chronic nature—from on-set activities, there is evidence that bacterial STI transmission does occur since infections can be missed (pharyngeal reservoirs, window periods, and sex acts between tests). If we concede this point, though, testing could still be considered an engineering control—an automated intervention upon human action—in that the PASS system requires a producer to check the database to ensure all performers have recently tested negative before their bodily fluids are allowed on set. Engineering is intermediate in the hierarchy; it falls below elimination but still ranks as more effective than PPE.

Why then does Cal/OSHA consider the PASS testing method to be less effective than mandatory condom use? Recall, as noted in Chapter 4, that California’s Labor Code § 142.3 prevents

Cal/OSHA from adopting any health and safety standard deemed less effective than existing standards (California Legislative Information, 2002), and that this was cited as the reason for rejecting the testing and barrier standard proposed by the industry's Free Speech Coalition trade association, Petition 560 (COSHSB 2016c: 3). I suggest there are three reasons that the testing measures proposed by the Free Speech Coalition were automatically deemed less effective than Cal/OSHA's protocols: First, the two organizations conceptualize the hazard differently, and this difference was not adequately considered. Second, the notion of 'effectiveness' did not take into account maintaining the viability and purpose of the porn industry. Third, Cal/OSHA does not seem to have fully appreciated the difference between HIV tests used by public health and that used by PASS. I expand on each of these reasons below.

#### 6.4.1 Different Hazards

Regarding the first point, the distinction between a condom-focused versus a testing-focused protocol reveals different conceptualizations of what, in fact, the hazard is (Boholm, 2015; Boholm & Corvellac, 2011). The condom-centric approach sees *sex itself* as the hazard. Since the sex cannot be eliminated, Cal/OSHA, AIDS Healthcare Foundation, and other academic commentators have variously suggested substitution (simulated sex acts, simulated bodily fluids), administration (mandatory public health education and licensing) or, primarily, PPE (condoms for penetrative sex acts). In contrast, porn professionals advocating for the testing-centric PASS approach see *the presence of HIV or other STIs* as the hazard, and opt for elimination through mandatory testing and barring people with active infections from working. By shifting the locus of the hazard from the act of sex to the presence of certain fluids, the feasible and appropriate controls are also shifted. Katherine Frank (2019) cites James Giles (2006, p. 642) in writing,

“[g]iven risk reduction practices, HIV/STI risk should not be viewed as an inherent consequence of sex with casual, multiple, or concurrent partners, but instead as ‘a consequence of such behavior *in conjunction with* failing to practice safe sex’ with an infected partner” (p. 7, emphasis in original). The unmitigated presence of infection, not lots of sex itself, is where risk lies.

That sex itself is considered the hazard by non-industry professionals speaks to their roots in the healthcare context. In the healthcare setting, you cannot eliminate infectious bodily fluids from the environment because treating patients with those infections is the very function of the occupation (Reddy et al., 2019). Even if patients are being treated for unrelated health issues, it is impractical to test all patients in advance. As such, bodies themselves are the hazard. If personnel need to be in direct physical contact with patients, PPE is the only remaining method available (alongside administrative controls regulating, for example, sharps disposal or post exposure protocols in the event of an accident). But in straight pornography production, the majority of workers are comfortable adhering to a transparent testing system that enables a move up the hierarchy of controls to actually eliminate the hazard—the presence of *infectious* bodily fluids.

As the above-mentioned Petition 560 authored by the Free Speech Coalition stated:

Universal Precautions (all bodily fluids are considered infectious) are intended for medical occupation environments where work practices can prevent intimate contact with bodily fluids. [...] To focus on the need of Universal Precautions in an occupational environment where sexual intimacy is present makes this occupation and work to be performed impossible. (COSHSB, 2016d, p. 2)

#### 6.4.2 Industry Viability

The second reason why the Free Speech Coalition’s proposed protocols were deemed less effective than those already in place has to do with the need to balance hazard control with the viability of the industry in question. It is certainly true that eliminating patients would make healthcare work much safer, but this is an obviously absurd solution. Similarly, if, as Chanel

Preston told me, “our job *is* to have fluid exchange”, eliminating fluid exchange is an absurd solution for porn. It makes the work impossible. Any hazard mitigation plan must “identify ways to improve the workplace by following the hierarchy of controls in the correct sequence to improve the overall safety of a workplace *while sustaining efficient work*” (Morris & Cannady, 2019, pp. 39-40, emphasis added). As public health physician Cornelis A. Rietmeijer (2017) wrote in a commentary on the pointlessness of mandatory condom laws for porn production, “it has proven notoriously difficult to regulate workers’ risk behavior when the public display of these behaviors determines the commercial success of the enterprise” (p. 187). This holds for porn, he writes, much the same way it holds for contact sports. Therefore, the notion of OHS effectiveness must be made flexible. Effectiveness cannot solely be measured by more or less absolute risk, but as part of a risk/benefit analysis that incorporates a third axis of reasonably completing the activities that actually comprise the work.

Indeed, Liberati, Peerally, and Dixon-Woods (2018) advocate for Vincent and Amalberti’s occupational health typology, which “does not imply that [hazard control] interventions can be strong or weak per se. Rather, the effectiveness of a strategy depends on the fit (‘congruence’) between the features of the local contexts and the interventions put in place” (p. 42). Because the Free Speech Coalition’s proposed standards were more tailored to the adult industry, in that they would mitigate risk while still allowing the fluid transmission that is inherent to the job, those standards were deemed less effective than protocols developed to ensure no contact with blood or other potentially infectious materials occurs—as is appropriate for a healthcare setting, but not a porn set.

### 6.4.3 “Pretty boutique”: Distinctions in HIV Testing

The third reason why the Free Speech Coalition’s proposed standards were deemed less effective than Cal/OSHA standards, I suggest, is that the increased precision of the HIV test used by PASS went underappreciated by regulators. The standards proposed by AIDS Healthcare Foundation and Cal/OSHA would have actually mandated the less accurate antigen/antibody (Ag/Ab) test, rather than the RNA test the industry uses. The Ag/Ab test cannot detect a new HIV infection during the crucial period of greatest potential infectivity that occurs from 10 days to 4 weeks after contracting HIV (Hahn et al., 2018). Regulators consistently argued that barriers are needed in addition to testing, because of these window periods. And industry professionals would agree, were they using Ag/Ab testing. I did not encounter anyone working in porn who would be comfortable regularly shooting barrier free while only relying upon the Ag/Ab test. The PASS standard of RNA detection closes the window period of undetectability to 7-14 days (Wilton & Knowles, 2020). One long-time performer and producer, *Eric*, who also had a degree in the health sciences, was disturbed by Cal/OSHA’s recommended tests (which we here call the ELISA test, but is now more often referred to as EIA, for enzyme immunoassay):

*Eric*: Better testing is always the answer. But I believe the testing we’re currently using, they’re constantly updating and going to the better and better testing. And that’s the thing: when Cal/OSHA talked about testing, they were recommending the test that we did away with 10 years ago.

Valerie: Right, the ELISA.

*Eric*: The ELISA test. Like, that is so inaccurate. Why is that even part of the conversation? Your guy’s information is 10 years out of date.

The industry testing protocol sees the added value of RNA testing—both for safety and speed—as indispensable. In fact, one of the more recent production holds, in late March 2020, was called *not* because there were actually any positive test results, but because it was revealed that Talent Health Labs, the latest testing network to have joined the PASS system, was using substandard

testing technology (only using the Ag/Ab test for HIV, and only running confirmatory Treponemal testing for syphilis in the event of a reactive rapid plasma regain test, slowing the process). The hold was called to allow time to retest all the samples. As the Free Speech Coalition's press release stated:

To be clear, we have no reason to believe that there are any active cases of HIV or syphilis in the talent community. However, because they were not tested with the approved protocol, they must be retested and we must handle this event as if it were the same as an actual threat of infection. (FSC, 2020c, paras. 27-28)

The industry needs increased speed and precision compared to the average person accessing sexual health screening. This means that PASS protocol does indeed diverge from the 'best practices' published by public health authorities like the World Health Organization (WHO) or the Centers for Disease Control (CDC), but because their testing is *more* effective, not less. Ian O'Brien of PASS points out how this fact has occasionally perplexed performers who, not necessarily versed in the specifics of diagnostics, assume that guidelines from formal health bodies like the CDC would represent the most effective forms of testing available:

We require more expensive tests and unique tests [...] CDC guidelines don't recommend our test. And we get that a lot, like 'why aren't you using the CDC recommended test?' I'm like, the CDC is talking to your average person who they think is having sex, 2 to 3 partners a year [...] Our RNA test for HIV is pretty boutique.

PASS HIV protocol does diverge from public health standards. But it does so because those standards were developed for lower volume, non-occupational use.

## 6.5 No Glove, No Love? Shifts in Prevention Science

Inconsistent or infrequent condom use does not necessarily mean people are less risk-aware or less risk-averse. It is essential to look at "underlying social factors which may be important in

shaping worker attitudes and practices” towards PPE, rather than just assuming workers require education (Rosenberg & Levenstein, 2010, p. 240). In this case, the social factor shaping performer attitudes and practices towards condoms is a broader and quite deeply informed understanding of the risk and prevention landscape. Other techniques, including frequent testing, behavioural harm reduction (serosorting, strategic positioning, etc.) and biomedical prevention, have enabled a shift away from condom-focused strategies. At both the level of community practice as well as public health recommendations and discourse, condoms are no longer compulsory (Girard et al., 2019; Klassen et al., 2019; Otis et al., 2016). “Safe sex doesn’t just mean that there’s a barrier there”, performer/producer King Noire tells me. Rather, it can also “mean knowing your status”. *Eric* [performer/producer] notes the out-of-date nature of condom-thumping:

[Weinstein] is of that age group where condoms are the solution for everything. Which at the time [that he came of age,] and for the mainstream population [...] absolutely. Condoms 100%. But when you’re dealing with people in this industry, where you’re having sex every day [...] this is sex in volume. You know, there has to be a testing protocol.

Jeffrey Douglas, lawyer and Board Chair of the Free Speech Coalition, points out that instead of insisting upon condoms as a universal standard, the industry has always proposed a variety of harm reduction techniques, what he calls “layered alternatives”, that can evolve in relation to prevention and treatment technologies:

What FSC proposed to Cal/OSHA, where there are layered ways, and alternatives for addressing the health risks of performance, that makes sense. That empowers performers as well as production companies to have a variety of options. It also allows for changes in knowledge and technology, right? So HIV, no longer being a death sentence, that is not yet reflected in Cal/OSHA regulations or attitude.

Karen Tynan, another lawyer involved with the Free Speech Coalition and the Cal/OSHA hearings, agreed:



Karen: AHF [AIDS Healthcare Foundation] was pushing the narrative of a health crisis within the industry—HIV—and condoms were needed as a solution. And that was the *only* solution that AHF was interested in pushing with Cal/OSHA [...] I always felt that there should be a regulation to cover workplace safety, but it should be something that was worded enough that created the structure for safety but not specific tools, right? That didn't require a condom for this or a glove for that. [...] Then the workers would have, as we said at the time, a toolbox of say: condoms, testing, maybe gloves, this or that, you know? Showering after a scene, urinating after a scene, all these things that people can do for their health that weren't really contemplated and that the other side never wanted to hear about.

Valerie: So more of a generalized harm reduction toolkit that each pair of workers or group of workers would decide in a case-by-case way, based on their personal preference?

Karen: Yes! What worked for the scene, what worked for their body.

The need to look beyond condoms is not unique to the porn industry. The failure of inflexible prevention protocols and the importance of diversifying safer sex messaging beyond 'use a condom' has been underscored since the earliest days of HIV (e.g. Berkowitz & Callen, 1983; Patton, 1991; Watney, 1999). These authors understood that a one-size-fits-all approach to safer sex is always bound to fail, even when the available options were relatively limited compared to the current HIV landscape. In the decades since the initial HIV epidemic, highly effective biomedical prevention strategies have been developed. The anti-retroviral medication used to control HIV infection is now so effective that it can suppress one's viral load sufficiently to prevent onward transmission (Eisinger et al., 2019). This is referred to as TasP, or treatment as prevention. The principle is also known as U=U, for undetectable = untransmittable. PEP (post-exposure prophylaxis) and PrEP (pre-exposure prophylaxis) are medications that HIV-negative individuals can take to prevent infection, either following a suspected exposure, or preventatively, preceding a possible exposure (Fonner et al., 2016; McCormack et al., 2016; Molina et al., 2015). In particular, gay, queer, and other communities of men who have sex with men have long developed diverse harm reduction practices using these and other prevention modalities.

Research on barrier usage often addresses how negative attitudes about condoms discourage people from using them (e.g. Ellis et al., 2018; Goldenberg et al., 2015; McCall et al., 2016; Randolph et al., 2007). However, a positively skewed attitude *in favour* of condoms can also eclipse alternative prevention options. It does a disservice to prevention efforts to focus too narrowly on condoms. The Free Speech Coalition argued as much in the opening text of their proposed regulatory protocol, Petition 560, where they quoted then-San Francisco county supervisor<sup>121</sup>, Scott Weiner, as saying:

“while condoms continue to be an important prevention tool and one we continue to embrace in San Francisco, they are not the only such tool, and it is inconsistent with modern prevention approaches to suggest that they are. Robust testing and pre-exposure prophylaxis (PrEP) are also key tools. ... For more than 30 years, our dominant approach to HIV prevention was to urge people to use condoms. While condoms played a crucial role in reducing HIV infections, even after 30 years 85% of gay men did not consistently use condoms, and new HIV infections persisted. That is precisely why we have broadened our HIV prevention approach to include testing, PrEP, and quickly connecting newly infected individuals to antiretroviral therapy in order to suppress their viral loads.” Mr. Wiener urges a science-based approach to the adult film regulations which is also the basis of this petition. (COSHSB, 2016d, p.1)

San Francisco was deeply impacted by the initial HIV crisis (Disman, 2003). Its government has long grappled with how best to design public health prevention campaigns. By citing this San Francisco supervisor, the Free Speech Coalition is gesturing to the fact that qualified government officials also support a broader approach to HIV prevention; it is not just the porn industry that rejects a condom-based strategy. Instead of mandating condoms, the Free Speech Coalition’s petition proposed that when barriers are not used, certain testing procedures must be implemented; and when testing is not implemented, barriers must be used. But not everyone is prepared to do away with barrier-based safer sex, despite the evidence backing biomedical prevention. For one, interventions like PrEP are not equally accessible across geographic, racial,

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<sup>121</sup> San Francisco is a consolidated city-county, meaning the council that Weiner sat on is simultaneously the county Board of Supervisors and the city council.

and economic divides (Huebenthal, 2017), and the “boutique” RNA HIV testing upon which PASS depends is not widely available on-demand in most countries. Where it is available, it comes at a high cost (the issue of access in public versus private healthcare systems is taken up more in Chapters 8 and 10). Even where easily accessible and affordable, PrEP does nothing to protect against other STIs (or pregnancy, where applicable). Additionally, Girard and colleagues (2019) point out that “new prevention technologies [can] generate skepticism, fear, or rejection” (p. 494) among some people<sup>122</sup>, particularly those whose social lives were deeply defined by the promotion and use of an older prevention method. Girard and colleagues call this type of socialization “biosociality”: the development of social norms that are shaped by a common health concern. In short, if your collective sexual culture was influenced by the condom-imperative, it can be hard to imagine any other version of sexual responsibility. For those who lived through the panic and trauma of HIV before effective treatments were available, “developing their sexuality in an environment where condoms were a central prevention tool for several decades has conditioned the acceptability of alternative risk reduction techniques” (p. 498). Alternatively:

a diversification of the prevention strategies for sexual STI transmission is good news for individuals with reservations against specific approaches. In particular, this applies to individuals with risky sexual behavior who deny traditional condom use but are nevertheless risk-aware, open-minded and ready to accept alternative preventative options. (Frickmann, 2019, p. 1467)

The mainstream, straight porn industry, some have argued, is a prime example of how effective this diverse array of prevention strategies can be. Katherine Frank (2019) encourages sexual health researchers to consider “[w]hy and how STI rates are controlled in some highly sexual

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<sup>122</sup> Notably, Michael Weinstein and Adam Cohen of the AIDS Healthcare Foundation—the organization that has repeatedly pushed for mandatory condoms in porn production—have published a commentary in the journal *AIDS* regarding their skepticism that PrEP is as broadly useful a preventative technology as the CDC suggests (Weinstein et al., 2017).

enclaves, rather than spiraling out of control as in theoretical projections” (p. 22). She suggests that

The U.S. adult film industry, for example, has managed STIs among MF [male-female, i.e. ‘straight’] performers using regular testing, treatment, and informing sexual partners—*not* by promoting behavioral change; this type of model may be more commonplace in the future if PrEP becomes widespread among MSM [men who have sex with men]. (p. 22, emphasis in original)

Public health physician Cornelis A. Rietmeijer (2017) similarly argues that trends in HIV and STI prevention for other ‘high risk’ groups have moved away from condoms and towards testing and treatment. As such, to impose mandatory condoms on porn production would represent a double standard, and one that goes against the current best evidence regarding effective prevention.

It is a foundation of public health practice that policy should be evidence-informed, and continually reevaluated in light of changing evidence (Brownson, Chiqui, et al., 2009; Fielding & Briss, 2006). Evidence-based policy is more epistemically just because it takes account of outcomes, reflecting “the importance of revisiting decisions and policies in the light of the experience of their consequences”, the ideal that “our imagination has to be constantly interrogated by the actual experiences of those affected by the practices and institutions we set up”, and the need to correct policies through “collective responsiveness to the experiences and imaginations of all members of society” (Medina, 2013, p.7). Indeed, when done in earnest, evidence-based policy includes collaborating with the affected communities to define concerns, develop initiatives, and evaluate outcomes *together* (Brownson, Fielding, et al., 2009). “Yet, despite the rise in evidence rhetoric”, writes Clare Bambra (2013, p. 486), political interests still drive policy-making. The condom-centric approach adopted by Cal/OSHA, the AIDS Healthcare Foundation, and related commentators and scholars, reveals a desire to maintain authority and not

acquiesce to porn industry needs, lest this be seen as a concession or collaboration. It also reveals a failure to collaborate with the affected community and a failure to entertain the effectiveness of alternative harm reduction practices. This rigid and paternalist approach indicates a lack of trust in the adult film industry's ability to understand its own needs, regulate itself appropriately, and take responsibility for itself. As a response, the industry has tried to secure its status as epistemically credible specifically by promoting itself as a *responsible* community. The next chapters will explore both the benefits and pitfalls of this strategy.

## 6.6 Conclusion

As porn sociologist Chauntelle Tibbals (2012) writes, “[t]he condom debate is all too clear an indicator of the disconnect existing between the adult industry producers and performers, regulators, and the wider social world” (p. 251). Regulators continue to insist on the necessity of condoms, downplaying performers’ financial, aesthetic, practical, and health reasons for resisting them. A rigid OHS criteria that sees sex itself as the hazard, and *any* exchange of fluids as problematic, dismisses the unique nature of porn production and fails to consider workers’ ability to actually complete their work. The emphasis on PPE ignores the growing body of evidence in support of alternative, diverse harm reduction modalities. By applying an incompatible standard borrowed from the healthcare context, Cal/OSHA judged the industry-generated Petition 560 to be less effective than existing protocols, which automatically killed it. The stipulations of § 142.3 of California’s Labor Code effectively prevents Cal/OSHA from ever adopting a non-condom-centric health and safety standard tailored to porn, because their definition of ‘effectiveness’—

steeped as it is in the needs of healthcare workers—obliterates any of porn’s specific needs, namely, the desire for fluid transmission.

In the next chapter I illustrate the political, practical, and rhetorical devices that the mainstream, straight, U.S.-based porn industry has mobilized in defense of its self-regulatory practices. I call the approach taken the *Responsibility Defense*. As I will show, this defense has proven relatively effective at convincing regulators to cease further policy-making and enforcement attempts, but at the cost of privileging and normalizing a specific form of sexual health management that can be quite inaccessible and damaging to other porn worker communities.

## CHAPTER 7: THE RESPONSIBILITY DEFENSE

### 7.1 Introduction

As the previous chapters have alluded, PASS serves a dual function: it addresses the prevention of STIs and HIV transmission on set, but it also serves an important strategic function of keeping external regulatory forces at bay. While the mandatory condom law debates spanned approximately 2003 to 2020, many of the industry workers I spoke with felt that now, regulators have more or less abandoned the project of enforcing condoms in porn production. Most credited PASS as a persuasive part of this success, as it helped convince Cal/OSHA that the industry was capable of an acceptable degree of self-regulation. This is partly owing to the effectiveness of PASS on a technical level, but also to the industry's rhetorical framing of PASS. This chapter will outline what I call *the Responsibility Defense*, the discursive strategies used by the mainstream U.S. straight porn industry to describe and justify its self-regulatory practices.

The Responsibility Defense is composed of three interlocking parts: 1) presenting the adult industry as a unified and cohesive entity, with interests shared between performers and producers; 2) presenting porn performers and porn production as safer sex role models; and 3) presenting rigorous and standardized health protocols as a mark of legitimacy, respectability, and professionalism. I'm less concerned here with whether or not these claims are 'true', but rather in how this rhetorical strategy emerged and of what it is composed.

The Responsibility Defense has proven relatively effective at halting further attempts at condom regulation. But—as I will argue in the rest of this dissertation—it does so at the cost of normalizing and privileging a narrow form of sexual health management that can be quite damaging, inaccessible, or inapplicable to some porn worker communities. Attacked on the grounds of being fundamentally unsafe and irresponsible, the industry has been pressured into defending itself along those same lines. PASS has been an important piece of arsenal in that defense. But by framing PASS as the definitive professional health management system, anyone operating outside of that system fails to benefit from the specific type of credibility afforded to PASS-adherent productions.

First, I will describe how campaigns against mandatory condom laws framed the industry as a unified and cohesive entity. Communications around these campaigns routinely pointed out that contrary to most labour disputes, performers and producers shared the same regulatory goals. I will then discuss how this notion of a unified front is reinforced by a hesitancy in the industry to publicize internal disagreements because of antagonistic forces outside the industry. This impedes the industry's ability to actually correct its own injustices. Next, I offer three ways that performers using PASS are presented as safer sex role models: as people who take extra care of their bodies and sexual health since these are central to their livelihood, as sex educators who promote sexual health to fans via social media, and as adhering to a protocol that non-performers should aspire to emulate. Finally, I discuss how adherence to PASS is offered as proof of professionalism on three levels: as marking the individual performers as responsible and prepared, as marking a producer or studio as legitimate and upstanding, and as defining who should get to 'speak for' the industry.



## 7.2 Unified and Cohesive

Typically, labour disputes pitch workers and management in opposition to one another. As was touched on in Chapter 4, regulators consistently imagined porn workers, particularly women, as exploited by producers, and imagined themselves as coming to their rescue. The industry response was to bring dozens of performer witnesses to offer testimony at hearings and campaigning, and to remind regulators that in the present-day porn landscape, performers and producers are often one and the same. These efforts are part of a strategy to present the industry as a unified front with a single voice, sharing the same concerns and solutions from top to bottom.

### 7.2.1 Campaign Communications

Evocation of this unified front was most explicitly done through campaign materials and press releases regarding mandatory condom bills. These texts frequently make special note of how management and talent were ‘on the same page’. Take for example a Free Speech Coalition press release regarding AB 640, one of the bills that AIDS Healthcare Foundation proposed in the fall of 2013, where then-CEO Diane Duke was quoted as saying “[t]hree performers did test positive for HIV in the past month, but none of them contracted it on an adult set. Politicians tried to use concern about HIV to push through a mandate opposed *by both performers and producers*” (FSC, 2013a, para. 2, emphasis added). Similarly, the suggested text for a letter-writing campaign against AB 332 and Measure B read:

[PASS] was developed to effectively manage risk and has been successful at nearly eliminating “outbreaks” of STDs. There has not been an on-set incidence of HIV infection since 2004. *Both producers and performers* are voluntarily compliant with the industry-appropriate standards that are currently observed, but that would not be the case if

condom (and other barrier protection) use were mandated. (FSC, 2013b, para. 2, emphasis added)

In my interviews, particularly those with lawyers who had been present at the hearings, this narrative also emerged. They mentioned how during the hearings about the condom regulation Petition 513, Cal/OSHA was also hearing testimony from hotel housekeepers. The housekeepers were fighting against management, in favour of the proposed regulation. This, as lawyer *Felicia* pointed out, “is usually what those boards are used to seeing [workers fighting for regulations, against management]. Like ‘oh great, they’re doing something good for the workers’”. Whereas, when it came to the porn hearings, “it was totally reversed. Workers and industry producers were united in one single front, like ‘this is bad for everybody’”. As lawyer Karen Tynan echoed, even though workers and management were united in the porn hearings, this did not garner the type of respect such a unique scenario usually would:

Karen: Typically, when you have labour and management working together on a regulation or on an issue, it gets a lot of respect from the state. From politicians, everything. Our case is singular in how that kind of respect was refused.

Valerie: ‘Cause it’s usually the two are fighting with each other?

Karen: Right, so when they’re together it’s like ‘oh my god, you guys are so right, tell us what you want to do?’ But we didn’t get that.

Despite the rarity of worker/management alignment, this did not garner any of the respect or deference that it might have coming from a different industry. Nevertheless, industry workers and advocates continually pushed the narrative that the adult industry was exceptionally united, that performers and producers agreed on the necessary regulations and were fighting hand in hand.

Calling this unified front a ‘tactic’ or ‘strategy’ is not to insinuate that this unity is entirely fabricated. Those I spoke with did express a general consensus in their opposition to mandatory condoms and in their appreciation of the PASS system. As *Adela* expressed, the advocacy work fighting Proposition 60 was “the most unified I’ve seen our industry in my time in it [...] That

was the strongest we've ever been in my recollection. Working together and unified." But, as Heather Berg (2021) writes of condom regulation rhetoric,

The "we" here is slippery, and while workers and managers have come together in apparent consensus when resisting proposed regulation, it is not at all clear that that same solidarity would apply if performers advocated for policies that would redistribute power from management to workers. (p. 242)

There *are* internal tensions and conflicting interests in porn, as there are in every industry. But, as I argue in the next section, the ever-present threat of external antagonism encourages the industry to maintain an appearance of cohesion. Outsiders' quickness to condemn the adult industry can have a chilling effect on performers' likelihood of speaking out in opposition to company policies. "Sex work stigma", writes Berg "... means that managers and their organizations are often the only allies workers have" (p. 248). This contributes—rightly or wrongly—to the appearance of cohesion that was so important to the industry's political effectiveness when facing condom regulations.

### 7.2.2 Managing Public Perception

The performers I spoke with did sometimes express that they or others might be hesitant to speak up about problematic industry policies, as doing so could see performers labelled as 'difficult' or 'trouble makers', and impede their ability to get work. Calling out abusive producers or talent, fighting racist hiring and payment practices, or criticizing unsafe working conditions can result in being hired less often or even being blacklisted by certain companies. Some performers felt they needed to establish their career paths before they could risk such consequences.

However, this landscape has shifted in recent years with the evolution of distribution channels. More and more, performers are less dependent on big name studios to earn a living. Increasingly,

studio shoots are used primarily as marketing for other more lucrative direct-to-consumer revenue streams (see also Berg, 2016, 2021; Pezzutto, 2019; Schieber, 2018a). *Daisy Sky* explained that:

Models are becoming incredibly vocal. [...] [One reason] people are advocating for themselves more is that porn's becoming decentralized. The power used to be in the hands of just a few studios and production companies and agents, but more and more, with how cheap it is to get a camera, with all of the clip sites, with products where you can charge for your social media, models are not beholden to the companies for their sole source of income. A lot of them have independent income and passive income and are feeling more liberated to speak out because they don't have to shut up for their paycheck<sup>123</sup>.

The COVID-19 pandemic has further entrenched this shift. While some studios are filming in person or through remote directing and filming techniques, performers are increasingly opting (or forced) to work from their homes: using webcam, clips stores, and monetized social media to sell direct-to-consumers. While they still must split their revenues with the media platforms, they can cut out the cost and influence of agents, directors, producers, and crew.

Performers, therefore, are increasingly empowered to criticize and reject work from studios and directors with unacceptable business practices. While performers may be freed of the need to appease producers, they still must contend with the public and policy makers. More often than not, performers were hesitant to speak out against problematic industry issues because of how it would negatively impact *public* perception of the industry. Anti-porn commentators routinely argue that performers won't speak out because they fear backlash, and so their testimony is not to

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<sup>123</sup> Notably, though, retired performer *Olivier* told me how he was critical of the way such platforms are lauded as empowering: “Le site web faites de l’argent sur le dos des petits producteurs et effectivement le site web n’a aucune prise de risque [...] À mon avis, ce n’est pas un système moderne. C’est au contraire un système qui est devenu beaucoup plus difficile qu’avant”. // “The website makes its money off the backs of small producers, without taking on any of the risk [...] That is not a novel system, in my opinion. On the contrary, that’s a system that’s even more problematic than what we had before” (translation by author).

be trusted unless it embraces a victim narrative (Berg, 2021). In both my and Berg's studies, however, many performers openly criticized their workplaces and bosses. When those I spoke with were hesitant, it was more often because they wished to avoid the wrath of anti-porn feminists and other critics—not bosses. As Natalie West (2021) writes,

the sex workers' rights movement has sought to legitimize our work to the wider public, defend our choices, and fight for our right to make them [...] This fight makes it difficult to make a complaint, to allow the non-sex working public to see the problems within the sex industries, especially when that allowance may confirm what they thought they knew, when what they think they know comes from a culture that stigmatizes and criminalizes sex work. (p. 10)

Performers are aware of and concerned with how their criticisms of the industry will be exploited by antagonistic outsiders. While people in other lines of work have the luxury to be critical of the problematic aspects of their industries, performers who vocalize criticisms of the porn industry are reduced to helpless victims and used to justify abolition of the industry as the only ethical response. There is awareness among porn workers specifically, and sex workers more broadly, that speaking out about problems in our work might contribute to the existing hostility and stigma, that it might serve to substantiate what outside critics think about us. We know that external forces like government, law enforcement, special interest groups, media, and the general public, will latch onto any controversy to push the narrative that we need disciplinary governance and rescuing. We are all too aware that anti-porn 'saviours' only ever offer 'solutions' that are worse than the existing problems.

In a powerful essay entitled *Once You Have Made Pornography*, performer and activist Lorelei Lee (2017) writes:

[Y]ou will be cautious about who you speak to. When the journalists and the documentary filmmakers try to talk to you, you will ask them first what their angle is. You will screen them the way you once learned to screen clients and industry producers and photographers, and you will warn your friends. And when the journalists and celebrity

documentary filmmakers accuse you of hiding, when they accuse you of being evasive, when they say *the industry is defensive*, when they say that you *thrive on secrecy*, and claim that they are uncovering some kind of truth, you will know that they are wrong about almost everything except for this: Yes, you are defensive. You are defensive because you know what the stakes are. You are defensive because you are tired of seeing them hurt the people you love. You are defensive because you've heard their narratives one thousand times and not once have you heard a mainstream narrative that is worthy of the powerful and complex people you know your coworkers to be. (para. 22)

In our interview, Chanel Preston (performer/producer) expressed a similar sentiment:

Performers don't really have the freedom to complain about having a bad day. Because if we do, that's what's focused on. It's frustrating because we sort of have to put this face on, like 'the industry's great! It's all consensual, we do all these things, it's amazing'. We just don't have the freedom to say, 'I'm happy being in this industry but there are days that are not good'.

This sentiment wasn't restricted to performers. Producer Kate Sinclair runs a small queer studio out of Canada. Operating outside of mainstream porn, then, she has slightly more freedom to be critical of mainstream industry practices. Still, she said, fear of how her criticisms might be interpreted "is definitely something I feel when I'm criticizing anything. Like, who is this gonna hurt and how?" Similarly, when I asked marketing manager Jesse Garza why workers might be afraid to come forward with complaints about the industry, he stated cleanly and simply:

"Headlines". *Adela* suggests that this fear is rooted in "public stigmatization of the adult industry." She continues:

I can't complain about my job. If I complain about my job, it means that I'm a victim. I can't just have a shitty day at work. I can't disagree with the people who give me work. I can't do that because there are organizations that exist to rescue me from it at the first sign of any concern.

Here *Adela* ends with reference to the many 'anti-trafficking' or other anti-porn and sex work abolitionist groups that, ironically, seize upon examples of sex worker resistance as signs of our helplessness. Anti-porn and anti-sex work efforts (branded as 'anti-trafficking' campaigns) increasingly push abolitionism by accusing online platforms of facilitating sex trafficking. These modern 'anti-trafficking' campaigns are "focused on shuttering sites and stamping out

commercial sex online” (Musta et al., 2021, p. 4) by targeting websites such as Craigslist, Rentboy, and Backpage, which sex workers used to find jobs and vet potential clients. Closure of these sites “hurts sex workers by taking away the ability to screen clients, it forces people back to the streets and into more dangerous situations, it heightens risk of arrest, and it contributes to sex workers’ vulnerability to third-party market facilitators (e.g., traffickers or pimps)” (Musta et al., 2021, p. 2). The anti-trafficking movement also targets payment processors and pornography platforms that allow performers to sell their content direct-to-consumers. Under such sweeping laws, a wide variety of websites and applications are compelled to “proactively police their networks and scrub content linked (or perceived to be linked) to commercial sex”, in an “attempt to avoid liability for exploitation presumed to occur on their platforms” (Musto et al., 2021, p. 4). While doing nothing to help trafficking victims, these laws instead lead to innumerable harms for porn performers and other sex workers. They encourage social media platforms to target and penalize sex workers by suspending, closing, or ‘shadowbanning’<sup>124</sup> their accounts (making a user’s posts and profile invisible or harder to find in searches) (Blunt et al., 2020; Dickson, 2020; Ellis, 2018; Taylor, 2019). These laws also encourage banks, payment processors, and other financial platforms (e.g. Visa, PayPal, Square) to discriminate against sex workers, resulting in the denial and closure of accounts and the seizure of funds (Blue, 2015; Cole, 2020; French, 2019). Porn performers and other sex workers have even reported biased treatment from hotels and rental or ride share services such as Über and AirBnB (Survivors Against Sesta, n.d.). Rather

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<sup>124</sup> Hacking//Hustling, a sex worker and technology justice collective, defines shadowbanning in more detail: “Typically, when a user is looking for content or profiles on a platform it is easily found through searches or suggestions. Shadowbanning takes a few forms that makes visibility and discovery more difficult: content not showing up on the discover tab when you are searching for a profile, content not showing up in relevant hashtag pages, and profiles not showing up when searched for in the search bar, unless using a full screen name spelled correctly and clicking enter” (Blunt et al. 2020, p. 78).

than supporting workers in their resistance, then, groups focused on ‘rescue’ wind up dismantling the very technologies that help workers stay autonomous and safe.

### 7.2.3 Silence Breeds Status Quo

In short, the attitudes of outsiders make it unsafe for performers and other porn workers to vocalize criticisms of the industry. This leads to relative silence, which supports the illusion that there is harmony and cohesion in the industry. This cohesion is important for maintaining any kind of political influence in the face of those external forces at the root of this silence. In a cyclical nature, then, internal criticisms of the industry are minimized to both avoid the wrath of, and improve resistance to, antagonistic opponents and regulatory bodies.

The unfortunate result is that this fosters an environment of silence which ultimately limits the industry’s ability to address its own internal issues regarding racism, coercive behaviour, or health and safety. The epistemic injustice that discredits and silences porn workers’ knowledge limits our ability to meaningfully contribute to mainstream conversations about our own work. As a result, there is a lack of shared hermeneutical resources between the sex work community and the broader public. This removes an important platform for change, because without that shared resource of understanding, the public can only ever respond to porn industry concerns with reactive outrage. This demonstrates how critics can inadvertently exacerbate the very exploitation they think they are rooting out. Without the opportunity to be appropriately and *fairly* held to account by the public, the industry is able to uphold problematic practices longer. If acknowledging problems publically only manages to invite the scrutiny of external forces whose proposed solutions are even more harmful, workers will put up with the status quo as the lesser of



two evils. For example, as we discussed some of the STIs that PASS is less effective at eliminating, performer/producer Michael Vegas suggested, “there’s this fear, it feels like, of admitting that yes, it’s not a perfect system and you still can get this [STI] and there are problems.” He gave a specific example concerning Herpes Simplex Virus [HSV]:

You can get herpes in any mucous membrane and nobody talks about that. And it can make you go blind potentially, but nobody talks about that. I am ok with all of these risks [...] But when it is pretended they don’t exist in order to keep [industry self-regulation] afloat and keep that information hidden from OSHA or whoever may be trying to shut us down, I’m like alright: I get that you’re afraid of them using it as fodder, and trying to make your life harder and make the adult performer’s life harder, but this is the problem. Nobody’s really being honest about all of it.

Chanel Preston (performer/producer) argues that because of porn’s marginalized and stigmatized status, this double bind is specific to the industry:

We don’t have the freedom to have a bad day without it coming across like we’re all coerced and exploited. Which makes it more of a dangerous environment if we can’t talk about things that bother us, if we can’t talk about unsafe conditions. If we don’t have the freedom to talk about it, then those issues will never really come to light. And I think that’s a unique issue that the industry faces. We also don’t want to demonize the entire industry.

There are absolutely legitimate concerns around the safety and exploitation of workers in the porn industry (as with all work sectors). But due to social stigma and testimonial injustice, porn professionals must spend so much time managing public opinion that opportunities to address these concerns are stymied. Until the public and public institutions are willing to trust sex workers’ narratives about their own work, we will not grow sufficient shared hermeneutical resources for such a meaningful conversation about porn work to take place.

### 7.3 Safer Sex Role Models

In a commentary, sex worker/activist Cyd Nova (2016) alludes to how he, and all sex workers, must engage in some form of what I have been calling the Responsibility Defense:

A few years after my entrance into the sex industry in the early 2000s I learned the line ‘sex workers know how to take care of their health better than everyone else—the idea that sex workers spread disease is a media-based *myth*.’ [...] Myself and others clung to this, our motto of legitimacy. We were emissaries of safer sex info... (p. 196, emphasis in original)

Nova continues, pointing out how public health laws concerning sex work “reinforce a story that we [sex workers] are dangerous, need to be managed, medicated, legislated, and our bodies rendered safe to the so-called general public” (p. 200). The result is that “part of our duty [is] to aspire to the status of *responsible, well-behaved* whores” (p. 197, emphasis in original).

The Responsibility Defense is enacted through industry-wide rhetoric in the form of media and campaigning, but also by individual performers. Performers, like Nova, remind critics and fans alike that not only is the industry *not* irresponsible, but it sets an enviable standard for sexual health that is *far superior* to the non-porn (‘civilian’ or ‘civvie’) world.

Given the degree of sexual health advocacy taking place within the adult industry, performers resent the implication that they are a ‘dirty’ population. On the contrary, those I spoke with argued that adult performers are an exceptionally health-conscience and health-cautious group, both sexually and otherwise.

### 7.3.1 “The most tested population on the planet”

“*We’re the most tested population on the planet*”.

- Adela, performer/producer

A recurrent theme in my interviews was a comparison between the sexual irresponsibility of civilians with the fastidiousness of performers. As stated in the last chapter, performers do not forgo condoms because they lack risk awareness, as many assume. Rather, most performers described themselves and fellow performers as exceptionally risk aware and risk averse.

“Established performers *do* care about their health”, performer/producer Chanel Preston emphasized to me.

And I think that that’s something a lot of people don’t realize is that a lot of performers are almost hyper aware of their health because every 2 weeks we have to get tested here in L.A., and so if you’re every 2 weeks having to look at an STD panel, you could probably imagine how wary you would be of that.

Some suggested that they had become more health-conscious as a result of their work, such as (now retired) performer/producer Ash Hollywood, who told me,

I’ve had many people over the years ask me, ‘oh, are you dirty because you’re a pornstar?’ I’m like, my *mind* is dirty, my body is more healthy than it’s ever been. In a lot of ways, I’ve become a slight hypochondriac.

Several interviewees pointed out the very practical reason that performers are so attentive to their sexual health. Performer/producer Mercy West explained that “if you’re working in mainstream you give a shit about your sexual health” because “your body is how you’re making money”.

Porn-adjacent professionals that I spoke to, such as occupational health lawyer Karen Tynan, also evoked this image of making money with the body:

Yeah, [your body is] your instrument. I mean that’s the way I think performers have always talked about how they take care of their body, how they manage their body.

Testing, nutrition, all of these things. And so, I do think of a performer, that their instrument is their body and they take care of it. And that they know their body best, and that's been clear to me from the beginning.

Performer/producer Delirious Hunter expanded on the various costs that motivate her to take sexual health management very seriously:

It's not only my life and my health but my career is on the line [...] [Even a curable STI would] put me out of work for a couple of weeks to a couple of months for whatever virus, bacteria, whatever, to clear up. And unfortunately for me, if that is one of the months that I had a lot of work planned and I had already bought a plane ticket, I'm fucked. I am so screwed because I've now lost out on all those shoots [and] I've lost out on the plane ticket.

Part of this increased attentiveness to one's sexual health includes, for many performers, a tendency to restrict recreational sex to other performers, as these were the only people considered trustworthy in regards to sexual health:

The reality is most performers I know care about their health more than other people, and they're more aware of it, and a lot of them don't even have intercourse with people outside of the industry just out of fear that they're the ones that are gonna give them an STD.

[Chanel Preston, performer/producer]

The stereotype [is] that porn people are diseased and, you know, that there's a higher risk of getting sick from a porn person, but honestly that's bullshit. The regular population is way more likely to give you something, because people don't get tested like we do.

[Alex Coal, performer/producer]

In general, porn stars are pretty safe compared to most people generally in this world. I find porn stars are the cleanest people in general, for like disease-wise, because we're more tested than most people. [...] Sometimes you cruise for guys on applications and the minute they know you're a porn star they block you or they think that you're just dirty and you're a porn star and it's just a nasty business, but dude, we're actually safer than you.

[Thierry Lagache, performer/producer]

Performers in both straight and gay production also expressed this sentiment on their Twitter feeds, some in response to antagonistic critics, others in unprovoked statements:



**Image 5**  
*Tweet, Dahlia Sky*  
Source: Twitter.com



**Image 6**  
*Tweet, Bruce Beckham*  
(BB = bare back i.e. without condoms)  
Source: Twitter.com

The use of Twitter leads into the next way in which performers engage in narratives of responsibility: acting as sex educators to the public.

### 7.3.2 Sex Educators

Some performers discussed how they use their social media platforms and sizeable followings to advocate for sexual health awareness. For example, performer/producer King Noire told me how he posts to Twitter when he gets tested, seeing this as an opportunity to educate his fan base:

When I go to Talent Testing, I post [on Twitter] ‘Got tested today. Know your status. When’s the last time you got tested?’ And I see a lot of other people in the industry do that as well. [...] To me that’s promoting safe sex.

Performers frequently tweet photos of themselves at testing centres, or images of their band-aided arm post-blood draw, or (albeit less so now, due to concerns over test forgeries) screen caps of their testing dashboard clearing them for work. Such posts simultaneously serve as sexual health promotion as well as an opportunity to advertise that one is available for bookings. Mass tweeting of such posts are therefore particularly common just before or during major industry events, when a high volume of filming and content trades occur.

Performers often spoke of the adult industry community as safer sex experts, as capable of offering much needed sex education to the masses (although most also were quick to point out that this is by no means the responsibility of the porn industry). Most, especially those who had grown up in the U.S., lamented the state of public sex education and several credited porn work for having taught them what they knew.

At the same time, some noted that it did not take much to become more sexual health competent than the average citizen. Said performer/producer Courtney D, laughing, “I do think that most performers know more than the general public about STIs but like, that is a very low bar!”

On a few occasions during my fieldwork, I heard performers share factually inaccurate sexual health information—for example, that you couldn’t get *E. coli* from anilingus, or that silicone lube isn’t compatible with condoms—but generally speaking their knowledge was very extensive and accurate. There is almost no data comparing porn performer sexual health knowledge and practice to that of the general public, although one study found that performers had equal knowledge of STIs—as measured by two questions about HPV—and had more consistent condom use in their personal sex lives, compared to a matched sample of California women (Grudzen et al., 2013). Regardless, the narrative of porn performers as sex-ed pros is widely accepted within the industry.

### 7.3.3 “Test like a porn star”

The notion of performers as laudable sexual health role models for civilians is well-demonstrated by the “I Know My Status” platform. At the time of fieldwork, Talent Testing Service was the largest lab network participating in the PASS system. They launched [www.iknowmystatus.com](http://www.iknowmystatus.com), an identical STI testing system targeting non-performers. The platform was advertised with the telling catch phrase, “*Test Like a Porn Star*”. That a company might capitalize on the idea of porn performers as the height of sexual responsibility suggests the idea has at least some widespread purchase.



**Image 7**

*Tweet Featuring Flyer for the I Know My Status Platform*

Source: Twitter.com

<https://www.iknowmystatus.com/>

Previously, Adult Industry Medical (the porn performer sexual health clinic that pre-dated the PASS system, as described in Chapter 3) had launched a similar service for civilians—SxCheck—modelled off of their performer AIMCheck database (Lynn, 2006). And while they do not explicitly admit any inspiration from the adult industry, other civvie apps like Safely<sup>125</sup>, Mately<sup>126</sup> or Biem<sup>127</sup> are designed around the principle of sharing STI status through a database in order to vet sex partners.

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<sup>125</sup> <https://safely.me/>

<sup>126</sup> <http://www.mymately.com/>

<sup>127</sup> <http://biemteam.com/>



## 7.4 Proof of Professionalism

It's AVN 2020 and I'm in the Cupcake Girls Relaxation Suite—a series of hotel rooms booked out for performers to take a break in, escaping the bustle of the showroom floor. I'm eating snacks and waiting for a massage when someone flops down next to me on the couch, exclaiming, “my arm hurts, I hate getting tested!”. They go on to say it's annoying that they have to get tested, since the only shoot they have booked is with a couple that they've known for years and have shot with before, especially since the couple is “basically married”. “But”, they continue, “you know, we gotta do it!” I ask if the production company requires it, and they say no, but remind me that “any reputable production” will take it upon themselves to get tested. In this exchange, my couch friend reiterates how STI testing establishes professionalism as much as it establishes a pathogen-free set, and at times professionalism is the primary motivator. Performers go through the ritual, sometimes begrudgingly, even when they feel it is biomedically unnecessary.

Whether or not one is considered legitimate and professional hinges greatly on whether or not one's productions are PASS compliant. For much of American porn production, PASS compliance is central to safe industry operations. It is also key arsenal in the industry's defense against external regulators who do not understand or value the needs of workers. Therefore it is not surprising that adoption and adherence to PASS protocol is crucial to how a company or individual performer is judged.

Those I spoke to—whether they were producers, performers, lawyers, or other porn workers—often stressed the self-regulatory nature of PASS as proof of the industry’s respectability and expertise. Self-regulation is not only important because of how external regulators are so ill-equipped to design appropriate protocols, but also because of the cachet that self-regulation provides. The ‘professions’ have traditionally been distinguished from other forms of labour in part by the authority they are granted to internally self-regulate. This autonomy is granted because the workers in question are understood to have abstract, specialized knowledge that only they themselves can appropriately govern (Adams, 2018; Freidson, 1984; Larson, 1979), or as Marie Haug put it, “the power to set their own rules as to what constitutes satisfactory work” (1973, p. 196; c.f. Friedson, 1984, p. 4). While professionalism and ‘the professions’ are not synonymous, it nevertheless stands that the right to self-regulate carries material and symbolic weight.

PASS compliance is presented as proof of professionalism in three ways: as an indicator that individual workers are prepared and responsible, as an indicator that a producer or studio is legitimate and upstanding, and as an indicator of who should get to speak as a representative of the adult industry. I discuss each of these in turn.

#### 7.4.1 Individual Performer Professionalism

In Heather Berg’s study of U.S. porn production (2021), the management workers she spoke to identified some degree of “personal investment in the work” as indication of a performer’s “professionalism” and therefore fitness to be hired (p. 64). I argue that taking testing protocols

seriously is one expected element of this personal investment, and strongly influences whether a performer is considered professional by producers, other performers, and themselves.

I asked producer *Nailah* if there is a general sense in the industry that PASS *is* the mark of professionalism and she responded:

If you're gonna be in the main talent pool, yeah. [...] [There is a] program called INSPIRE, and it's basically like a mentoring program [for new talent] and it talks about the PASS system, how to join the PASS system, sexual health, all this kind of stuff. If you're gonna be doing this and you're gonna do a scene, you should be able to look up your partner in PASS. And if you can't then, you know [laughs] hmm, consider [not working with them].

Here *Nailah* suggests that if you are working in the “main talent pool”, you shouldn't trust a scene partner who doesn't appear in the PASS database. The INSPIRE program to which *Nailah* refers is an online resource<sup>128</sup> that aims to offer new talent a virtual onboarding to the industry. The website discusses PASS several times, namely under the headers “On-Set Expectations” and “XXX Healthcare”.

On several occasions in the field, performers who were perceived as not taking their testing seriously were referred to as ‘shady’ or ‘sketchy’. If the ‘shady’ performer in question suggested an alternative such as using condoms, or asserted they had not had sex since their last (expired) test, this was dismissed or taken as further proof that they were not to be trusted. In interviews, many performers and other porn workers expressed ways in which PASS operates as a key element in defining the professional from the amateur, the reputable from the disgraced.

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<sup>128</sup> <https://www.freespeechcoalition.com/inspire/industry-newcomer-support-program>

Performer/producer Delirious Hunter underscored the linkage between PASS-compliance and responsible performer behaviour. She discussed the importance of being a prepared performer, with PASS being one element alongside other best practices:

I've also been on sets where I have a good enough relationship with my co-star that we've been able to message each other on Twitter and different things. [...] And usually in there I happen to mention, 'oh, I'm going to get tested on this day, I'll have results around this time,' so they know that I'm responsible, they know how soon my testing is going to be. [...] It's one of those, almost professional courtesies [to say], 'hey I am going to be responsible, I will have [test results] on time to work with you'. [...] We have to have the testing because we are responsible in our job, we take this seriously as adults, as a job, as a career, as an industry. [...] [So I think about] what do I need to do in order to fulfill my obligations as a performer? What's on my checklist? What do I need to bring? What do I need to have to be prepared? What are any extras that I personally might want on set?' Like even if I find out that there's a make-up artist, I always bring extra eyelash glue, extra eyelashes, a few extras so that way even on set if after a scene or two, if she's not there I can do my own touch ups...

Delirious presents PASS-approved STI testing as one professional obligation among many that illustrates one is skilled, knowledgeable, and prepared to do their job.

#### 7.4.2 Producer Professionalism

Beyond identifying an individual performer as professional, adherence to PASS also identifies a studio as professional. Producer and performer *Eric* discussed how a company's approach to testing is a clear indication of its relative legitimacy and moral conviction:

One of the reasons why I like working with [the company I work for] is because they, from a legal standpoint, take it seriously, but also from a moral standpoint [...] Yes, there are people that are not as diligent as my crew. They know how I am. I catch you not checking a test, boy you're gonna-, you're fired. It's that serious.

As *Eric* mentions, there are some people in the industry who do not take testing as seriously. In our conversation, Lotus Lain (performer/producer/Free Speech Coalition advocate) suggested that resistance or mistrust in the PASS system "mostly comes from older, outskirts performers. [...] They come from the wild-wild-super-wild-west of porn times".

Mercy West (performer/producer) describes testing adherence as one crucial indicator that “you’re working for a reputable mainstream site” rather than “underground”. They describe some of their requirements for working with a company:

I articulate to people that I need to see these tests, I won’t go on somebody’s word. I need to have my own hotel room if you’re flying me out. I will not share my room with the producer, I will not share my room with other talent.

Here, testing is one indicator among several that a studio is adhering to respectful, consensual labour practices.

Marketing manager Jesse Garza also asserts that anyone who is “legitimate and above board” uses PASS, which includes respecting production holds when the Free Speech Coalition mandates it:

Anybody that’s making legit content [does] rigorous testing. Which some studios pay for, some of the models pay for. And we’re very, very quick about shutting everything down when the performer tests positive for anything. At least anybody that’s, again, legitimate and above board.

It would be naïve to suggest that increasingly robust health mechanisms—and the air of legitimacy this provides to adult film production—have been purely motivated by concerns for performer safety. Certainly, performers and their allies have agitated for health protections and this has influenced studio operations. But the needs of corporate forces that dominate the industry, such as MindGeek<sup>129</sup>, play as much a role in how PASS operates and how it is framed as do the actual health needs of performers. As mentioned in Chapter 3, one motivation behind PASS is to provide protection against legal liability for what would be a costly life-long infection if someone were to contract HIV on set. And as this chapter suggests, another reason is to build

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<sup>129</sup> MindGeek owns a substantial share of the pornography market, operating many of the most popular porn studios and websites (e.g. Brazzers, Digital Playground, Pornhub).

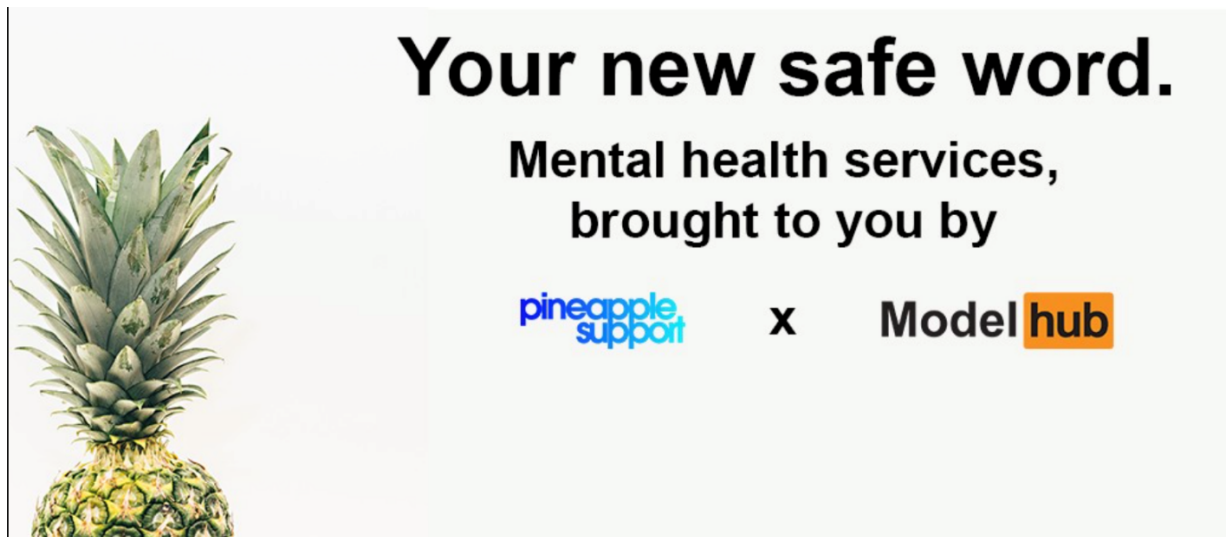
resistance against mandatory condom laws that might complicate production and harm profit margins.

MindGeek specifically plays a profound role in PASS's current structure and in its maintenance. As was noted in Chapter 3, it was MindGeek's independent decision to require 14-day testing that pushed the rest of the industry to adopt this standard. They are also one of the main funders of PASS operations and the Performer Subsidy Fund to subsidize access to it. While these facts are not publicized, I suggest this nevertheless fits into a larger process of legitimization undertaken by the company. As Silvia Rodeschini writes, Pornhub, the most well-known of MindGeek products, is engaged in a dedicated "legitimation strategy" (2020, p. 84). The company has aimed to brand itself as socially responsible, partly by separating the technological infrastructure from the pornographic content it distributes, and partly by associating itself with mainstream entertainers and non-sex work related social investment campaigns. While the parent company MindGeek has distanced itself from the actual performers it profits from (a visit to MindGeek.com shows no reference to pornography), Pornhub has "support[ed] causes that might be considered important by its reference community (i.e. its users and its workers)" (2020, p. 7) such as Pineapple Support, an organization offering sex worker friendly, subsidized mental health services to porn workers. When launched, the press release published on Pornhub read in part:

As we know, ours can be a trying industry, with its own unique set of struggles. While stigma associated with the adult industry is slowly starting to change, we know that being a part of this community can make certain relationships, conversations and situations very complicated. It can even take a toll on your emotional health. That's why we're making sure you have the resources you need to stay happy, healthy, and *profitable*.<sup>130</sup> (Pornhub, 2018, para. 2, emphasis added)

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<sup>130</sup> Notably, the press release now resides as permanent text on Pornhub's website under the tab 'Sexual Wellness & Mental Health Support' in the 'Our Commitment to Trust and Support' section. The word *profitable* has been removed, and it now reads, "That's why we want help (sic) provide the resources you need to stay happy and healthy" (Pornhub, n.d., para. 2).



**Image 8**

*Pornhub Announcement Funding Pineapple Support*

Source: Pornhub.com

<https://www.pornhub.com/blog/7071>

Pornhub is keenly aware that the profitability of performers is contingent on their health, both mental and physical. So while Rodeschini writes that Pornhub’s “campaign for social responsibility is able to succeed only to the extent that it does not intervene in the production process” (2020, p. 86), I would counter that both in its public support of Pineapple Support and its quiet shaping of PASS, Pornhub/MindGeek does indeed extend its legitimization strategy into the sphere of production.

On more than one occasion I overheard long-time industry workers comment that MindGeek, regardless of whatever financial havoc its monopoly precipitated, had been a source of good for the industry’s reputation. MindGeek, these individuals suggested, made the industry ‘look good’ because of its clean, corporate image. In this way, MindGeek’s branding strategy broadly and the development of PASS specifically are major forces of adult industry responsabilization. This

contrasts markedly with the industry's previous tradition of advertising itself as a world of transgressive abandon (Kipnis, 1999).

#### 7.4.3 Who Speaks for Us: Professionalism as Membership Criteria

*"In fact, the adult film industry is a legal and responsible industry."*

- [FSC 2013b, para. 2]

Finally, PASS operates as a mark of professionalism in how adherence to it is framed as one criterion for true membership in the adult industry. Participation in the PASS system is a tangible way that companies co-operate with one another to maintain a self-protective system (protective against internal disease and external attack). Those who do not respect PASS protocol, or who try to work around production holds and other best practices suggested by PASS, are perceived by many as not representative of the 'real' adult industry.

The fact that PASS is self-imposed, then, solidifies the linkage between PASS, professionalism, and co-operative membership. Performer and producer Delirious Hunter reminds us that there are no laws compelling producers to adhere to PASS. She argues that self-regulation is more powerful and effective than external regulation would be, because of how it impacts a studio's reputation:

The testing that the industry does, while everyone says it's industry standard, there technically is no law, there is nothing that is 100% mandating it, it's just what the studios have agreed to, what the performers have agreed to. [...] While it might be good to have an actual entity in charge of the testing and making sure that there are standards that every studio is held to, I also don't know if it would end up being as effective in the long run as right now, with everyone holding each other to the standard. It's kind of like us all saying 'this is what we do to protect ourselves, we hold ourselves to this standard. If you don't want to be a part of the cool kids then you can go off and do whatever with whomever. But if you want to play in this circle, this is what you gotta do to play with the big boys'



[...] Anyone who doesn't follow the rules is kind of looked at within the industry as, 'they're not the greatest. We heard this about this company, hey this company follows a 30-day rule rather than a 14-day'. So I mean, the industry talks. Things like that get known.

One must adhere to PASS in order to be 'part of the cool kids' or to 'play with the big boys'.

Those who are not compliant are viewed poorly by an industry that 'talks'. Performer/producer/marketer Dave Dixon further developed the way in which PASS grants studios a sort of membership status. Here he describes his frustration with how 'anyone' can make porn these days, owing to the increased availability of equipment and self-produced content distribution channels. Given how the industry has tried to 'clean up' its image over the years—the 'legitimation strategy' mentioned above that Rodeschini (2020) associates with MindGeek—the proliferation of amateur performers and creators, who may not take sexual health and testing seriously, can reverse some of the respectability gains that the industry has made:

Everybody can be a porn star today. [Earlier in our interview] I was talking about that sort of close-knit family, that community, that you know really cares about safety and performer issues, and [for whom] that sort of testing is really strict and important. We then have this other pool of performers that we don't know, we've never met, they don't come to [trade] shows, they're doing their own thing. Maybe they're testing, maybe they're not. Maybe they give a shit about our issues, maybe they don't. Whatever. But they're out there calling themselves performers, part of this adult community, and speaking on our behalf, and doing so from an uninformed position, and that can have consequences too. Because now we don't have sort of official representatives, giving official statements that we all sort of agree with. It's like the wild west out there now with amateurs. So it's [sigh] unfortunately in a lot of ways it's adding to the stigma and kind of detracting from all of the hard work that we've tried to do to kind of clean up the image of the adult entertainment industry.

The Free Speech Coalition has made statements of a similar tone. An XBIZ magazine article discussing the case of a Canadian performer who tested positive following "an encounter in private life", entitled *Performer Outside of PASS System Tests HIV Positive, FSC Says*, quotes the trade association as follows:

The incident should reaffirm the importance of PASS database and protocols. We live in an age when anyone with a camera and an internet connection can produce adult video.

[...] It doesn't matter the size of the set, or the production company. Any production—even content trades, custom and cam shows—should comply with PASS protocols to ensure performer safety. (Pardon, 2017, paras. 6 & 10)

In the gay porn world, before barebacking became standard practice, smaller studios that filmed bareback sex were also sometimes perceived as misrepresentative of the greater industry—nothing more than “low-end crap” that risks models' health, as Titan Media Vice President Keith Webb was quoted saying in a 2004 interview:

The vast majority of current bareback films are coming from new upstart companies trying to break into the market. They cannot compete with the bigger studios in terms of quality, content or models, so they go for cheap gonzo films that they can make in a day and sell a couple thousand pieces. It's an excuse to sell low-end crap and try to profit at the risk to the health of their models and the community at large. If they made the same movies with condoms they wouldn't sell very many—the reason is not the condoms, the reason is that they are poor quality low-end movies! (c.f. Stricklin, 2004, para. 16)

It is not just smaller gay productions who were cast as misrepresenting the porn industry due to their perceived irresponsibility. Larger studios accused of recklessness—such as Treasure Island Media, which has exclusively shot bareback sex throughout its existence—are also ostracized by some<sup>131</sup>. Treasure Island Media is disdained by many in the straight industry (see also Ashford, 2015), as well as some gay industry workers. For example, *Eric* called them “morally reprehensible” for how they “flou[t] any version of safety”. Similarly, in an interview for a legal journal, head of gay company Naked Sword, Tim Valenti, described gay studios as either “legitimate” or “bareback” (of note, this interview is from 2007, when some present day biomedical prevention methods were in their infancy):

the legitimate producers—*setting aside* the bareback producers—like Falcon, Colt, Titan and the real big brands in the industry were all aware of and part of the industry when the AIDS crisis hit in the early 1980s [...] very early on, the *legitimate* producers incorporated it [condom usage] into the creative part of what they were producing [...]

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<sup>131</sup> Discursively, that is. In other ways, Treasure Island Media has been embraced within the industry. They often broke viewing and sales records, especially throughout the years that bareback gay porn was less common (Katz, 2010). They have routinely been featured on industry news sources such as XBIZ Gay, and have had representation on the board of the Free Speech Coalition for several years.

there are hard feelings toward Treasure Island Media and those types of people that just do whatever they want (Calvert & Richardson, 2007, p. 727, emphasis added).

As previously discussed, many gay studios do not use PASS but rather combine PrEP, condoms, serosorting, testing, and other strategies. As such, there is tacit acceptance among some straight producers/performers that the bulk of the gay industry cares about safety but simply approaches it differently. Others consider the entirety of the gay industry unsafe, and therefore not ideal representatives. In other words: for some, the straight industry *is* the porn industry. This division, and how it is shifting, will be discussed further in Chapters 9 and 10.

Finally, even entire states can be deemed unrepresentative of the industry. Florida is home to many small amateur productions, and has grown as a porn producing hub over the years. Often, people I spoke with referred to Florida as unprofessional and unregulated, less likely to adhere to PASS or other health and safety standards. The extensive controversy surrounding Rashida Jones' 2015 documentary *Hot Girls Wanted* is a good example of this framing. The film—which took its subjects from the amateur porn scene in Florida—was understood by many viewers to uncover the ‘truth’ of the industry. There are many extremely valid critiques of Jones' documentary, such as its failure to portray women-created porn and its alleged violations of performer consent and privacy (Cauterucci, 2017; Rowntree, 2017). Many industry workers also protested the film on the grounds that it was negatively biased and that the brand of ‘amateur’ porn characteristic of Florida is not representative of the ‘real’ industry, ‘professional’ conduct, or ‘legitimate’ production. Jasmeen Lafleur and I discussed the film, and she said:

[*Hot Girls Wanted*] was just awful because everybody who has worked with great people, reputable people in the industry, knows that Florida is kind of like the wild west. You have to be very careful, especially nowadays. It's like everybody and their sister and their momma is producing porn, or they're doing some kind of Clips 4 Sale [a direct-to-consumer clips selling platform] or something like that. So porn is being shot everywhere

and not everybody is good, you have to really be careful, invest some time into looking at who the person is that wants to hire you or work with you.

In her YouTube commentary on the film, ex-performer Paige Jennings (2017) stated that *Hot Girls Wanted* was in fact an accurate depiction of the amateur industry in Miami, Florida, whereas the relatively more “legitimate” L.A. and Las Vegas industry is a “separate microcosm” (1:00-2:00). She posits several reasons the industry was upset by the film, including its reputational damage:

People in porn already deal with a lot of shit. Take it from someone who’s dealt with a lot of shit as a porn star. They might be getting it from their families, their friends, their lovers, people on Tinder that they’re dating and they tell what they do to. It’s not that fun. Which is another reason why porn is very tight knit. As dysfunctional as it is, everyone’s kind of been through the crucible. Everyone’s been sort of maybe persecuted in some kind of way. That brings me back to my point: Whenever any media comes out about the porn industry, the porn industry, they feel there’s a pressure to stand in solidarity, they feel there’s pressure to say ‘oh fuck that person, they’re making us look bad. They’re skewing things and misrepresenting things’. (2:40-3:20)

Whatever the specific exclusionary logic employed, the desire to patrol porn industry membership—and by extension, porn’s reputation—is at least partly an expression of concern for porn workers (and not just profits). Performers and other porn workers know that critics will seize upon any opportunity to indiscriminately demonize the industry by presenting unsafe productions as representative of all. The suggestion that only the more responsabilized, career-oriented performers or studios should speak for the industry, however, erects an intriguing tautological membership criteria: the true adult industry is responsible, therefore only those who are responsible are truly part of the industry.

I experienced this phenomenon in a visceral way over the course of fieldwork, as my own sense of legitimacy and professionalism became increasingly contingent on PASS protocol adherence. Despite having shot dozens of porn scenes, I had never used PASS. For one, much of my work

was either solo or fetish-oriented, meaning there was no fluid exchange and so no safer sex protocols were actually needed. The films I had shot with fluid exchange used condoms, and a more relaxed testing system. Having worked primarily on independent Canadian sets and sets with modest budgets, this was standard in my professional circles. But the more I spoke with other industry professionals, the more I developed a very specific form of imposter syndrome related to PASS-compliant testing.

So it happened that during my 2018 field trip to L.A. I made a special point to visit Talent Testing Service, one of the two main PASS-affiliated laboratories used by talent in the area. I attended primarily for the purposes of anthropological integrity: I wanted to experience the system used by so many of the people I had spoken with and interviewed, to not just observe but to participate in the testing system that was swiftly becoming the central theme of my research. I could not deny that I was also excited on a personal level. Even though I had no shoots booked towards which I could actually use the test, I felt legitimated as a porn performer through the experience. For one, it was the first time I had interacted with healthcare staff *as* a porn performer. Normally, I would hide my status as a sex worker when getting STI tests, but here I was advertising the fact. The clinic staff treated me as an on-the-go professional running through the tasks of her busy work day, joking and making friendly chit chat. The protocol also included STIs I had never been tested for, as they are not included in standard Canadian screening, namely Trichomonas. Most dramatically it was logging into my Talent Testing Service dashboard (pictured below) after receiving the text alerting me that my results were ready (a mere 28 hours later) that produced a visceral wave of *arrival*. While highly critical of the ways that more privileged or professionalized sex work milieus gatekeep who is or is not considered a legitimate sex worker, I still couldn't help but think, 'this is what it is like to be a real porn star. This makes

me legit'. As much as I resist how the mainstream straight American industry grants itself authority to set the industry standard, I deeply desired getting that little bit closer to meeting it.

The screenshot shows the Talent Testing Service (TTS) dashboard for a user named Ms. Valerie Webber. The dashboard is divided into several sections:

- Header:** Includes the TTS logo, navigation links (Home, Dashboard, Talent Sign Up, Locations, Services, Authenticate, Contact Us), and social media icons.
- Dashboard Title:** "TALENT DASHBOARD" with a welcome message "Welcome Valerie Webber!" and a last login timestamp: "Last login: 12/11/2017 10:48:39 AM (EST) from 142.162.224.45".
- Left Sidebar:** Contains navigation buttons for Settings, Get Tested, and Logout. It also displays the user's location (St. John's, Canada) and their IKMS Referral Code (LZE859) and available TTS Bucks (\$0.00).
- Profile Section:** Shows the user's name (Ms. Valerie Webber), TTS ID #, date of birth (18/OCT/1984), gender (Female), and an option to upload a picture. There is also a button to "Preview your FBuddy screen".
- Talent Status:** A table showing the user's status for different durations:

Duration	Status	Expires
7 days	Cleared	Expires on 23/JAN/2018
14 days	Cleared	Expires on 30/JAN/2018
30 days	Cleared	Expires on 15/FEB/2018
- Latest Results:** Shows the latest result date as 16/JAN/2018. It includes instructions for advanced options and a note that an Acrobat Reader is needed to view results. There are buttons for "Testing History" and "Status/Results Access Log".
- Footer:** Includes a "Print Talent Status Report" button and a "Definitions" dropdown menu.

## Image 9

*Talent Testing Service Online Dashboard*

Source: TalentTestingService.com

<https://www.talenttestingservice.com/default.asp>

## 7.5 Living on the Defensive

From the 1950s to the 1990s, anti-porn campaigning was driven by charges of indecency and obscenity. In the early 2000s to about 2020, health became the basis upon which porn was

condemned. Mandatory condom laws represented the bulk of attempts to regulate porn production during this time<sup>132</sup>, and the industry shaped its defense accordingly.

This defensive approach is necessary; I participate in it myself. Mainstream critics don't leave us much choice. Under antagonistic conditions, the Responsibility Defense is a tactic, borne of a narrow range of political options, whereby one must fight fire with fire or else go unheard. When battling for autonomy, rights, or legal protections, one strategy is to participate in elements of the opponent's discourse with an understanding that "effective political action consists in appropriating, transforming and deploying the friendliest discourses, in order to counter the most hostile ones" (Duggan & Hunter, 2006, p. 2, c.f. Bracewell, 2020, p. 70). If the opposition's possible attitudes towards sex workers range from the relatively friendly 'they are unsafe and need to be made safe' to the much more hostile 'they are exploited victims and the industry needs to be abolished', taking on and responding to the former can help elide the latter.

There is of course also truth to the *Responsibility Defense*, inasmuch as the PASS protocol has proven effective at what it aims to do: eliminate on-set HIV infection, minimize on-set transmission of other STIs, coordinate production holds in the event of concerning test results, support community-wide appreciation of the importance of occupational health, and offer liability protection to producers and studios. To say the industry is capable of self-regulating is not purely political ruse: PASS has demonstrated an ability to manage on-set infections.

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<sup>132</sup> At the time of writing, a shift was occurring whereby porn was increasingly problematized on the grounds of content moderation and 'anti-trafficking', for example with laws like FOSTA-SESTA (Fight Online Sex Trafficking Act – Stop Enabling Sex Traffickers Act, passed in the U.S. 2018) and SISEA (Stop Internet Sexual Exploitation Act, introduced in the U.S in 2020 and in Canada in 2021).

Setting aside both the truth and the necessity of the *Responsibility Defense*, I want to ask: what do we lose? A degree of radical potential is inevitably lost in the course of securing certain assimilative successes. This is the unfortunate trade-off confronted by many sexual political movements throughout history (Califia, 2000; Conrad, 2014; Dangerous Bedfellows, 1996; Jagose, 1996; Ross, 2018; Warner, 2000). U.K.-based performer and producer Marcus Quillan summarizes the bind of this strategy:

From a respectability standpoint, part of me feels it would be nice to have [porn production] be more regulated [in the UK] so at least we can say—when we have to inevitably defend our jobs and lifestyles and ways of life and ways of making a living to other people who judge it and don't really know anything about it—we can at least say 'well actually this is a law and this is a law and blah blah blah'. But as I say, that's more like a respectability concern. I don't think that should have to be a concern. You know, my priority would be that those people just aren't judging us in the first place.

We can see the attempt to balance these competing narratives in these two connected tweets by Conner Habib, who long worked as a porn performer and now lectures, writes, and advocates for sex worker rights:





**Conner Habib** @ConnerHabib · 4h

Sex workers in general are on their shit with STIs, and some studies have shown DRASTIC differences between sex worker STI rates (low) and the general population's (much higher).

So can we please stop with the "what about all the STIs?" bullshit with sex workers?

Thx

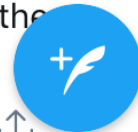


**Conner Habib** @ConnerHabib · 4h

Also?  
STIs are not a moral failing.

If someone gets an STI it's not more or less moral than catching a cold.

On the other hand: the main cause of STIs is the stigma surrounding them. If you want to locate the intersection of morality and public health, it's in the stigmatizer.



**Image 10**

*Tweets, Conner Habib*

Source: Twitter.com

Habib begins by making the same point, as I illustrated in the Safer Sex Role Models section above, that sex workers tend to actually use more effective safer sex practices and have lower rates of STIs than the general civilian population. But he follows this up with the point that STI status should not be how moral standing is measured.

At AVN 2018, sexuality and gender studies professor and porn scholar Lynn Comella and I chatted casually<sup>133</sup> about the state of the industry. She expressed frustration with how effectively anti-porn advocates have set the terms of debate around porn. Not only can this compel industry workers to have to respond to criticisms within the frameworks foisted upon them, it also flattens the otherwise nuanced contributions that porn workers could offer these discussions. This is how epistemic injustice robs the broader public of what sex worker expertise could contribute to our collective experience. When porn workers must expend enormous time and resources on the defensive, we have less energy and resources to share our uniquely informed visions—in this case, our perspectives on alternative ways of doing and imagining sexual health. As socio-legal scholar and sex work activist Zahra Stardust said,

Sex workers hold unique insights [...] but so often our time is occupied in reactive rather than generative space [...] fighting against bad policy, poor design, and criminal laws, and this saps up the energy we could be using dreaming and imagining different futures. (April 8, 2021, 6:40)

Dominant cultural discourses about the industry—rather than industry workers themselves—get to set the terms of discussion because porn workers are routinely deemed not credible to speak about their own lives. Under these circumstances the industry and its workers are unintelligible, because their silencing forecloses the chance for a more widely shared hermeneutical resource.

In deploying the Responsibility Defense, the porn industry has responded to accusations of sexual ‘irresponsibility’ *within the terms of debate* set by critics. Rather than refuting the premise of the question (i.e. what alternative notions of ‘sexual responsibility’ could we imagine beyond pathogen negativity?), the Responsibility Defense concedes it. This can have unintended and

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<sup>133</sup> Personal communication, January 26, 2018. See also Comella & Embree, 2021.

problematic outcomes, limiting the conversation of sexual ethics to ‘being responsible’, and equating ‘responsibility’ with the maintenance of a pathogen-free body/work setting.

Taking up the work of Nancy Fraser, Michael Doan (2018) suggests there are both affirmative and transformative strategies for attaining epistemic justice. Whereas the affirmative approach seeks to gain credibility for marginalized subjects without challenging what counts as ‘credibility’,

a transformative strategy is one that seeks to create new terms, values, and conditions by which people are to recognize one another as thinkers, knowers, and collaborators, contributing thereby to broader processes of social, economic, and political restructuring. (p. 19)

I argue that presenting relative HIV/STI eradication as proof of responsibility is an affirmative strategy. It attempts to have the industry recognized as a legitimate epistemic subject without destabilizing what is dominantly considered ‘sexually responsible’, that is, ‘clean’. It seeks credibility within status quo definitions of ‘health’.

The coming chapters will document how in practice, there is considerable disagreement among performers over these narrow definitions of ‘sexually responsible’ and ‘healthy’. As the industry has changed and as non-traditional areas of the industry have grown, criticisms of PASS, and of the type of sexual health it facilitates, sit alongside defenses of it. This troubles simplistic understandings of resistance. José Medina (2013) writes, “resistance is a complicated and heterogeneous phenomenon”; our lives are “permeated by different forms of conformity and resistance that shape our lives in various (and not always fully coherent) ways” (p. 14). Medina calls for a more “contextualist account of resistance” that “covers cases of internal resistance as well as cases of external resistance”, of “*contending with*” as well as “*contending against*” (p. 16,

emphasis in original). The ways in which performers adhere to—but also defy, modify, and stretch—sexual health protocol demonstrates that the occupational health landscape is not uniform. Rather, it entails a complicated series of critiques, concessions, and negotiations.

## 7.6 Conclusion

In this chapter I have described what I call the *Responsibility Defense*. The central argument underlying the Responsibility Defense is that the adult industry is neither reckless nor health-hazardous, but actually a professionalized, standardized, and commendable example of sexual health management. I have argued that this is in response to years of antagonism from outside sources accusing the industry of irresponsible health behaviours. I have suggested that by inadvertently reinforcing a narrow definition of sexual responsibility, the Responsibility Defense erects a respectability politics within the porn industry. This is evidenced in the treatment of performers and productions that take a different approach to sexual health. As the next two chapters will explore, the Responsibility Defense can reproduce stigma and discrimination against performers unable to meet PASS criteria for a number of reasons, be they performers operating out of countries with health systems that differ significantly from the United States, performers engaging in full-service sex work, productions that adopt different harm reduction strategies, or STI/HIV positive performers. The imagined ‘unified front’ underlying the Responsibility Defense does not fully capture the breadth of sexual health techniques used within adult film production.

## CHAPTER 8: OUTDATED MODELS

### 8.1 Introduction

The porn health protocols used by the straight mainstream industry were developed to suit a particular industry model. PASS, and its predecessor, Adult Industry Medical, were designed 1) to offer liability to major studios who represented the main source of content, and 2) to protect performers concentrated in a relatively small area of the U.S.A. It was designed to do so during a time when HIV was less treatable and pharmaceutical prophylaxis was not an option, with a priority of avoiding condom use, while also fending off external organizations adamant about mandating condom and other ill-fitting procedures.

These particular needs and forces shaped what PASS has become today. Industry advocates built a system that creatively addressed the major threats of the time: HIV, regulatory bodies, and studio liability concerns. But because PASS developed in the face of accusations of carelessness, it demonstrates ‘responsibility’ in ways that were most meaningful at the time: eradication of HIV, prioritization of larger studio shooting structures, and standardization across productions regardless of specific needs and preferences. However, these aims and types of production are no longer representative of the whole industry. The structure of the industry and the science of HIV have evolved in such a way that a single occupational health model is inadequate to support the full breadth of performer circumstances. Previously important characteristics and distinctions that influenced how PASS was developed, as well as how individuals have taken it up, are less and less meaningful, namely: the geographic location of performers and productions; the distinction

between porn performance and full-service sex work, and the distinction between professional production and amateur sex (both amateur porn production and recreational sex). Perhaps most importantly, the distinction between gay and straight porn, and the distinction between HIV positivity and HIV negativity, have evolved significantly and led to much industry debate. In this and the next two chapters I will discuss these industry shifts and how they inflect performers' use (or not) of PASS. Where applicable, I also outline the ways that performers have differently conceptualized their occupational sexual health needs and strategized alternative ways to manage them when PASS has failed to meet those needs.

First, I discuss geographic developments in porn production. Both Adult Industry Medical and PASS were developed to serve a relatively centralized hub of production in California and neighbouring Las Vegas, Nevada. While porn has always been produced globally, the number of performers operating outside of these hubs is growing. In particular, those working in Canada, Europe, and the U.K. lack access to PASS infrastructure. This section looks at ways that performers in these areas utilize their existing health services to prevent STI transmission on set.

Next, I focus on the ways that full-service sex work has traditionally been put in opposition to porn performance, treated by some as a less respectable form of sex work in part because it is seen as posing a greater sexual health risk. There is a strong movement in opposition to such divisiveness, and a growing appreciation that pan-industry solidarity is both morally and strategically optimal.

Following this, I look at the slippery lines between 'professional' and 'amateur' production, and by extension the lines between work sex and personal sex. Some have argued that performers

should apply the PASS protocol to all of their sexual encounters, whether for a high budget film or a small-scale trade, on-camera or off-camera. Others resist this encroachment of work protocol into all areas of life, forwarding a critique that is both anti-capitalist and community-oriented.

Finally, I turn to the gay/straight and HIV+/HIV- issue. Given the enormity of these two interrelated elements, they will be discussed in the next and final Chapters 9 and 10.

## 8.2 Beyond the Hub

I am at Qwebec Expo, the only annual porn industry trade show that happens in Canada. At a hotel in downtown Montréal, I have just given a talk on alternative occupational health protocols that can be used on set when PASS is not available. Afterwards, an American performer approaches me, flabbergasted that Canadian productions aren't always using PASS protocols. I start to explain that PASS-approved draw centres are hard to find in Canada, going over well-worn talking points about the pros and cons of a public health system. She cuts me off (understandably, as I have fully morphed into boring academic mode), but before heading off to her next appointment, she dumps a giant bag of condoms in my arms, shouting back at me, "Clearly you guys need them!"

The implication was that Canadian porn sets are unsafe. As described in Chapter 3, there are no national data sets that can accurately isolate STI infections contracted on a film set, so it is impossible to make direct comparisons between the relative safety of production practices in different countries. Rhetorically, however, press releases from the Free Speech Coalition often

frame countries with limited or no access to PASS as unsafe and underdeveloped. For example, the Free Speech Coalition wrote of “a Canadian performer who had been working outside the PASS system [and] tested positive for HIV, after an encounter in their private life” (FSC, 2017a, para. 1), suggesting that producers “outside the United States” are less trustworthy:

We live in an age when anyone with a camera and an internet connection can produce adult video. Production happens outside the United States with increasing frequency, with some small producers accepting paper or PDF tests, which are easily tampered with, or accepting tests beyond the fourteen-day requirement of PASS protocols. (FSC, 2017a, para. 4)

When several cases of syphilis were detected among performers working in the Czech Republic, the Free Speech Coalition reminded readers that “productions in Europe do not generally participate in the PASS database, instead relying on a *patchwork* of testing requirements” (2019b, para. 1, emphasis added). A case of HIV on a set in Spain prompted a similar press release, stating “productions in Europe do not currently have access to a standardized and unified system such as the PASS database”, and recommended that “performers retest with an HIV RNA qualitative test, rather than the less sensitive Europe-standard ELISA antibody test” (2019a, paras. 2 & 6). While this advice is sound from a biomedical perspective, such sentiments further the idea that non-American productions are dangerous and backwards. But it is variable access to healthcare services—not disregard for or ignorance of sexual health—that explains these different approaches to on-set safety.

PASS was developed in the U.S.A., where the healthcare system is highly privatized. It requires frequent, specialized tests with a rapid turnaround time that only a privatized, healthcare-on-demand approach is able to provide. Executive Director of PASS, Ian O’Brien, wrestled with this fact during our interview:



I fantasize about universal healthcare all the time, and I actually think it should be a political priority for us as an industry. But I also think that—*I can't believe I'm going to say this*—but the private healthcare system in the United States has enabled PASS to be what it is.

PASS's network of private clinics and laboratories are almost entirely located in the U.S.A.<sup>134</sup> Of the clinics networked with PASS at the time of data collection, Talent Testing Service was the most expansive. Even at its peak, however, Talent Testing had no draw centres in the U.K. or Europe and only nine draw locations throughout all of Canada: one in Montréal, one in Vancouver, and seven around Ontario (TTS, n.d.). For those able to access a site, clinics would charge an average \$65 USD draw fee and \$50 USD shipping fee on top of the \$155 USD test fee, making PASS testing even more financially burdensome.

One alternative has been to imagine creating a PASS-like system in these other countries, but it is difficult to imagine doing so within a public healthcare system. The Canadian, E.U., and U.K.-based performers that I spoke with noted that sexual health standards could vary greatly from set to set, and most desired a more standardized and efficient testing system. They also identified several limitations to creating one: both that of their country's public health systems, and that of insufficient production taking place in their areas to justify implementing such a system, nor enough work available to cover its costs (see also Gabrielsen & Barton, 2002). "People have talked about starting a PASS type thing in the U.K.," performer/producer Marcus Quillan said,

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<sup>134</sup> The Free Speech Coalition has tried to partner with lab networks that would ensure testing is widely available throughout the U.S.A. and with greater reach into Canada and beyond. Executive Director Michelle LeBlanc has noted that a broader network is crucial, as "production is rapidly expanding beyond the traditional industry hubs" (Turner, 2019b). At the time of writing, PASS had just been incorporated into its own separate organization, and was pursuing new testing network relationships. When in operation, Adult Industry Medical had attempted to provide testing services to performers in Europe and the U.K. (Cachapero, 2007b) but without success. They did offer mail-in testing services to American performers living outside of L.A. (Cachapero, 2006).

[But] there's not enough producers that are that bothered, because it needs to make business sense. The NHS [National Health Service] aren't doing it. So it would need to be a privately-run thing, and so performers would have to pay to be able to access it<sup>135</sup> [...] but they don't get paid enough as is.

Canadian performer/producer Katy Churchill agreed:

Would it be great if we could have Talent Testing and you could click who you wanna send your results to? Fuck yeah. But it's also massively expensive and we don't have the paid shoots here the way they do in the states. We don't have agencies that cover that as part of your 10% fee to them.

Canadian performer, producer, and marketer Dave Dixon expanded:

They take it very, very seriously in the States, they have a lot of protocols. But there's one difference. The testing is expensive, it's at least 150\$ American every time you go, and if you're not testing in their headquarters facility it's like an extra 50\$ to ship the sample [...] If you're gonna make porn a career, you gotta get tested, and usually you're getting enough jobs in the states that it's paying for your testing. [...] In Canada, we don't have a huge studio base here, so it's not like I can be working every day.

### 8.2.1 Going Local: Public and Private Alternatives

Given these restrictions, non-U.S.A.-based performers described a variety of creative ways they accessed STI testing for work. Many used tests available through their doctor or a sexual health clinic; others located private or semi-private options that were more convenient and still relatively low-cost. Given that health is under provincial jurisdiction, Canadian performers' strategies varied greatly depending on which province they worked in. Performer Courtney D and I spoke when she lived in Montréal, but “when I was on the West Coast”, she said, “I was going to Life Labs [a private lab network available in British Columbia, Saskatchewan, and Ontario],

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<sup>135</sup> In the U.K., the Support Network for Adult Professionals (SNAP), does serve some functions similar to the Free Speech Coalition/PASS. While they do not centralize or verify testing themselves, their website lists public and private sexual health clinics (<https://snaptogogether.co.uk/clinics/>), sex worker-friendly mental health resources (<https://snaptogogether.co.uk/mental-health-resources/>), and suggested COVID-19 production guidelines (<https://snaptogogether.co.uk/recommendations-for-getting-back-to-filming-after-covid-19-lockdown/>).

which was awesome because they'd just give you a standing order, where you just go in, get [tested] whenever, and then they'd email you the results". She lamented that:

It doesn't seem like they have a similar situation out here [in Montréal], so I'll have to figure that out. I was going to [the sex worker rights organization] *Stella* for a while for my tests, but while that's great for personal knowledge, they don't put your name on anything. One of the benefits is that it's anonymous, but that can be difficult when you're trying to shoot because it doesn't have your name on it [for verification purposes].

Here, the needs of one sex worker situation (anonymity) conflict with the needs of another (transparency).

Given that testing through public systems is inevitably slower, performers develop ways to negotiate the protracted period between being tested and receiving the results. Canadian performer/producer Katy Churchill describes refraining from sex for this period, and engaging in extensive risk-assessment conversations with scene partners:

I generally try to get tested 3 weeks in advance [of a shoot]. And because I'm single, I don't have a partner, so I don't have sex, just out of respect to the person that I'm testing with. And typically if [my co-stars] have a partner, I ask them if they're going to be sexually active with their partner in between their testing date and the date we shoot together, and I say, 'you know, are you gonna be active with your partner? When was your partner last tested? Do they have any other partners other than you? Do you have any reason to suspect that they have any other partners than you?' Because I mean, you have sex with your husband and you're poly[amorous] and he was sleeping with her and she was sleeping with her and... it's another avenue for [STIs to be introduced].

Given how laborious such a process can be, Katy, like Courtney, appreciated some of the private and semi-private options available on the West Coast, as these reduced wait times and also enabled verification:

You no longer need to go to your doctor to order STD tests. You can log in to that eHealth account and you can request the test online, you tick off what you need, you print a sheet of paper and you go straight to a lab [...] I can print my results off online, but I can also log in and it shows that it's secure, that I'm unable to change results, so I logged in and showed [my co-star].

U.K. and European-based performers used similar healthcare strategies. U.K. performers routinely referred to Dean Street Express as the primary location for porn performer testing. This London-based sexual health clinic runs several sex worker programs and services, and offers free STI tests with a rapid turnaround time. However, a few issues were raised. Performer/director Rooster noted that,

I've heard that other performers who are outside the U.K. or outside London, maybe they would make their way to London because that's the easiest, Dean Street Express is so easy. While other people might go to their local sexual health clinic, there's not that many unfortunately, [and it] takes maybe a week or something [to get results]. While other performers that I know around Europe, it's much harder. They might have to pay a fee of like 200 Euros or something to get those tests.

Even where free testing is readily available, there may be caps on how regularly it can be accessed. English performer/producer/director Marcus Quillan told me that sex workers can obtain “gold card” status with the Dean Street sexual health clinic in London, simply by declaring sex industry involvement to staff and obtaining a special identifying code via text. This allows them to do relatively quick walk-in testing rather than having to book an appointment, and to receive a certificate validating their results that they can show to other talent<sup>136</sup>. However, he experienced difficulty when he tried to get tested more than once a month at other NHS clinics. If his shoots are booked close together but he is expected to have a fresh test for each one, he may have to access a for-pay private clinic instead<sup>137</sup>.

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<sup>136</sup> Note that at the time of writing, all walk-in services had been discontinued due to COVID-19 protocols, but sex workers retained testing privileges. Whereas appointments were only available to the general public if they had symptoms or a known STI contact, sex workers were allowed to retain a regular monthly testing appointment.

<sup>137</sup> SNAP, a U.K.-based porn worker group, recommends a 28-day testing schedule because this is the greatest frequency with which public NHS clinics will certify results. Their website lists private clinics that can be used in the event a performer needs more than one certified test within the 28-day window (<https://snaptogogether.co.uk/clinics/>, see also Coyne et al., 2009; Hill et al., 2009; and King & Evans, 2020 regarding U.K. performer testing and certification).

### 8.2.2 Exploiting Risk

Some Berlin-based performers I spoke with—namely those working in gay film—described a wealth of free or low-cost testing options. Others struggled to procure affordable testing (to the degree that some Berlin-based performers with U.K. citizenship explained it was cheaper to fly to London and be tested for free, than to pay German-out-of-pocket-fees). The distinction is in part because populations deemed ‘high risk’ by public health—such as men who have sex with men—tend to be presented more accessible options. Performers and other sex workers are aware of this and when resources are scarce, they know how to move themselves up the priority ladder. For example, speakers on the “Healthcare for Perverts” panel during the Porn Film Festival Berlin (performers Bishop Black and Sadie Lune, and physician Martin Viehweger, October 27, 2019) discussed Germany’s expensive and inaccessible testing services, and how this hinders regular STI screening for the purpose of shooting. Because Germany’s testing infrastructure is less screening focused, Dr. Viehweger said, it can be advantageous to tell the physician you have a partner who has tested positive in order to be served. Sadie then yelled out another solution: “Just say you’re a prostitute!”<sup>138</sup>

Such risk-profile strategizing illustrates a broader condition of some nationalized health systems. Whether official policy or unwritten rule, strained public systems may be reluctant to conduct preventative testing on people who are asymptomatic or without reason to suspect infection (Bradbeer & Mears, 2003; Haukoos, 2012). As Cyd Nova (2016) writes, “public health doesn’t like complications and has little room for the complexities of people’s actual experiences. Public health wants to categorize people as high or low risk and decide whether or not they deserve

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<sup>138</sup> This comment was followed by discussion of the stigma one encounters whenever we disclose sex work to healthcare professionals, so while it might get you served, it comes at a price.

program funding based on that categorization” (p. 197). For this reason, identifying as a member of a “high risk” group is often the only way that one can access screening under constrained, targeted testing mandates (Bert et al., 2018; Evenden et al., 2018; Yazdanpanah et al., 2013).

In short, the PASS network, even at its most expansive, is unavailable to people in Europe, the U.K., and most of Canada. Developing PASS-like systems in these places is hindered by a lack of critical mass necessary to sustain a privately funded enterprise. As of yet, the public healthcare services in these places have not endeavored to develop programs that would serve the unique needs of porn performers, with the exception of the Dean Street Express clinic in London which offers an interesting model that could be replicated elsewhere in cities with a high proportion of performers and other sex workers. Given these constraints, performers have developed various ways to optimize the resources at their disposal, whether that is regular public health and physician services, semi-private or community sexual health clinics, barriers, and other means to protect themselves on set.

### 8.3 Porn Performance versus Full-Service Sex Work

The dynamic between porn performance and full-service sex work has shifted meaning as the industry has evolved. During the mandatory condom law debates, porn performance was often compared to full-service sex work; the former understood as safe and controlled while the latter deemed reckless and unpredictable. For example, industry voices would sometimes assert that performers who tested positive for HIV had likely contracted it in the course of their escorting

work (or, in their personal sex lives—an issue taken up in the following section of this chapter).

This rhetorical trend defended the effectiveness of PASS, but at the risk of inspiring divisiveness.

### 8.3.1 Bringing in Disease

Derrick Burts was a performer who tested positive for HIV in 2010 in what became a highly publicized story. He subsequently went on to advocate alongside AIDS Healthcare Foundation in support of Measure B. A post by the Free Speech Coalition at that time argued that Burts had contracted HIV and several STIs *not* because he was doing porn, but because he was escorting:

*In fact*, former performer Derrick Burts—now AHF’s favorite posterboy—says that he contracted HIV on a CONDOM-ONLY gay<sup>139</sup> production set. Burts also says that he managed to contract chlamydia, gonorrhea and herpes during his THREE months as a performer—but he doesn’t say that he advertised on a gay escorting site, or that he has been paid \$7,000 to appear in commercials for the Yes on Measure B campaign. Contrast that with current performer Steven St. Croix, who has been in the industry since 1992, performed in nearly 2,000 scenes and says that in his career, he contracted chlamydia ONCE. (FSC, 2012b, paras. 8-9, emphasis in original)

Here, escorting is portrayed as a key consideration, all the more suspect because Burts had not divulged this information. The insinuation is that he was irresponsible, dishonest, and by extension, risky. Similarly, another blog on the subject reported:

I have proof [...] Behold the ad “Derek Chambers” (Burts’ gay porn stage name) placed on *Rentboy*, a gay escort site, in which he promises a “hott session” [*sic*] and boasts that he is “AIM<sup>140</sup> tested”. So much for “The only person I had sex with in my personal life was my girlfriend.” Raise hands, who still believes he contracted HIV on a film set? It’s pretty obvious that Burts is a conniving little liar whose dangerous off-camera choices endangered everyone he worked with. (McNeill, 2010, para. 2)

The rhetoric that full-service sex workers are guilty of ‘bringing STIs into the performer pool’ is not isolated to Burts nor to gay porn performers. It was a relatively frequent narrative I heard

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<sup>139</sup> The fact that the set was for a gay film is also significant, and this issue will be discussed in the following chapter. For now, I focus only on the way escorting is portrayed in these claims.

<sup>140</sup> Adult Industry Medical was the porn industry testing facility at this time.

throughout fieldwork and in other media from within the industry, particularly from non-performers like producers and agents. For example, a commentary on HIV moratoriums (the cessation of filming while contact tracing is conducted amongst potential exposures) published in XBIZ reads:

A point that should be made, albeit negative, is that the pervasive attitude and motivation among nearly all performers is *money*. [...] And let's face it, some performers escort on the side and if a client is paying them \$10,000 for a night they'll provide services without a condom. And that danger comes back into the business—hopefully before they're tested. It's the shadow side of the biz. (Henderson et al., 2013, paras. 5 & 7-8)

More recently at the 2018 XBIZ trade show, I ran the livestream camera on a roundtable discussion entitled “Ethical Porn in Practice” (Mindbrowse, 2018). During the Q&A portion an agent spoke up, saying,

On the topic of ethics, one of the things that we've seen is that a lot of the talent agencies, they'll have new girls that will come on their site, and then within a week they'll end up on this big escort site, basically turning tricks. Is that something that we're ok with as an industry?

Several voices from the crowd immediately yelled out a resounding “Yes!”, with panelist Janice Griffith asserting that “in this ethical porn discussion we do not shit on any other kind of sex work when it is consensual”. Indeed, many of the performers I spoke with did not believe that full-service sex workers pose a special health risk to their porn scene partners. For example, when I asked Jasmeen Lefleur if she encountered the idea that escorts ‘bring disease into the industry’, she replied:

Yeah, I've heard that before. [...] [But] you're so much safer because you're always using a barrier when you're doing that [escorting] [...] Everybody is going to fuck off camera, so why should anybody care, you know, if you're doing it just for money? It really doesn't change anything, the money part. I think people need to look at that more and the reasoning behind that because yeah, as long as you pass the test, I mean, who cares?



Here Jasmeen alludes to a key promise of PASS: that if one ‘passes’ the test (negative results), it does not matter what sex acts people have done of set, for pay or otherwise. This was a common refrain in describing how PASS effectively screens a scene partner:

The way I see it, escort as much as you want on the side, because you still have to get testing, you still have to go get into the PASS system and go through all the protocols, so [any STIs you contract escorting] will get caught.  
[Dave Dixon, performer/producer/marketing consultant]

If we put faith in the testing system, then that’s it. It doesn’t matter if someone does crossover porn<sup>141</sup>, it doesn’t matter if someone escorts. It doesn’t matter. We accept that the testing protocol we’ve established is going to protect us based on the science behind it.  
[Adela, performer/producer]

### 8.3.2 Legality as Legitimacy

Porn professionals who do believe that full-service sex work ‘brings STIs into the performer pool’ were more likely to insist on a hard distinction between porn work and escorting. This view demonstrates an important link between legitimacy, legality, and standardized health protocols. Indeed, health protocols are often associated with legality. Jurisdictions where full-service sex work is legal<sup>142</sup> (such as the Netherlands, Germany, Senegal, parts of Mexico, parts of Australia, and the Nevada brothel system) often require health surveillance and standardization, such as registry with a health authority and compulsory STI/HIV testing (Platt et al., 2018). For some, then, any conflation between porn and illegal full-service sex work threatens porn’s tenuous

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<sup>141</sup> ‘Crossover’ refers to cismale talent who perform in both gay and straight productions. Controversy over crossover performers will be thoroughly discussed in the next chapter.

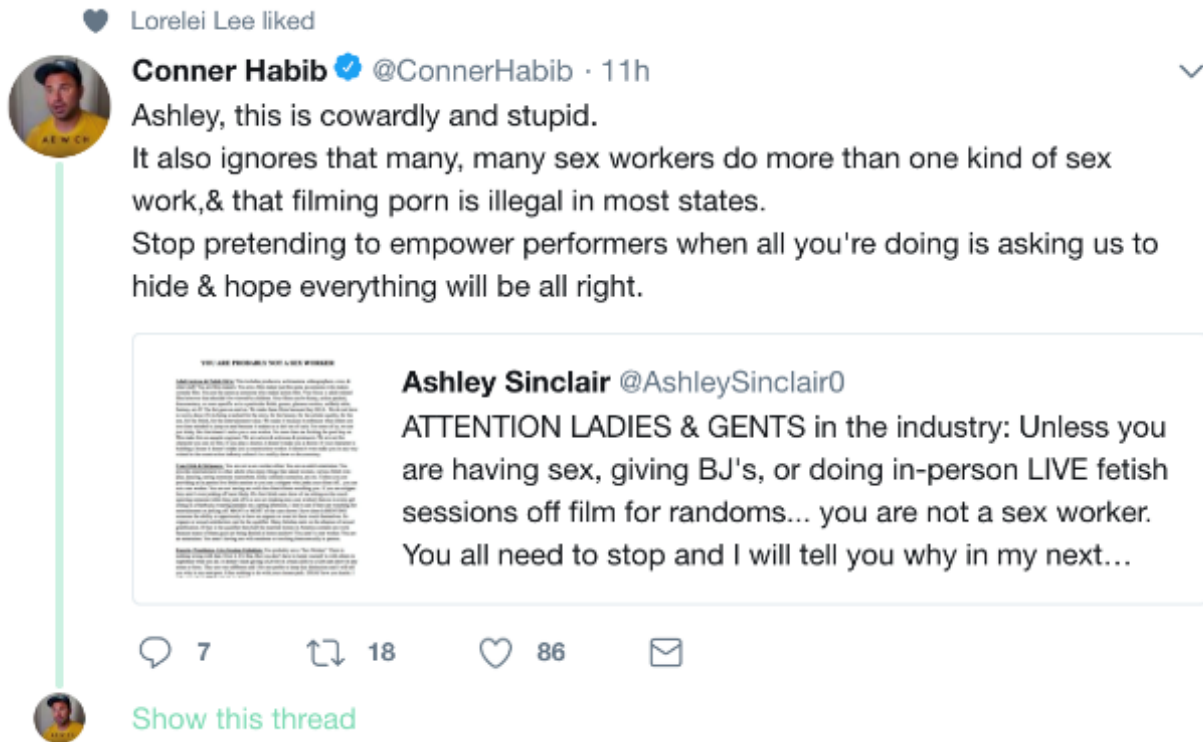
<sup>142</sup> Note that ‘legal’ is not the same as ‘decriminalized’; in places where sex work is ‘legal’ there are generally several conditions, in addition to health checks, that workers must adhere to. Those conducting sex work outside of those conditions are still criminalized in these jurisdictions. Sex work is only fully decriminalized in New Zealand, but even there, condom use is mandatory (Platt et al., 2018).

legitimacy: directly as a health threat, but also ideologically and legally by associating it with criminal activity.

For example, in a series of tweets, performer Ashley Sinclair explained that the porn industry should not identify with and participate in broader sex worker justice struggles, “because aligning with an illegal business model puts my legitimate legal business under unnecessary scrutiny, rules, and laws that hinder my ability to move forward.” (@AshleySinclair0, March 31, 2018). “I’ve paid thousands and spent countless efforts to be legal and compliant. I don’t want an illegal biz piggy backing on that devaluing it” (@AshleySinclair0, April 1, 2018). Identifying as ‘sex workers’, she wrote, invites legal scrutiny, because legislators will not make the distinction between porn and sex work when writing and enforcing the law:

I do not want to lump what I do in with people who give BJ’s in a back alley (not tested) for 20\$ and then get laws passed that affect me doing a consensual cam show from the comfort of my bedroom [...] linking yourself to what IS labelled sex work puts you at risk of losing the ability to post content, broadcast, or advertise online because if you lump it all together..... and don’t educate how it’s different..... then when the government puts bans on pimps trafficking kids, you get caught up in it. (@AshleySinclair0, March 31, 2018)

Sinclair is correct, in that lawmakers routinely conflate sex trafficking, full-service sex work, and online sex work. As will be discussed more below, others retorted that this is precisely why all types of sex workers should stand in solidarity. Additionally, Conner Habib pointed out in his response that filming porn is in fact illegal in most states (with the exception of California and New Hampshire) and that regardless, many performers also do full-service work:



**Image 11**

*Tweet, Conner Habib*

Source: Twitter.com

Dave Dixon recalled this heated Twitter debate, and reiterated some of the same arguments as he shared his own uncertainty around whether or not porn performers should participate in broader sex work activism:

On one hand a bunch of performers were saying ‘well let’s show solidarity because it’s all sex work’, right? And then you had the other performers saying ‘well you know, we shouldn’t really lump ourselves in with them, because it’s totally different types of sex work’. And actually, there’s one very big difference between the sex work that they do and the sex work we do: one is legal and one is not. Right? [...] I’m coming from the standpoint that I think all escorting and prostitution *should be* legal, but the perception is: we’re lumping ourselves in with criminals, and that’s not gonna help the stigma at all, right? And we shouldn’t be doing that. And I gotta be honest, I am still on the fence.

Other performers I spoke with felt that this differentiation between types of work is an expression of what is commonly called ‘the whorearchy’. The whorearchy (a portmanteau of ‘whore’ and ‘hierarchy’) is a phrase used amongst sex workers to describe social, legal, and class stratification

within the sex industry<sup>143</sup>, both in the eyes of the public but occasionally among sex workers themselves. How workers are arranged within this hierarchy is not static, but typically the upper echelons are occupied by those who make the most money and exercise the most autonomy over their work day. One's position in the whorearchy is inflected by the *range of sex acts* one performs (i.e. dirty talk, striptease, solo masturbation, BDSM and kink, oral/manual sex, penetrative intercourse, etc.), *who* they are performed with or for (i.e. phone listeners or webcam viewers, in-person viewing clients, in-person touching clients, with a co-performing fellow sex worker, etc.), *where* they are performed (i.e. on the phone or internet, in private space, in public space, etc.), and for *how much money* they are performed. Sinclair's above description of doing her work 'from the comfort of [her] bedroom', juxtaposed against a full-service worker who 'give[s] BJ's in a back alley (untested) for 20\$' is a good example of how these factors operate together to class a worker. A highly paid professional Dominatrix<sup>144</sup> who does not have intercourse with paying clients is classed higher than a lower paid massage parlour attendant who treats clients to manual sex. A higher paid escort who has intercourse with paying clients may be classed lower than a popular porn performer who has penetrative intercourse with another sex worker (i.e. their scene partner). All these positions are deeply dependent on and further stratified by a worker's racial and migrant status. Non-migrant white workers are generally viewed as exercising more agency in comparison to their migrant or racialized peers, who are typically framed as victimized and exploited and, as a result, are afforded less social status and are more

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<sup>143</sup> The term 'whorearchy' originated in the 19<sup>th</sup> century among moralists who were concerned that prostitution was enabling the growth of a women-led economic class, a 'whorearchy' no longer abiding the rules of morality nor dependent on men for financial stability (Calberg, 2012). The current usage is a reclamation and adaptation.

<sup>144</sup> Also referred to as Dommes, Pro-Dommes, or Femdoms, a Professional Dominatrix offers BDSM/domination sessions and services to clients, such as bondage, impact play (spanking or hitting the body with whips, paddles, etc.) and humiliation role play.

actively policed by both international and domestic sex work law (Agustín, 2007; Doezema, 2001; Lam & Lepp, 2019; Mai et al., 2021).

This stratification among sex workers reflects the criminal code, mainstream sexual morality, and beliefs about what constitutes self-actualizing work under capitalism. As performer Belle Knox (2014) put it, “[t]he whorearchy is arranged according to intimacy of contact with clients and police. The closer to both you are, the closer you are to the bottom” (para. 4). In other words, sex workers who have more direct contact with clients’ bodies, and are more criminalized, have less social status than those who do not. The whorearchy draws from popular understandings of sex work, and replicates them among sex industry workers<sup>145</sup>.

The performers I spoke with offered many examples of how the whorearchy functions in the porn industry. “I think there’s still tons of discrimination towards full-service work”, said Courtney D. “There’s still tons of people, who you think would know better, who are like ‘*oh no*, I just do online work’ or whatever.” On this sense of superiority among porn performers, Sadie Lune explained how “something that is very adamantly upheld and maintained by the culture of porn [is the idea that], ‘we are superior to prostitutes’, which mostly has to do with a sense of class, like literal financial class, but also of celebrity. In porn you have certain kind of attractiveness standards, as if porn was pre-vetted for some superiority because it’s about image on film”. *Adela*

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<sup>145</sup> In some instances though, proximity to clients and police actually accrues a certain kind of credibility. Performers are sometimes denigrated if they are ‘just’ cam models, or ‘only’ do fetish work. Sadie Lune noted her own ‘backwards’ judgement process: “More often people pretend that they don’t do other kinds of sex work [...] Whereas, in my little weird world, at least from my judgmental perspective, I feel it’s more like people who *don’t* do other kinds of sex work, or haven’t done other kinds of sex work [...] I’m like ‘oh you’re not really a ho. Ok, we’re not really coming at this from the same perspective’.”

describes how this divisiveness between workers has impeded the ability for performers to organize:

People have tried several times to bring the performer base together and to mobilize together. I remember one event in particular where everybody gathered at some back room of some chain restaurant or something, and it ended up going nowhere because of differing opinions on the kinds of sex work that is acceptable. The person who called it was very, very negative about people who escort and wanted to basically ban escorts from the adult industry.

Some performers, as well as other workers in the porn industry such as producers and agents, perpetuate the whorearchy by emphasizing the distinction between porn performance and full-service sex work. Many others resist this distinction and unite in solidarity with all workers who exchange sexual labour for money. The next section looks at why.

### 8.3.3 “We’re [all] fucking strangers”: Sex Work Solidarity

Many performers fight against whorearchical narratives and support pan-industry solidarity. As alluded to by Conner Habib above, this is in part because many performers are themselves escorts. “It’s this unspoken thing,” said *Adela*, “but everybody knows that a lot of performers are also escorts. It’s sex work. We’re fucking strangers. We fuck strangers on camera, we fuck strangers off camera.” As porn profits continue to suffer the impacts of piracy and saturation, most performers do not survive on studio shoots alone; many use their porn work precisely to increase their earning potential in other full-service or direct-contact gigs like escorting, stripping, or work as a Dominatrix (Berg, 2016, 2021; Pezzutto, 2019; Schieber, 2018a).

According to director/producer Colin Rowntree, this increase in escorting “is all a direct result of the tubes [streaming websites featuring free, often pirated, content] because they decimated the revenue streams of the studios. They can’t afford to shoot as much and they’ve reduced wages”.

Wolf Hudson, on the other hand, pointed out that full-service sex work has been at the heart of the porn industry since its 1970s Golden Era, rather than just a recent phenomenon spurred by failing profits:

Pornography started through prostitution. Like the biggest names in the heyday of porn: porn was the marquee, escorting was the business. And there's this sort of hierarchy—with some people in the fetish community that don't have sex [on film]—'well, I don't have sex, so I'm *beyond* that'. You're still a sex worker, you're doing porn, someone's jacking off to your product. If someone escorts, you know what? They're making more money doing that. Why are we looking down on that? Oh, you think you're so much classier because you're getting paid by a producer to have sex with a stranger who's also getting paid? [...] It's still the sex industry.

Whether escorting in the porn industry was seen as a constant presence or a contemporary phenomenon, many felt that sex worker solidarity had grown stronger in recent years. As *Adela* put it, "I'm seeing a lot less acceptance of whorephobic language and ideas. I've seen people who once were very loudly opposing escorting now joining the fight to defend full-service sex workers." She continued, citing what she saw as the pointlessness of distinguishing between types of sex work:

Whatever kind of sex worker you are, we can create our own whorearchy within the sex industry but the rest of the world doesn't give a shit, the rest of the world doesn't differentiate, the rest of the world sees us all as one. So we need to unite together as one and be accepting of whatever kind of sex work someone decides to engage in.

Wolf Hudson agreed:

There's a lot of [porn] people that look down on escorts, or vice versa too. And I'm like, ya'll need to just take a chill pill, 'cause you know what? Both of you are looked down upon by *everybody*, you're both considered whores by everybody else.

Indeed, neither public opinion nor the law tend to differentiate between porn and other types of sex work as much as some would believe. As noted in Ashley Sinclair's tweets above, laws and rhetoric motivated by the modern 'anti-trafficking' movement have a negative impact on all sex workers including porn performers, whether or not they themselves escort. The bills that inspired Sinclair's Twitter debate, and which have subsequently inspired much pan-industry solidarity, are

the Fighting Online Sex Trafficking Act and Stop Enabling Sex Trafficking Act (FOSTA-SESTA). The key concern was in how these pieces of legislation, passed by the U.S.A. Federal government in 2018<sup>146</sup>, modified Section 230 of the Communications Decency Act. This made online platforms liable for content posted by third-party users, if that content was deemed to promote or facilitate ‘sex trafficking’ or ‘prostitution’. Because of the law’s vagueness, it has had a widespread chilling effect. Many platforms simply banned any and all content of a remotely sexual nature. Platforms that full-service workers used for locating, screening, or reporting clients were shut down, forcing workers to find clients on the streets or through potentially exploitative third-parties, and removing means for workers to share information about problematic or violent clients (Blunt & Wolf, 2020). Performers not engaged in full-service work<sup>147</sup>, but using websites to generate social media followings, make transactions, and store media content saw these platforms disappear or their profiles shuttered (McCombs, 2018; Tierney, 2018; Walters, 2019).

Like most anti-trafficking legislation and rhetoric, FOSTA-SESTA does not differentiate between people subjected to trafficking and those choosing to do sex work, nor does it only impact those offering full-service sex. And while the law affects American-based websites, these sites are used by people globally. As such, sex worker groups have called for an allied front to combat FOSTA-SESTA and similar legislation, including porn performer advocates and other industry trade groups. The Free Speech Coalition formally positioned themselves in opposition to FOSTA-SESTA and in solidarity with full-service sex workers. The Executive Director at the

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<sup>146</sup> At the time of writing, the bill was subject to an ongoing challenge from the Woodhull Freedom Foundation (Woodhull Freedom Foundation, n.d.).

<sup>147</sup> Beyond sex workers, this law effectively impacted sex educators and therapists, sex toy companies and reviewers, various marginalized gender and sexuality communities, and any other people or groups speaking frankly or explicitly about sex on the internet (Villarreal, 2019). See <https://survivorsagainstsesta.org/documentation/> for one list of impacted websites.



time stated, “This is our fight, and it is important that we stand by those who provide direct services. But make no mistake, this law is dangerous for *anyone* with a sex-related business” (FSC, 2018c, para. 3, emphasis added). This is a marked departure from the position exemplified by their 2012 quote above, denigrating performer Derrick Burts for his escorting work. This indicates that an important cultural and political shift has occurred in porn industry organizing. Even Pornhub, a company deeply invested in strategies to corporatize and legitimize the porn industry (Rodeschini, 2020), often uses language in their communications that embraces the broader sex work community (e.g. Pornhub, 2018).

Given the very real legal threats facing porn—such as FOSTA-SESTA—one strategy taken by those with the privilege to do so is to stake out ‘respectable’ territory. In order to work, this strategy demands that people police who is ‘in’ or ‘out’ of the performer pool, and they will often do so in the name of protecting performer health. However, many performers actively resist this kind of respectability politic. They do so by refuting claims that full-service sex work poses a health risk to performers, by declaring solidarity with full-service sex workers, by being open about their own full-service work, and by fighting laws that impact all sex workers rather than those only targeting porn production and dissemination.

Where the attitude depicting full-service sex workers as a health risks persists, so too are ‘amateur’ performers and personal sex partners scrutinized as potential vectors of infection. For example, this tweet identifies both “side work” (full-service sex work) and “significant others” or “weird boyfriends” as potential sources of STI infiltration.



**Image 12**

*Tweets, Karma Rx*  
Source: Twitter.com

The distinction between professional performers, ‘amateurs’, and personal sex partners is also a precarious and shifting one. This will be discussed in the following section.

### 8.4 Pro/Large-Scale vs Amateur/Small-Scale

The previous section discussed the increasing ambiguity where there were once harder lines—albeit largely illusory—between porn performance and escorting. Another distinction of shifting

relevance is that between professional and amateur performers. This section explores the slippage between professional and amateur work, and links this to debates over what is considered the appropriate sexual health management of on-set (work) versus off-set (personal) sex activity.

In the same way that there have always been porn performers who also do full-service work, amateur porn is not new or novel. There has always been a certain amount of ‘user-generated’ porn and erotica, but until recently it was easier to distinguish this from professional production because the two inhabited different spaces and markets. Susanna Paasonen (2018b) notes that amateur porn production long predates the digital turn, but it was difficult to distribute such content before the creation of contemporary web platforms. Early amateur production was more likely to consist of commissioned works for private ‘collectors’ and benefactors; or stories, photos, or videos created for one’s own personal circle of consumption. Technology developments like the popularization of VHS expanded the amateur market, so much so that the 1986 Attorney General’s Commission on Pornography<sup>148</sup> mentions “photographic pornography [that] is made informally”, asserting that “such small-scale productions are of real concern to us”; still, they noted that “those who appear in them seem to be at least largely distinct from those who perform in glossier, commercial ‘X’ rated material” (p. 841-842). While home video increased the possibilities, amateurs and professionals were still distinct groups; the former small-scale and informal, the latter commercial and glossy.

The modern amateur era can perhaps be traced to the ‘Girls Gone Wild’ franchise. The series was established in 1997 and specialized in filming college students at parties (typically white,

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<sup>148</sup> This report is commonly known and referred to as the ‘Meese Report’ or ‘Meese Commission’, named so for then-Attorney General Edwin Meese.

presumably heterosexual, middle-class ciswomen), usually intoxicated, engaging in sexual acts from stripping to sex. These women were typically only paid “face-time on camera and a GGW silkscreened tank top” (Pitcher, 2006, p. 201). This launched the phenomenon of showcasing ‘regular’ people in porn whose involvement is less cash or career oriented, and (at least in the marketing) more about exhibitionism and excitement. Since then, technological changes have made it increasingly easy for individuals or small teams to create and distribute pornography. The line between professional and amateur has continued to blur, both driven and facilitated by online platforms that are almost exclusively populated with user-generated content. This has paralleled similar developments in other media and entertainment genres<sup>149</sup>, which have moved towards a content-creator focus (Bleakley, 2014; Nayar, 2017; Ruberg, 2016).

As media production and consumption has evolved, there is considerable blurring between professional and amateur performance. PASS was developed in the context of a lucrative and centralized mainstream studio system, where there was a high concentration of paid filming opportunities. Now, people work from everywhere. Locations may be characterized by small, dispersed performer and producer pools competing for fewer shoots with lower pay; or performers may not have any paid filming opportunities where they live, instead creating content through self-funded projects or trades with other performers. This means many performers cannot access the costly testing required to participate in the PASS system *and* be getting enough well-paid work to justify paying for it. Given how a porn production’s legitimacy is established in part through their adherence to strict health protocols (as discussed in the last chapter), ‘amateurs’ are sometimes painted as reckless on matters of health and safety. As with full-service workers, the

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<sup>149</sup> For example, YouTube and TikTok for video, Bandcamp and Spotify for music, Instagram for imagery, Twitter for text and newsmedia, and so on.

narrative circulates that such people are more likely to introduce STIs into the ‘performer pool’ [read: the ‘real’ performers]. This is developed in the next section.

#### 8.4.1 Recruitment: The Slippage Between Work and Play



**Image 13**  
*Tweet, Lloyd Platinum*  
Source: Twitter.com

The above tweet demonstrates that in the case of some amateur content, the line between sex with civilians for fun and sex with civilians for work is a slippery one. This post criticizes performers who have condomless sex with non-performers (“Uber drivers & Tinder dudes”) for the purpose of creating amateur content (“Snapchat”, a social media platform that can be monetized to sell content to paying subscribers). The amateur landscape doesn’t necessarily make a hard distinction between ‘work’ and ‘play’, especially where the marketing appeal of amateur is that it shows one’s ‘real sex life’. In this way, performers may be simultaneously criticized as making irresponsible amateur content and as having irresponsible personal sex lives. The two are intertwined.

The more pertinent distinction, then, is whether or not a performer is having sex and/or creating content with a professional or with a ‘civilian’. One way to determine this is through the recruitment methods used. Some performers are represented by talent agencies who handle their bookings; others represent themselves and locate co-stars through networks of other producers and performers. But performers creating the kind of amateur content marketed as ‘real-life hook-ups’ are likely to recruit their scene partners through non-professional avenues such as dating apps<sup>150</sup>. Working with ‘civilians’ raises health and safety concerns because they are less likely to be tested than other professional talent. As Canadian performer Katy Churchill explains:

It’s not just your professional sexual life, it’s your private sexual life as well, and I think that’s missing from the equation. ‘Cause you see girls who film dudes from Tinder—‘my hook up with the Tinder guy’—a lot of them actually use Tinder to recruit those guys, and they make them sign model releases. I don’t know if they get them tested. I know some of the models personally, some of them don’t. They’re like ‘well we use a condom’ and it’s like yeah, but how often do *you* get tested then? But because they’re not filming with other talent, they might not be tested. [...] With the kind of hook-up economy of Tinder and Grindr and all that, that’s a missing link ‘cause those people aren’t in the industry. Are they finding someone on Tinder who sticks around through the model contract and however long it takes them to get their test results, which can be up to 21 days? Some people are pumping out so many of those videos that I’m thinking [not], and I know they use actual people from Tinder. And it’s like, are you getting all those people tested and are you giving them recent tests?

Katy here notes two levels of consideration: if performers are mainly shooting with civilians, the civilians are not likely to be recently tested; additionally, by working outside of any studio system, they as performers won’t be compelled to get regular testing for themselves. Under these circumstances, condoms are often used instead.

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<sup>150</sup> This refers to smart phone applications (such as Tinder, Grindr, Bumble, or Scruff) designed to facilitate dating or sexual encounters. Most use geolocation to show profiles of other people within a user-determined geographic radius; if two people mutually ‘like’ one another’s profiles they will be ‘matched’ by the app, which enables them to correspond with one another through text.

However, one unintended consequence of the straight industry's singular focus on testing has been to underestimate the utility of condoms. There are many circumstances—for example geographic, as mentioned in the previous section, or practical, as in shooting with civilians—where condoms are a more reasonable and accessible occupational health measure than rigorous testing. Yet industry professionals often expressed doubt in the effectiveness of condoms, denouncing those who opted to use them as irresponsible or unprofessional. This can create rifts and hierarchies around who belongs 'in' the performer pool and who should be kept 'out'. So powerful was this sentiment that I came to internalize it, as exemplified by the following story.

#### 8.4.2 Condom Failure: Civilian versus Professional Methods

Performer Malcolm Lovejoy and I met and conducted an interview during my fieldwork at the Toronto International Porn Festival. Several months later, we were given the opportunity to shoot together and both agreed. I arrived to set with a fresh Talent Testing panel (notably, for the first time in my career; this test had never been required of me before since I mainly do fetish work without fluid exchange, and use condoms for filming intercourse). Malcolm's agent had been instructed to have him do the same. However, a miscommunication had occurred and Malcolm did not have a recent test, thinking it was not needed since we would be using condoms. As we prepared to start shooting and I offered up my test results in exchange for Malcolm's, this error became apparent, and we scrambled to find a solution that worked for Malcolm, myself, and the director. At the director's behest, we opted to shoot a mutual masturbation scene instead of penetrative sex.

The encounter compelled me to think more deeply about how ‘safe’ is defined contextually. I shared my thoughts in a follow-up conversation with Delirious Hunter, another performer who served as Production Assistant on set with Malcolm and me:

Valerie: I was glad that [the director] said ‘no, no matter what you think I don’t want to shoot full sex without him having a test’, because there was a part of me that was like [...] ‘oh well you know, he’s got tests from before and we’re gonna use a condom’-

Delirious: ‘And it should be ok’

Valerie: ‘And it’s probably ok’ [...] So I was glad that she kind of took that decision out of my hands. But the whole trust thing is weird because then I think about some of the sex that I’ve had-, well, lots of the sex that I’ve had in my life [...] where I would go home with someone, we’d use condoms for everything, but I don’t know anything about their past, I don’t know anything about their testing history. [...] I felt almost hypocritical with Malcolm. [...]

Delirious: But that’s your choice and that is within the privacy of your own home and on your own time. This was you being contracted as a professional to have everything in line and to come here and do a job.

Valerie: And you don’t think it’s hypocritical to have those two different standards co-existing in one person? It’s ok if it is! Like I’m questioning myself in all of this.

Malcolm and I agreed that the scene turned out beautifully. It was shortlisted for several erotic film festivals, and by most accounts it was a success. Yet in our follow-up interview, we both felt unprofessional, embarrassed that we hadn’t communicated directly with one another about our safer sex plan. Ultimately, we faced conflict over what exactly constitutes ‘safety’. As Malcolm shared:

There was an email that came in where [the director] was like ‘what condoms do you like?’ [...] So in my head I thought, ‘ok well, if I don’t have the [test], all things considered, we have condoms. So it would be safe’. [...] Yes, we never had the conversation directly between you and I, and me trusting myself or me asking you to trust me is not enough, even though I know I have been taking care of myself. [...] Without question, [this shoot] was the most professional erotic experience I’ve ever had in my entire life. [...] I’m gonna have clearer conversation with the people that I shoot with in the future, *even though it has been safe and I haven’t contracted an STI.*

Even though neither of us had ever contracted an STI on set, we collectively doubted our professionalism, because our trust and reliance on condoms was read as ‘civilian’ rather ‘professional’. In recounting my thoughts about the situation to performer/producer Marcus



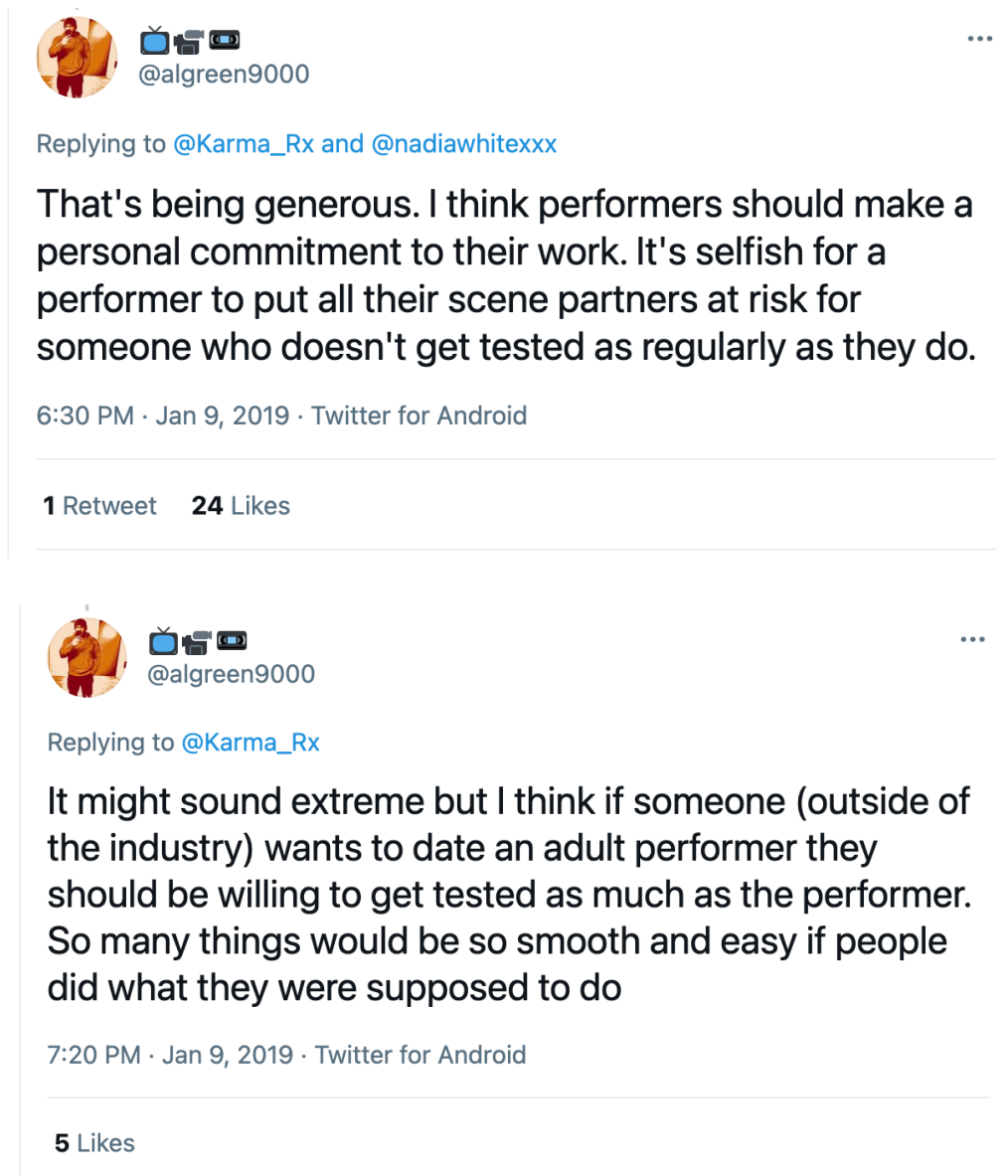
Quillan, he pointed out the illogic of assuming that testing is by default safer than using condoms, noting the window periods around testing:

There's a slight contradiction. [...] Say you're doing a condom scene anyway, if it was [picking someone up] in a bar it would be fine anyway. Actually, that's lower risk probably than say, doing a bareback scene with someone where you've got their test, but you don't know what they're doing in their personal life. So actually, the condom scene would be safer even without part or even all of the test. Yet, a producer or someone might think 'oh no, you can't do that'. But you can fuck someone without a condom and that's seen as fine.

Here Marcus points out that porn performers' personal sex lives are a consideration for gauging the relative safety of a given shoot, and that in fact condoms—if they are a desired option, and barring breakage or some other mechanical failure—provide a high degree of safety.

#### 8.4.3 Off the Clock: Regulating Non-Work Behaviour

Condoms are relied upon more heavily in amateur productions and may be used in performers' personal sex lives. Since the safety of condoms is doubted by many, one suggested solution is that performers should conduct all of their sex encounters—be they on-camera or off-camera—in the same way, by having all their partners use industry-standard testing protocols:



**Image 14**  
*Tweets, Al Green*  
Source: Twitter.com

This may appear to be a logical suggestion, but it elicits ethical concerns around employer reach into workers' lives. This section explores if and how employers/co-workers should get to mandate the off-duty sex behaviour of performers.

Granted, performers rarely consider themselves employees in the traditional sense. In California, for example, performers generally operate as independent contractors in practice even though technically they are considered employees by the Labor Code. As Heather Berg writes of porn work, “[b]ecause employment law is so rarely enforced (and carries anemic damages when it is) industry norms have a greater impact than the letter of the law [...] [S]ome bosses actively ignore the rules, others do not know what they are” (Berg, 2021, pp. 218 & 220). Despite the lack of protections this offers workers, in both mine and Berg’s research (2021), most porn professionals preferred to maintain this contractor status. Regardless of the technicalities between employee or contractor status, the body of literature debating if, when, and how employees’ off-duty behaviour should be subject to monitoring and control by their employers in the name of a safe and productive workplace is useful. This literature offers fodder for thinking about the negotiation between personal freedom and worker responsibility in the context of porn work and sexual health.

While “[t]he interest in outside-work behavior is not new” (Kaptein, 2019, p. 167), there is “an ever-growing list of areas for which employers wish to exert control over employees”, particularly as technologies to facilitate such monitoring continue to proliferate (Cohen & Cohen, 2007, p. 236). Off-duty or outside-work behaviour, in mainstream labour, can refer to everything from unhealthful habits like alcohol, tobacco, and illegal drug use; to personal romantic and sexual relationships; to use of company information and equipment after hours<sup>151</sup>. Monitoring these behaviours is justified as a way to improve productivity, eliminate conflicts of interest,

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<sup>151</sup> At the time of writing, there has been a dramatic increase in people entering the amateur porn market, using direct-to-consumer platforms such as OnlyFans, in hopes of recouping wages lost due to the COVID-19 pandemic. In response, mainstream employers have expressed concern over these moonlighting activities and sought legal avenues to prohibit or punish employees for doing so (Horowitz, 2021).

promote healthy employees (so as to reduce the cost of insuring them), or to preserve a certain organizational reputation (Miller et al., 1993).

Much of the writing in this area is descriptive rather than normative. The *legal right* for employers to exert power over employees' off-duty activity depends on the jurisdiction and type of employer (Pagnattaro, 2003). It has generally been ruled that even jurisdictions with strict privacy laws might "allow an employer to regulate off-duty conduct to the extent that it serves a legitimate business reason" (Hendrix & Buck, 2008, p. 494), for off-duty activities that an employer might be liable for (Pagnattaro, 2003), or when the employee's off-duty activity might compromise the safety of others for which they are responsible in the course of their employment (Rives, 2006). As industry labour lawyer Karen Tynan said, making a comparison to construction sites:

You're getting into how what someone does in their private life has an impact [on workplace safety]. And performers feel it's like someone coming to work on Monday morning with a nail gun, but they're hungover and can't use the nail gun right.

There may be precedent to argue that, in the case of porn production, off-screen sexual relations could be subject to occupational control. Legality aside, however, there appears to be less normative work in this field discussing the *ethical right* to proscribe off-duty behaviours in the name of the job (Kaptein, 2019). Kaptein (2019) has summarized the existing literature into eight moral frameworks. The "Core Values Approach" argues that when off the job, employees should nevertheless behave in a way that does not disrespect the core values of their work. Similarly, the "Moral Discredit Approach" suggests that employees should not do anything that negatively impacts employer or stakeholder trust in them or their work. The "Conflict of Interests Approach" holds that employees should not engage in any off-work activity that increases their chance of acting unethically when at work. Kaptein's own "Integrity Approach" argues that

employees should not behave in a way that disrespects the integrity of their work. These all prioritize the job/employer over the employee in some way, even if the terms are sometimes vague. The remaining four frameworks are somewhat more specific: the “Market Contract Approach” holds that employees and employers should make an agreement regarding such matters and behave accordingly. The “Actual Performance Approach” hinges upon whether or not the off-duty behaviour in question actually impacts an employee’s ability to perform their job tasks. Similarly, but less precise, the “Good Competences Approach” holds that employees should not do anything outside work that would reduce their ability to conduct their work competently. Finally, only one, the “Employee’s Rights Approach”, unconditionally prioritizes employees’ right to privacy.

The majority of normative literature on the topic of off-duty behaviour, then, rules in favour of the boss. These frameworks are based on protecting employer “values” and “trust”, concepts that are so vague and malleable they could be defined so as to impinge on nearly any activity an employee engages outside of work. Even the more specific models based on employee performance are subject to judgements of what exactly job “competency” is, which is arguably impacted by everything a person does. This ideological affirmation of the employer’s right to extract labour on terms suitable to it demonstrates little appreciation for the fact that work is an inherently coercive rather than consensual activity (that is, people labour for pay because they *have to*). How might a moral framework look if, instead of holding employees accountable for how their off-work behaviour impacts their performance at their job, their job was held accountable for how it impacts employees’ ability to live a good life? Some occupational health frameworks have sought to understand worker well-being in this way by expanding the purview of worker health and compensation programs (Chari et al., 2018; Schulte et al., 2019).

Inadvertently, however, this can frame all elements of existence according to how they impact one's productivity within the labour market, thus expanding rather than limiting the job's reach into life (Lax, 2016; Schulte et al., 2019).

The scholarship around off-duty behaviour also fails to fully address the ambiguous distinction between public and private. This distinction is increasingly slippery, as “new patterns of work organization such as flexible working arrangements are increasingly causing work and nonwork contexts to overlap” (Chari et al., 2018, p. 591). In deciding whether or not a given off-duty behaviour should be subject to employer monitoring, Jesson (2008) includes the question of “how private” the behaviour is (p. 283), asserting that “Sex, health, and family matters are treated as *clearly private*” whereas smoking, for example, “is accorded less confidential status, under the theory that smokers typically smoke in public settings even if not in the workplace” (p. 286, emphasis added). Furthermore, “surveillance which reaches a very private matter still may be acceptable if [...] [it] is a legitimate business need of the employer” (p. 286). On the one hand, for porn performers, the activity that we call “sex” is not unquestionably private: it *does* occur in the workplace, and could certainly be considered a ‘legitimate business need of the employer’. On the other hand, suggesting that once people create sexual performances for a living, they are denied the right to a ‘clearly private’ sex life is part of a stigmatizing logic that places sex workers’ sexuality under pervasive and damning public scrutiny (Gira Grant, 2014). It also smacks of late capitalism’s ceaseless intrusion into worker life, where the call to manage the off-set sexual self in the name of professionalism extends the end of the workday into one’s bedroom at home. So while we *could* argue that porn performers’ off-duty sex constitutes ‘a legitimate business interest’—not just of their bosses but primarily of their fellow fluid-exchanging scene partners—it does not follow that we *should* argue that. Whatever the cost of defending

performers' right to 'reckless' and 'irresponsible' sex off the clock, we must also consider the potential side effects of not doing so. The next section explores the way performers have debated, contested, and resisted overreach into their personal sex lives.

#### 8.4.4 Resisting Overreach

To summarize: As an occupational health system developed primarily to defend traditional studio production from government intrusion, PASS can inadvertently reinforce a detrimental divide between adherents who are considered 'professional-responsible-clean' and non-adherents considered 'amateur-irresponsible-dirty'. This dichotomy creeps into judgements of performers' personal sex lives, with some suggesting that performers should only have sex with people who are following the same rigorous and costly testing schedule. Given the ambiguity of these categories (professional/amateur, personal/private), particularly in the shifting nature of porn work, such an argument is neither tenable nor desirable. Porn work is decreasingly studio based; personal and professional sex is not always simple to distinguish (particularly when COVID-19 restrictions led many performers to create content solely or primarily with their romantic partners)<sup>152</sup>. Further, the industry changes that precipitated this shift towards content creation mean that performers enjoy even fewer of the benefits or security that might come from studio partnerships. Under such conditions it seems disproportionate to suggest that performers should conduct their personal sex lives according to standards that were developed by and for studios, and many performers trouble and resist this suggestion.

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<sup>152</sup> This is not to say that there is no distinction practically or emotionally speaking; some performers may draw a clear distinction between sex with a camera rolling and sex without; others may not. The main point here is that very often one's 'personal' and 'work' sex partners overlap.

“Once I started doing porn and stuff, I try to keep [my sexual encounters] to tested people”, performer/producer Charlotte Sartre told me. But she recognized that it’s a privilege to vet one’s sex partners in that manner: “A lot of people don’t have the luxury of this wide pool of always-tested-sexy-people to bang, so they go to the general population. They’re not always tested, but there’s condoms, which aren’t always 100% effective.” She disagrees with the vilification of performers who have sex outside of the performer pool:

Every time there’s an outbreak of something, people are like ‘none of this would happen if you would just keep it in your pants and stop fucking people and just do your job’. But like our job *is* to fuck people and in this line of work, you’re asking a lot to monitor and control what people are doing off camera. [...] I just think it’s really not right to try to police people that way.

Many performers resisted both the compulsion to police people’s personal sex lives and the ‘slut-shaming’<sup>153</sup> logic that drives that compulsion. In their joint interview, performers/producers *Dario* and *Thierry* noted the irony of policing other people’s sexual behaviours when one of the main realities (and appeals) of porn performance is having a lot of sex:

*Dario Morricone*: I wouldn’t slut shame, ‘cause I don’t like judging people. [...] Everybody fucks a lot.  
*Thierry Lagache*: Of course. We’re in this business for that.

As she tentatively described what people might call ‘promiscuous’ behaviour among performers, *Adela* said:

You can’t regulate what someone does off-camera or off-set. You’re not going to. And I guess the reason why I’m sort of stumbling around this is because I’m very much not trying to slut-shame. Whatever kind of sex people decide to have is their business. I hope that they exercise caution, but when it comes down to it, you trust the [testing] system or you don’t. And if you don’t, then cool, let’s work to change the system. But let’s try not to police independent performers.

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<sup>153</sup> ‘Slut-shaming’ refers to the condemnation of people whose sexual activity or bodily presentation is considered ‘promiscuous’, immodest, or sexually provocative and/or irresponsible in some way.



The system to which *Adela* refers here is PASS, but there is an additional informal system implied within that. Many performers spoke of an ‘honour system’ between performers as an integral part of occupational health. Appreciation of this honour system was preferred over a more punitive and policing approach, and creates other means of resisting divisive and ‘slut-shaming’ rhetoric within the industry. This is explored in the next section.

## 8.5 Comradery and Community: An Honour System of Sexual Health

*“Contagion [...] animates a sense of both social responsibility and collective action.”*

- (Fritsch & McGuire, 2018, p. viii).

Most of the performers I spoke with were not interested in mandating performers’ off-set behaviour through individualized surveillance and shaming. Rather, they approached the issue as one of mutual responsibility, holding themselves accountable in the same ways they would hope to hold others. For example, performer/producer Wolf Hudson spoke of how certain performers voluntarily adopt an “honour system” proportional to the “level of camaraderie” they feel for one another. Performer/producer/Free Speech Coalition advocate, Lotus Lain, contrasted a more self-centred performer mentality to one of communal care and interconnectedness:

You would at least hope that people are using condoms or asking their partners to use condoms or be tested if they’re not gonna use condoms. You would hope. But then sometimes people do whatever they want to do. [...] The thing is when we’re on set, we’re watched. We’re held accountable. When you’re offset, you’re not. So that’s where the problem lies. [...] When they’re not getting paid and they’re not necessarily working, like how can you tell them what to do? But then it’s like, when it affects the whole community and the whole pool and the whole general health, how can you not ask them to behave a certain way?

Here Lotus couches standards of off-duty behaviour (one that includes condoms, not just the prohibitively expensive PASS system) firmly within a practice of ensuring *community* well-being. Understandings of sexual risk are contextually and historically specific (Boholm, 2015), and this communal attitude reflects a tendency among sexually stigmatized communities to frame sexual risk as a collective concern and a communal responsibility. While some have argued that modern approaches to HIV management are hyper-individualized (Adam, 2005), particularly since the appearance of biomedical prevention (Sandset, 2019), the foundation of AIDS activism<sup>154</sup> is mutuality. As Gary Kinsman (1996) writes, the creation of safer sex initiatives produced

a new notion of social and mutual sexual responsibility based on community organizing and grass-roots education. This form of sexual governance was based on a notion of responsibility to one's community and to oneself, and not a 'responsibility' defined by state, professional or public health practices. (p. 396)

Calling forth this history is not, as Alex McClelland writes, to push “a romanticized view of what the AIDS crisis was like; it was horrific. Still, confronting HIV back then, when it was understood as a collective responsibility forced many queers to learn to take care of each other” (2019, para. 8). Taking care of each other—a kind of queer family-making—is positioned in contrast to individualized risk reduction strategies that reflect the colonial heteronormative nuclear family and the competitive ethos of the capitalist nation state for which this family is the basis (Chae, 2014). Kath Weston's (1997) seminal ethnographic investigation into queer kinship took place in San Francisco in the late 80s, prompted by displays of mutual aid during the HIV

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<sup>154</sup> The AIDS crisis is often imagined as having only involved gay cismen, and while these men represented the majority of deaths, many other queer communities were affected as well as being centrally involved in providing healthcare and engaging in activism. This included trans folks, lesbians, drag and kink community members, and sex workers of all genders. The importance of sex workers to the early safer sex movement is often erased. Richard Berkowitz, author of one of the first ever safer sex guides *How to Have Sex in an Epidemic*, is always referred to as a gay man but his status as sex worker and porn performer (Fink, 2021) is usually left out.

crisis. Rejected by both families of origin and the state, care for sick individuals fell to friends, lovers, and community networks. This is not to say that heterosexual families always adopt a normative, nuclear structure, nor to suggest that queer chosen families always achieve the desired effect of replacing and improving upon individualized and nuclear family structures or state interventions. The utopia of mutual aid often fails to manifest in an adequately material way (Fink, 2021). It is simply to note that in general, those who reject or are rejected from the normative possibility are more likely to embrace alternative ideologies and practices of collective care.

While the HIV crisis looks very different now, sexually non-normative populations remain more likely to adopt understandings of risk reduction as “a matter of shared responsibility” (Weait, 2007, p. 6, see also Frank, 2019), and are more likely to create alternative kinship structures and community networks beyond the heteronormative, procreative imperative (Dewaele et al., 2011; Fink, 2021; Hailey, et al., 2020; Jackson Levin et al., 2020; Weston, 1997). Combined with an understanding that the state is not designed to serve them, queers and sex workers—intersected by marginalized populations such as poor, migrant, and racialized groups—have a tendency to create their own systems of mutual support (Argento et al., 2016; Hamilton & Webber, 2020; Jackson Levin et al., 2020; Hoffman, 2020; Muraco & Fredriksen-Goldsen, 2011; Nelson, 2011; Patton, 1987; Spade, 2020). Healthcare is often a main focus of such efforts, as Jackson Levin and colleagues point out, “[t]hat families of choice and an ethics of care in the context of health and illness intersect both practically and theoretically is not incidental” (Jackson Levin et al., 2020, p. 2).

In my fieldwork, this orientation toward mutual care was particularly present amongst performers

who identified as queer or who circulated in queer communities. For example, during a panel on sex worker sexual health at the 2019 Porn Film Festival Berlin, performer Sadie Lune shared how she landed on a personal protocol of using barriers for all penetrative sex acts to protect her body, her business, her clients, their partners, and all extended networks. She described this as an act of community prevention because where she has sex with other queers—people less likely to access medical care, given how queer and gender nonconforming folks routinely receive stigmatizing and sub-standard care (see Dean et al., 2016; Paine 2018)—her own precautions would help protect those with fewer of their own preventative resources.

I bring up this sense of mutual cohesion and an ‘honour system’ between performers to introduce another form of resistance to the divisive and punitive ‘slut-shaming’ that can occur when some talent are deemed ‘irresponsible’ in either their amateur or personal sex activities. The performers I spoke with instead offered a class analysis for why such ‘irresponsibility’ occurs, shifting the blame away from individual performers and onto an unjust economic system. This is developed next.

## 8.6 Community Breakdown: Labour Precarity and Self-Preservation

Those I spoke with shared an appreciation that when performers fail to uphold this ‘unspoken honour system’ of community-based prevention, it is usually due to financial pressure. Porn workers (like most workers globally) are subject to extremely precarious labour conditions. Protecting one’s health status is necessary to ensure maximum earning potential, on several levels: firstly, contracting STIs frequently can earn one a negative reputation that impacts the

ability to secure work. Secondly, a bacterial infection “isn’t going to kill you” says Michael Vegas, but “you may lose a couple of thousand dollars” from missed shoots. Finally, as Delirious Hunter said, these bacterial STI infections are bound to happen occasionally, but an HIV infection “would tank your career” since receiving an HIV diagnosis bars one from using the PASS testing system, severely limiting their ability to work in straight and some gay productions.

Performers must negotiate these health concerns in an environment that generally burdens them with all the responsibilities of being independent contractors while providing them none of the protections of being employees, for while the flexibility of sex work is part of its appeal, this “also opens up the possibility of exploitation of labour when owners/managers exert control over the labour process without treating employees as actual employees” (Jeffrey, 2018, p.132). Using all possible resources to avoid costly illness (including the imperfect resource of defining some performers as ‘high-risk’ and avoiding or shaming them) is one way to wrest some control and security in an industry that provides little in the way of a safety net.

“I think the reason that occupational health is particularly subject to increased scrutiny” says Ian O’Brien of PASS, “is largely the coercive aspects of financial gain, right? And the inherent coercion of needing to live and make money to live.” Ian and I are speaking during a rare quiet moment of the AVN show, in the middle of the Las Vegas venue’s casino floor—an ironic location, given our discussion has turned to matters of money and risk. “And so”, he continues,

your risk calculations are different. Like if we didn’t have a standard for miners, the miner that was willing to dig the most holes for the cheapest without any protections for super long hours, wins. And then we’re putting ourselves in incredibly risky, unhealthy, bad situations for the sake of making as much money as possible.

Performers and miners alike will compromise safety when pushed by financial need.

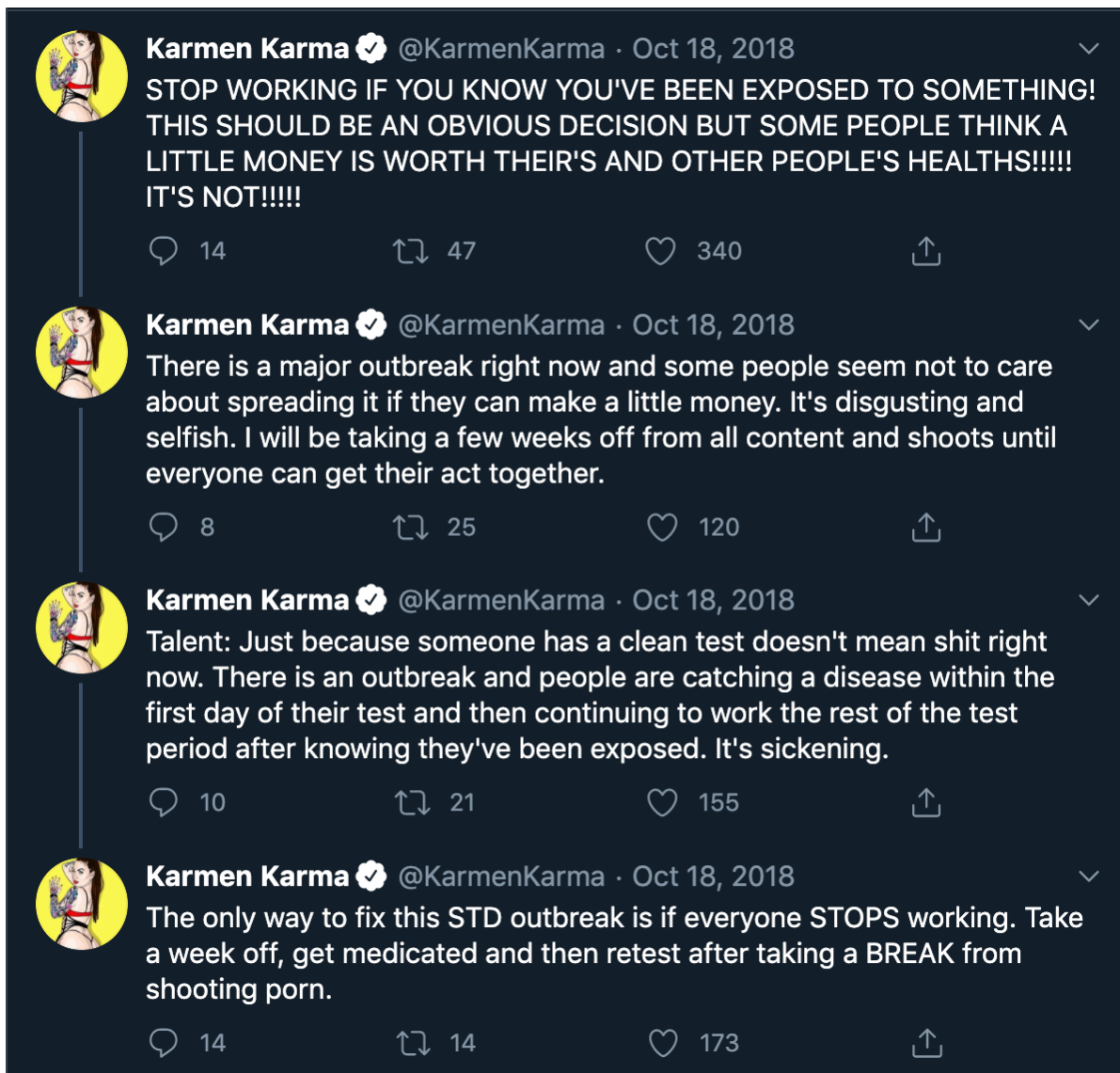
Performer/producer Lotus Lain points out that it is those performers who

are just like ‘every man for themselves’, *those* are the people that will cut corners, those are the people that won’t give a fuck, those are the people that’ll be like ‘yeah fine you can work on your 15<sup>th</sup> day of the test’. Those are *those* kinds of people. ‘Cause they don’t think of it as a community. They think of it as ‘I’m trying to get my dollar before someone else gets my dollar.’

Performer/producer King Noire also discussed how financial pressure can compromise safety standards, comparing porn to other types of labour:

Who knows what people do after they get their test? You hope that people hold themselves to a certain standard, but at the same time that’s not the world we live in. There are still ways [testing] could be tightened up even more, but it’s also I think the pressures of making money, the pressures of survival, push people in all types of directions [...] That goes for any kind of industry. When you’re desperate, you’ll fucking work a crazy work hour, a crazy work week, that you ain’t got no business doing. And you’re putting other people in jeopardy, [for example] as a truck driver driving for two days straight without sleeping.

The potential outcome of such financial pressure upsets many performers. For example, Karmen Karma made a series of chastising tweets, as reported on MikeSouth.com (XXX Insider, 2018):



**Image 15**

*Tweets, Karmen Karma*

Source: Twitter.com

Karmen’s tweets offer sound medical advice, *if* one can afford to take a break from shooting and pay for medication and follow-up testing. Performers usually have to cover all or most of the cost of their testing, treatment, and sick leave. In the U.S.A., they must also cover their basic health insurance and medical bills. These costs are substantial, especially if one is working frequently.

Testing alone entails a variety of costs and considerations, which performer/producer Delirious Hunter ran through in expert accounting style:

The actual test itself is about \$150 to \$170, something like that. [...] Shipping fee is generally about \$30 to \$35 for standard shipping. You can get the expedited shipping, which you pay more. You could do like 2-day or 3-day or something, which is longer but you don't want your specimen sitting in the sun, in the winter, in the cold, it's gonna screw up your test results so it's always kind of a standard regular like next day sort of shipping. So generally, between the shipping and the draw fee that comes to about \$70, \$75. Normally that's something that I absorb and use when it comes to taxes at the end of the year.

Many performers see this as an unjust situation. As performer/producer King Noire lamented, "it's a *billion-dollar* industry. Why are most talent still expected to have to cover their own test?"

Performer/producer Mercy West explained that this can put performers in a bind when money is tight:

Studios are so unwilling to pay for testing, even for new performers. So I think that can put people in odd situations. I know I've been stuck in situations before where I've been like, 'so you want me to spend 200\$ [...] Can you just take the money out of what you're gonna pay me and get my test stuff done? Because I don't have the pocket money to do this right now.

Canadian performer and producer *Thierry Lagache* worked in American gay studio porn when it was much more common for producers to pay the cost of testing. He was shocked when models were expected to pay their own tests:

They [producers] should be the ones [to pay for tests]. Why should the model pay for that? The model, if he gets paid \$1000 and it costs \$500 in testing because they want it 24 hours later, why the fuck am I gonna pay for that? I'm supposed to work for you, I'm not supposed to dish out of my own pocket to go and work for you.

The fact that performers usually have to cover their own test costs has been detrimental to the protocol. To reiterate what PASS Executive Director Ian O'Brien said in Chapter 3,

The biggest glaring flaw in PASS right now is that there is no oral or anal swabbing that's done<sup>155</sup>, so those remain sites of potential transmission. [...] But it costs a lot

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<sup>155</sup> As also noted in Chapter 3, swabbing can be requested for an extra fee, but it is not required for performers to receive a green check mark indicating their availability for work.



[...] If it was an expense that was to be borne by the producers I think we'd do it in a heartbeat. But the cost burden for performers is a different kind of health negotiation, right? Because if we make it too expensive, then they opt out of the [PASS] system altogether.

Indeed, performers balance the cost of their testing with the income they stand to gain and their own personal risk comfort levels. Marcus Quillan described how in the U.K. the HIV RNA test is not standard, but some performers request it. Unlike the free NHS testing needed for most shoots (the antigen/antibody or Ag/Ab test), the RNA test can only be accessed at private clinics<sup>156</sup> and costs about £100 out of pocket. Recounting a particular occasion when he had to buy the extra test:

It would be great if I didn't need it, because I would actually be comfortable without it, as long as all the other tests are there. Especially as I sort of know the performer. I know of them, at least, and they get regular work and are well-respected and all the rest. It just means I get less income from the shoot overall.

Performers recognize this type of economic balancing act as a coercive one, in the sense that all labour under capitalism is coercive. Recounting another story where a producer tried to pressure him into working without seeing oral swab results from his co-star for a deep throat<sup>157</sup> scene, Marcus said:

it doesn't sound good, does it? A producer is telling you, 'oh this person doesn't have oral swabs but the stuff you're doing is lower risk, so up to you'. Even if they do still leave it up to you in theory, you know, you might need that money to make your rent that week, so that kind of makes it coercive in a way. [...] Isn't there an element of that in *any* paid work?

Charlotte Sartre similarly noted how one might feel pressured to take health risks at work so as to avoid being seen as “problematic”. Comparing her experiences in the legalized brothel system of Nevada with her work in porn, she said:

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<sup>156</sup> Available clinics are listed on the SNAP website: <https://snaptogogether.co.uk/clinics/>

<sup>157</sup> ‘Deep throat’ describes oral sex on a penis/shaft where the person performing oral sex takes the penis/shaft deeper into their throat, rather than just into the mouth.

I feel a little safer with the brothel system and also, I feel more comfortable—if somebody had some kind of skin thing or like an open wound down there that I wasn't comfortable with—I feel protected by Nevada state law to be like, 'hey I'm just not comfortable because of this, and if you have a problem, talk to the Sheriff, she'll be on my side'. [...] But in porn you know, there's also a fear of if the person has like a strange lump on their penis or something, if I say 'hey I'm not comfortable working with this person', I'm losing money *and* the director might think I'm problematic and might not bring me back.

It is not performers alone that consider these economic pressures. Queer producer/director Kate Sinclair noted that because she is a small producer and “not part of that mainstream machine” focused on frequent production and profit maximization, she can offer performers more sexual health agency on set:

In mainstream they tell you that [customers] won't pay the same amount of money for [porn with barriers], they won't view it, so you're not gonna get hired by the next company. It's a whole livelihood thing. I'm just a small producer, I do a few films a year, so it's not like people have to worry about my numbers and getting hired again, because they probably won't get hired again for a year or two at least, because of how much I produce. So they feel safe using barriers. Which is interesting, like, they feel safe being safe.

Other performers do not “feel safe being safe”, and are disheartened to find that they have little support from the industry if and when they need it. When we spoke about the AIDS Healthcare Foundation's lobbying for mandatory condom use in porn, Michael Vegas countered my suggestion that they did not talk to any porn labourers. Rather, he pointed out that AIDS Healthcare Foundation did speak to a selective group of (ex) porn workers:

Well [AIDS Healthcare Foundation] *were* talking to the labourers. They talked to the Cameron Burts and the people who did get transmission of HIV, though very unlikely, from set. All of these people that have been scorned by porn, because porn wouldn't take care of them when something happened. And now AHF gets a hold of them, like 'yeah, porn gave you this disease and then they shunned you'. Fuck yeah, I would sue porn. Of course, where else are you gonna get your money from? You've just had your livelihood taken away and people are refusing to help you in any way.

This lack of financial support goes beyond STIs. Many performers discussed the myriad other health issues that can occur on set, from urinary tract and yeast infections, to minor scrapes and

bruises, to more serious injuries and discomfort. Michael Vegas continued by saying that often, directors have

a general lack of understanding of how human bodies actually work, and things that are being done on set, and how painful and damaging doing these things is. Like, having sex on a marble floor? Where's my reparations for hurting my body for doing this? A stunt man's getting paid hazard pay for doing this shit. What am I getting? The same shitty paycheck without any royalties.

Performers are held responsible for maintaining a certain health status in order to secure work, but as with many industries today, they must do so with fewer and fewer resources provided by employers. Ideally, a worker “can be held responsible only for something over which one has control. For a party to be given responsibility for something over which it lacks control is unjust and is, in fact, the essence of victim-blaming” (Green, 1988, p. 476). Despite the injustice of this precarious labour environment, most performers did not wish to have employee status. Similar to Berg's findings (2021) most participants preferred the freedoms enabled by contractor status, regardless of the costs. As Wolf Hudson said,

I like being an independent contractor and doing my own thing. But I wish that there was a way to, I don't want to say unionize, but just for basic benefits like health, that we could have a system that we can all co-op in and put something in. [...] They've kind of tried to do that in the past, but there wasn't enough traction, there wasn't enough funding or enough will to make it happen. Yeah, I feel perfectly fine being independent. I understand others wanting to have that sense of security.

The bind of this toss-up between freedom and protection is evident in the reasons why companies might not want to cover testing. As Delirious Hunter theorizes, it is precisely because performers operate, by necessity, as independent contractors that studios hesitate to cover costs that might inadvertently benefit other studios that the performer works for:

Some companies, if you give them the receipts for everything, they reimburse you [...] and yet some of the big main companies won't. They won't give you a producer code [for discounted testing], they won't do any of it, which kind of throws me for a loop. [...] [But] I can understand, because a girl does one scene for you, you pay for her testing. She's now able to go and knock out another 12 days-worth of scenes after she just worked for you. None of those producers paid for her test. So it's one of those where I guess some

companies didn't want to, or maybe they found that they were getting sort of taken advantage of by regularly paying for peoples' tests.

Heather Berg (2021) describes the industry sexual health protocol as designed to “weed out (individualized) external risk, rather than to prevent (structural) workplace harm. Industry policy places the burden for doing so on individual workers, but also gives them strictly limited means for doing so *at work*” (p. 239, emphasis in original). Of course, coercive, harmful, and under-resourced work policies are not unique to porn labour. I am aware, as Berg warns, that anti-porn thinkers may be quick to appropriate these criticisms as evidence supporting their claims that porn work is uniquely harmful. Like her, “I can only offer the reminder that any conditions non-sex worker readers find troubling here are also a problem closer to home” (2021, p. 27). As pointed out by participants throughout this section, truck drivers and miners are equally pressured to sacrifice safety to secure wages. As will be discussed more in Chapter 10, all types of work can be hard on the body. Across interviews, participants pointed out that even those in the cushiest of white collar jobs experience ergonomic problems from being at a desk all day, and will fall victim when the office flu is going around. Indeed, several pointed out how sex work broadly and porn work specifically, was much kinder and more amendable to those with chronic health concerns for the scheduling flexibility it offers, and the ability to make larger sums of money in shorter periods of time. Performers and other porn workers are critical of their jobs not because they wish they were doing something else, but because they are politically insightful, innovative, and justice seeking. We all deserve the right to complain about our work—and for capitalism, not us the worker—to be held accountable.

## 8.7 Conclusion

Both the Adult Industry Medical and PASS testing systems were developed to serve a particular iteration of the adult industry: a heterosexual studio system populated by performers making a full-time career of professional film work only, centralized within a relatively small geographic area of the U.S.A., using a privatized health system, with a focus on avoiding both condoms and producer liability.

Despite its usefulness and effectiveness, the system never met everyone's needs. As the industry continues to evolve, this is increasingly the case. A system built to meet specific needs in a specific time and place cannot be expected to fully serve the current industry. Several of the categorical distinctions that once characterized the industry are disassembling, and sexual health practice needs to keep evolving to address this new landscape. Because it is unable to meet everyone's needs, people are adapting it—not out of a disregard for safety, but out of a regard for justice.

Performers have therefore resisted some of the distinctions that once served the occupational health status quo, and have adapted through these shortcomings in nuanced and creative ways. In this chapter I have traced some of these resistances and adaptations: from capitalizing on risk profiles to pass through gatekeepers and access public health services; to coming out as full-service workers and advocating for pan-industry solidarity; to denouncing slut-shaming, embracing a spirit of communal rather than individualized care, and advancing critiques of capitalism that place the responsibility for unsafe conditions on capital, not fellow workers.

Both the AIM/PASS system, as well as critiques of that system and the adaptations made to work outside that system, are examples of sex worker problem solving, creativity, and survival.

Producers and performers adapt their sexual health protocols to meet their differing needs and circumstances. In response, we need to consider recreating PASS into, and/or developing an alternative modular system, adaptable to a variety of budgets, contexts, and needs. An epistemically just approach to such development places sex workers at its centre, as they are already building what they need.

There are two other major categorical distinctions, perhaps the most critical and controversial features of occupational health in porn: the divide between gay and straight production, and that between HIV+ and HIV negative performers. I turn to these interrelated subjects next.

## CHAPTER 9: CROSSOVERS AND CONSENT

### 9.1 Introduction

The previous chapter looked at how occupational health standards in the industry are based and interpreted according to certain categorical definitions: geography and available healthcare services, the separation between porn performance and full-service sex work, and distinctions between professional and amateur work, with implications for how a performer's personal sexual life might be subject to surveillance. It traced some of the ways that performers are reinterpreting, pushing back, or otherwise navigating production that falls out of these bounds.

However, the most controversial issue in porn health in recent years has concerned the evolving science of HIV transmission, and by extension, the distinction between gay and straight production and their different approaches to occupational health. This chapter unpacks this controversy. First, I introduce and describe 'crossover' stars: cis-male performers who work in both gay and straight films. I explain how for some people in the industry, these men have become contentious, fear-provoking figures in the industry because of a belief that they represent a greater risk of HIV transmission on-set. I outline this line of argumentation as well as the counter-arguments proposed by those who think the industry is not in step with modern HIV prevention science. Next, I investigate the way 'consent' is typically understood and operationalized in sexual encounters, and how this understanding of consent does not quite suit occupational sex. I argue that when applied to porn work, traditional notions of consent and

responsibilization can evoke and justify an ableist<sup>158</sup> respectability politics that is highly problematic for how it excludes STI+ and HIV+ performers (and those suspected of being higher risk for STIs/HIV).

This chapter deals with performer perceptions of risk and responsibility. As discussed in Chapter 3, there is no reliable epidemiological data that can pinpoint STI and HIV infections specifically transmitted on porn sets. What we do have, however, is evidence of every time that HIV has been detected within the PASS database, as indicated by production hold announcements issued by PASS/Free Speech Coalition. According to these, there has never been a case of HIV transmission on a PASS-verified set. Eleven HIV-related production holds have been announced in the decade since PASS replaced Adult Industry Medical in 2011. Of these, three were a false positive, and in the other cases: a) the performer was new to the PASS network, and so had not yet performed in any porn that uses the PASS system to verify co-stars; b) the performer was returning to the PASS network after a substantial absence, so had not performed on a PASS-verified set since their prior HIV negative test result; or c) the infection was detected and contact tracing was performed before an on-set transmission could occur (FSC, 2011, 2013c, 2013d, 2013e, 2014b, 2014c, 2015, 2017b, 2018d, 2018e, 2021; verified by personal communication with PASS, October 11, 2021<sup>159</sup>). There is therefore no evidence to suggest that PASS-regulated

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<sup>158</sup> Ableism is often used to refer solely to discrimination against people with physical disabilities or who are not neurotypical, but there is precedent for talking about HIV discrimination as a form of ableism and HIV was added to the conditions covered by the Americans with Disabilities Act in 1998 (Rodríguez-Roldán, 2020). I use the term to cover discrimination related to real or perceived infection with HIV or STIs because, as this and the next chapter will discuss, there are many prejudices and discriminatory policies designed around the idea that the ideal sexual body is the un-infected body. This constitutes a belief that there is a ‘correct’ biological embodiment, which is the essence of ableism.

<sup>159</sup> It is problematic that PASS itself is the only consistent source of information regarding the success of PASS production holds, since the program has an interest in reporting its own effectiveness. However, this conflict of interest is tempered by the fact that there is a real goal of preventing HIV transmissions on set,



porn sets represent a heightened HIV risk, regardless of whether performers have starred in gay porn, straight porn, or both. That said, this chapter is less about actual risk and more about how some subjects become perceived as ‘risky’ and the solutions proposed for mitigating that perceived risk.

## 9.2 Crossover Stars: The Duplicitous Bisexual Returns



### Image 16

*Tweet, Jane Way*

Source: Twitter.com

As detailed in Chapter 3, gay and straight productions have taken different approaches to HIV. Straight production has banned HIV+ performers, generally avoiding condom use, and instead relies on regular disclosure of testing results. On the other hand, gay productions (owing to a different history of HIV stigma, surveillance, and understanding) adopt more of a ‘don’t ask/don’t tell’ approach where you assume all performers may be HIV+. Traditionally this meant using condoms, but since the development of PrEP and continued confirmation of U=U (that an undetectable viral load = untransmittable), gay porn has also gone more condomless, relying largely on biomedical prophylaxis to prevent HIV transmission.

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to ensure the safety of performers and thereby retain their funding, which comes from studios that rely on PASS to protect their legal liability.

For some producers, performers, and agents, concern arises when cismale performers work in both gay productions (with other cismen) and straight productions (with ciswomen)<sup>160</sup>. These performers are typically referred to as ‘crossovers’, in that they cross over this production divide. In brief, the fear is that because sexual health is managed differently on the gay side of the porn industry, crossover performers might act as a bridge that could ‘bring HIV’ onto straight sets. In this first section, I trace some of the major events, key arguments, and proposed solutions in this debate.

But a caveat on terminology is necessary: ‘crossover’ is sometimes used merely as a descriptive label, but in other cases it is used disparagingly. As Wolf Hudson, a producer/performer who has long defied categorization, tweeted about the term:

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<sup>160</sup> Cismen who perform with both ciswomen and transwomen are also considered crossover talent by some, and may also be subject to this increased suspicion.



**Wolf Hudson** ❤️💜💙  
@WolfHudsonIsBi



"Crossover" performer definition:

A term used to persuade female performers NOT to perform with bi male talent who performs with other men. It insinuates said performers run the risk of having and exposing HIV to a female performer. Bullshit! Also...

U=U

9:44 PM · 2020-01-05 · [Twitter for iPhone](#)

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2 Retweets 11 Likes

**Image 17**

*Tweet, Wolf Hudson*

Source: Twitter.com

With some trepidation, then, I employ the term ‘crossover’ throughout this section, because it is the one used most widely in my interviews as well as media related to this debate. I recognize that not all performers who are labelled as ‘crossover’ identify themselves by that term. I also want to reiterate that ‘gay’, ‘straight’, ‘bi’, and ‘crossover’ refer to the type of production in question, that is, the presumed orientation of its intended audience. It does not necessarily correlate with the identity or orientation of performers.

### 9.2.1 The Case of August Ames

While the majority of my interviewees did not share a fear or mistrust of crossover performers, a great deal of debate over crossover performers has transpired in the wider porn community. The controversy came to a head in the tragic case of August Ames. August Ames was a popular Canadian porn performer living and working in L.A.'s mainstream straight industry. In December 2017, Ames died by suicide<sup>161</sup> after facing strong criticism for tweeting that she would not work with a man who had performed in gay porn (see Horn, 2017). While concerns about crossover stars predate Ames' suicide, her death proved galvanizing. The tweet in question read:



#### Image 18

*Tweet, August Ames*

Source: Twitter.com

Accused of homophobia, she framed her decision not to work with crossover talent as a matter of health management and risk reduction. When Ames was rebuffed for her initial tweet, she responded:

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<sup>161</sup> There is much more to Ames' story, and even mainstream outlets took great interest (see, for example, Jon Ronson's podcast series *The Last Days of August*). Most industry voices believe that Ames was suffering other mental health issues that contributed to her suicide, and that cyberbullying alone was not to blame for her death. Unfortunately, she was not the only young woman to die by suicide or suspected overdose that year. These deaths inspired the creation of several mental health initiatives serving the industry, such as Pineapple Support. Sex workers routinely face stigma and mistreatment from mental health, addictions, and other healthcare providers, making it crucial to establish networks of sex work-friendly supports (see also Benoit et al., 2018; Roche & Keith, 2014; Sawicki et al., 2019).

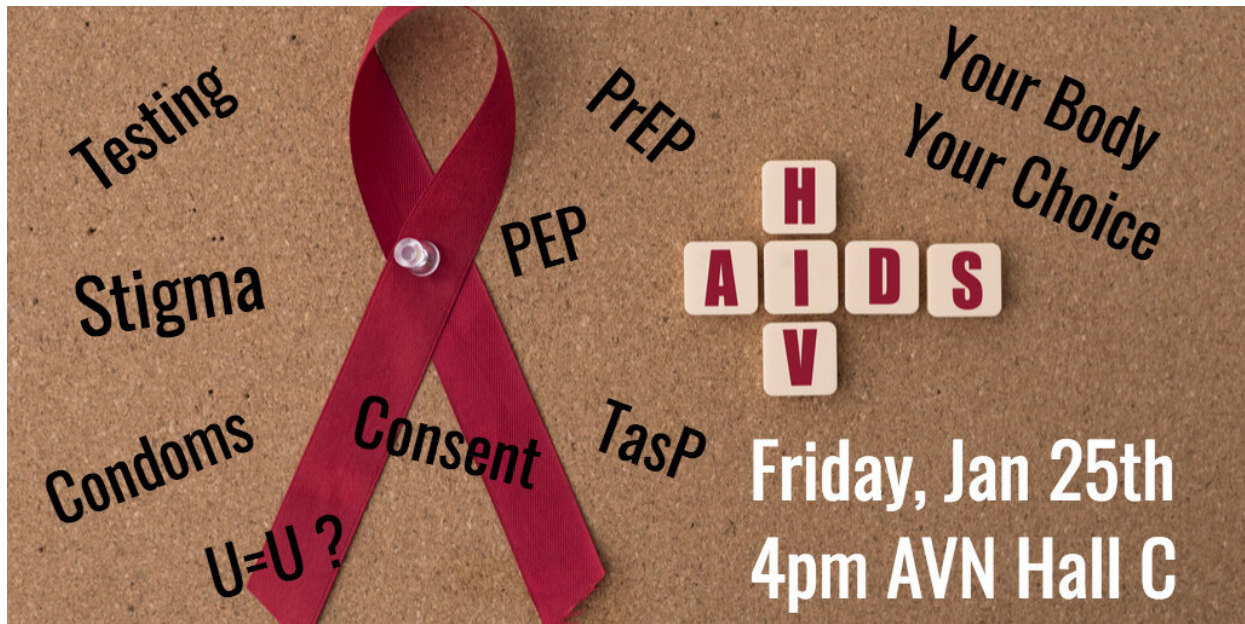


**Image 19**

*Tweet, August Ames*

Source: Twitter.com

The concerns voiced by Ames were echoed and critiqued in Twitter debates, industry publications, and trade show discussions. It revealed a fault line in industry opinions on the issue of HIV science, disclosure, and safety. ‘The’ adult industry is not characterized by consensus; there are numerous political, generational, and ideological divides running throughout the diverse group of people who enter into porn work. For simplicity, two major ‘camps’ of thought can be identified in the crossover debate. To understand the debate, I will trace the basic points made by each camp. This characterization is drawn from the entirety of my industry interactions, readings, and fieldwork experiences, with particular attention paid to an event [poster below] that occurred at the 2019 AVN trade show (FSC, 2019d). This event occurred just over a year after Ames’ death and while not directly linked, it was certainly influenced by her passing and the dialogue that followed.



**Image 20**

*Poster for Free Speech Coalition HIV Prevention Panel, AVN 2019*

Source: Free Speech Coalition

<https://www.freespeechcoalition.com/press/blog/2019/01/17/fsc-to-host-panel-discussion-on-hiv-stigma-and-prevention-in-adult-industry-at-avn>

The panel, hosted by the Free Speech Coalition, included performers, HIV activists, and a physician specializing in HIV care. It sought to discuss HIV stigma and provide clarifying information around the evolving science of transmission and prevention. The event provoked a lot of debate during and after, serving as both a microcosm and flashpoint of the broader issue.

Before outlining the two camps' positions, it is worth reiterating the rationale behind PASS's HIV testing protocol: historically, PASS mandated the HIV RNA test, rather than the more widely used antigen/antibody test (Ag/Ab). The HIV RNA test is more accurate and costlier than the Ag/Ab test, so it is typically reserved for managing an active HIV infection. PASS uses it because it has a shorter window period to detect new infections. That is because it looks for the virus itself, rather than antigens or antibodies, which take longer to develop after a new infection. HIV antibodies take 28-45 days to become detectable and p24 antigens take 14-23 days to

become detectable (Gray et al., 2018), whereas the HIV RNA test can detect a new infection within 7-14 days (Wilton & Knowles, 2020). Therefore, PASS did not opt to additionally mandate the Ag/Ab test, seeing this as superfluous and as adding an unnecessary cost for no added preventative value.

The crossover-critical camp became suspicious of PASS protocol over what they considered a discrepancy in medical opinion. The Centers for Disease Control and Prevention (CDC), the recognized health authority in the U.S.A., recommends using the Ag/Ab test for HIV screening. Of course, this recommendation applies to HIV negative people in the general public, not the higher-volume needs of the adult industry. Still, the crossover-critical camp found it problematic that industry testing protocols deviated from these CDC recommendations (APAG, 2019b; XXX Insider, 2019). As the following tweet illustrates, they feared that HIV+ performers with an undetectable viral load would be able to ‘slip through’ the HIV RNA test unbeknownst to their scene partners, and that this perceived HIV loophole was intentionally designed to enable HIV+ performers to enter the HIV negative/straight performer pool:



**Image 21**  
*Tweet, Ruby the First*  
Source: Twitter.com

As Beth Ferri (2018) points out, viruses evoke “all manner of conspiracy theories, frequently ones that draw on (and animate) racist, ableist, sexist, heteronormative, settler-colonial logics and legacies” (p. 7). The crossover-critical camp accused PASS of intentionally endangering performers, using language reminiscent of homophobia, serophobia<sup>162</sup>, and miscegenation. This distrust was exacerbated by the fact that during the peak years of this controversy, the Executive Director of the Free Speech Coalition (the organization that operated PASS at that time<sup>163</sup>) was Eric Paul Leue, a gay man with a background in HIV activism (King, 2015). The fact that the Free Speech Coalition had also lobbied for SB 239, a piece of California legislation that reduced the charge for HIV non-disclosure from a felony to a misdemeanor, was seen as evidence that the trade association knew they were allowing undetectable HIV+ performers to work within PASS and so made calculated moves to avoid suffering consequences in the event of an on-set transmission of HIV (APAG, 2019a).

The crossover-friendly camp found these accusations preposterous. They argued that firstly, the viral test used by PASS can detect so few copies of HIV virus that it would be unlikely to test negative on it even if you had an undetectable viral load. More importantly and much more controversially, though, they argued that *if* an HIV+ person tested negative on HIV RNA test, that would mean they were not infectious and could not transmit HIV anyway. In HIV medicine, “undetectable” (and thus untransmittable) is defined as less than 200 viral copies per milliliter of blood (Eisinger et al., 2019). The HIV RNA test used by PASS affiliated labs can detect as low as <20 copies/mL (Barré-Sinoussi et al., 2018), therefore the crossover-friendly camp was citing the science behind U=U, a principle that has been replicated in multiple studies of both

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<sup>162</sup> Serophobia refers to fear, aversion, and prejudice towards people living with HIV.

<sup>163</sup> As noted in previous chapters, PASS became a separate organization in May 2021.



heterosexual and homosexual HIV-discordant couples (Eisinger et al., 2019). Despite the enormity of evidence, many people in the industry and the public at large are unfamiliar with or skeptical of U=U; as such, some performer/activists have even released porn scenes intended to educate viewers about this development in HIV science (Broverman, 2021).

In response to these assurances, the crossover-critical camp was not comforted, but rather quite uncomfortable with the idea of allowing HIV+ performers to work. At the AVN panel, for example, several attendees expressed fear that the virus would mutate, that the person might stop taking their medication and become infectious within the 14-day period that their PASS test would be valid, or that HIV+ performers might experience ‘viral blips’, that is, “transient elevations of viral load following a period of undetectable HIV RNA, usually at a single time point” (Saag, 2020, p. 2710; see also Dean, 2015). I heard similar concerns expressed elsewhere, in tweets, casual conversations, and industry websites<sup>164</sup>.

The HIV doctor on the AVN panel assured people in the audience this would not be possible. Viral ‘blips’ have been factored into U=U studies (Barré-Sinoussi et al., 2018)<sup>165</sup>, mutations while on antiretroviral therapy no longer occur like they used to, and missing even multiple days of medication would not allow viral loads to climb to infectiousness within a two-week period.

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<sup>164</sup> For example, the ‘Why Join’ tab of the International Entertainment Adult Union website features a page titled “Nondetectable DOES NOT EQUAL nontransmittable: HIV in the Performer Pool” expressing many of the same concerns regarding ‘blips’ (IEAU, n.d.).

<sup>165</sup> Also, the link between detectability and infectiousness is not exact. Most U=U studies used a threshold of 200 copies to define undetectable, but HIV RNA tests can read viral loads as low as 20 copies. A ‘blip’ may simply mean one has gone from 20 copies to 40, maintaining their non-infectious status (Leahy, 2020).

Regarding this last point, voices in the crossover-friendly camp wondered why people would assume an HIV+ performer would intentionally stop their treatment or try to become infectious.

Some responses from the crossover-critical camp explicitly suggested that if someone is HIV+, they are necessarily irresponsible and untrustworthy. As one tweet ventured, “no[t] everyone is honest. If someone is HIV+ and lies about taking their meds; everyone they have worked with is now at risk” (@WildgirlAthena, April 24, 2018). One interviewee told me that “most people got HIV through irresponsible behaviour”, echoing the sentiment of an article on TheRealPornWikiLeaks following the AVN panel which argued that every industry shutdown due to a suspected case of HIV “was caused by someone with a drug problem, who has no self control, someone who swings both left handed and right handed [i.e. bisexual] [...] drug addicts and drunks aren’t the most responsible people” (TRPWL, 2019, paras. 8 & 12).

In most cases, however, the crossover-critical camp defended their position more subtly by explaining that avoidance of crossover performers is simply a reasonable form of evidence-based risk management. Porn labour lawyer Karen Tynan described the logic as follows:

You have women performers who will say look: if you go on the public health website, men who have sex with men have a higher rate of HIV and STIs<sup>166</sup>. So from a risk management perspective [...] they’re gonna say ‘I’m not going to have sex with these three populations: intravenous drug users, men who have sex with men, or someone that exchanges sex for drugs’.

In such arguments, the gay porn industry and gay civilian party culture were often conflated, and both deemed unsafe. The straight porn industry, on the other hand, is not conflated with heterosexual civilian hook-up culture and is in fact described as considerably safer (as discussed

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<sup>166</sup> There is some evidence to support the claim that since the introduction of both PrEP, which prevents HIV acquisition, and medication that reduces HIV viral loads to untransmittable levels, certain sexual networks are using fewer condoms and seeing an increase in STIs, but not in HIV (Mayer & de Vries, 2019).

in Chapter 7). “I know you’re recording this, but I don’t care” laughed one interviewee, aware he was about to share a controversial opinion:

Look at the facts, look at the statistics. We know that the gay lifestyle, they are more promiscuous, they use less protection, they don’t get tested, so they are statistically higher risk for contracting STIs, right? And then they’re coming into the performer pool. Again, no problem with that, as long as the testing is accurate.

The crossover-friendly camp retorted that this is actually just an expression of transphobia-, serophobia-, homophobia-fueled fear. As described above, HIV infections detected by PASS are subject to contact-tracing, and there is no evidence of HIV being transmitted on a PASS-compliant set regardless of whether the performer had done gay porn previously. Now as in the past, legal and public health messaging around HIV has often over-emphasized identity-based fear mongering, and under-emphasized actual transmission probabilities. Rather than an objective use of “evidence-based risk management”, outright refusal to work with crossover talent evokes a clear linkage to the trope of bisexual men as duplicitous and insatiable that emerged in the early days of the AIDS crisis (Brydum, 2019; Nordheimer, 1987). Wolf Hudson noted how the gay side of the industry is more versed in HIV science and social justice issues, because of gay men’s greater history with HIV politics: “The gay side is more advanced when it comes to education of HIV and all that stuff [...] The straight side is very backwards and antiquated in so many other ways.” On the other hand, performer/producer Courtney D told me, on the straight side of the industry “there needs to be a lot of myth-busting” because misinformation contributes to the high number “of ciswomen performers who think that gay male performers and transwomen who sleep with cismen are somehow less safe or held to a different safety accountability than the rest of them. That’s just straight up homophobic and transphobic.” Performer/producer Mercy West similarly exclaimed, “It’s like we’re living in the fucking 80s! It’s so strange, it’s all this AIDS

stigma.” Performer Sadie Lune felt that perpetuation of such stigma is both surprising and troubling, given the stigma all porn performers already face:

Why in a marginalized place where we’re doing such stigmatized work do we need to so heavily reinforce this shit? Like that crossover performers are higher risk, or that we should talk shit about trans performers? I’m really not into it.

### 9.2.2 My Body, My Choice

The crossover-critical camp often bristled at these accusations of discrimination, pushing back by declaring the preeminence of informed consent. As one op-ed asked:

What I really want to know is—Will they give others an informed choice, requiring your scene partner to disclose that they are in fact HIV positive? That’s the real question. Are you still allowed to put a person on your no list, because that person is HIV positive? Or did they take away that right as well? (South, 2019)

This language was very common in the many Twitter conversations about the matter “WE HAVE EVERY RIGHT TO KNOW and turn down ANYONE” explains one tweet (@WildgirlAthena, April 24, 2018). Another thread argues:

We are not against pos [HIV+] performers in the least, but we are against omission and not being forthright w/ your scene partner. [...] just because a person is undetectable doesn’t give them the right to make my decision if I would sleep with them or not if was aware they were an undetectable pos person. I get to make the decisions and risks for my body. Informed consent is needed. (@APAGunion, April 24, 2018)

The same language appeared in a more recent iteration of the concern over undetectable HIV, when rumours of an HIV+ performer working under a new name evoked the following:

There is a thing called “informed consent.” A person has every right to decide what they want to do with their body. But they can’t give their consent if you don’t tell them the truth. (South, 2021, para. 25).

The primacy of bodily autonomy (and by extension, informed consent) was a common theme in these debates, appearing via different iterations of the ‘your body/your choice’ couplet. “Who you work with is up to you. It’s your body, it’s your choice. No agent, no producer, no company,

and certainly not social media decides what you do with your body” said August Ames’ husband Kevin Moore, in a speech made at the AVN awards just weeks after her death. One tweet on the first anniversary of Ames’ death proclaimed that Ames simply “wanted sovereignty over her own body” (@JRAxxx, December 6, 2018). While actual transmission probabilities were occasionally alluded to in these statements, it was usually only to underscore that informed consent takes precedence, no matter how small the chance of transmission: “I don’t care if it’s a 1 in 1 million chance I get it from someone HIV positive taking meds” tweeted a performer, “I have the right to know they’re positive” (@scarletsadexxx, January 21, 2019). The crossover-critical camp concluded that the Ag/Ab test should be added to the PASS panel. Because HIV antibodies are detectable no matter how effective antiretroviral therapy is at repressing one’s viral load, this test would close the perceived HIV loophole and identify any potential cases of covert HIV+ performers.

### 9.2.3 Forced Disclosure: Making HIV Visible

The key issue for the crossover-critical camp was therefore not the actual risk of contracting HIV. Some understood that when undetectable, an HIV+ performer did not pose the same risk as someone who was not being treated. Others, however, doubted the science behind U=U and believed that they would still be at great risk of infection with an undetectable, HIV+ scene partner. But as Diane Goldstein (2004) notes, when there is a discrepancy between perceived danger and actual risk of HIV transmission, this is not necessarily a matter of “misunderstanding or ignorance” (p. 40). Rather, scientifically inaccurate narratives “may actually be more about moral discourse than about mechanisms of contracting the virus” (p. 40). Whatever actual transmission risk they believed undetectable HIV+ performers posed, the crossover-critical

camp's concern was primarily moral: they were interested in defending a particular notion of informed consent *based on enforcing detectability*.

The invisibility of HIV is one of its key symbolic features, shaping the myth that seropositive individuals are devious and misleading (Weait, 2007). Undetectable HIV is perceived as even more invisible, whereby 'undetectable' is treated not as a medical threshold but as a marker of deceit. Crossover performers were believed to be carrying undetectable HIV. The imagined presence of this undetectable virus was framed as a violation of the right to prior and informed consent about one's scene partners. This attitude is not unique to this collection of voices in porn, of course. Indeed, it is the basis of many laws around the world that criminalize HIV non-disclosure<sup>167</sup>. While some jurisdictions do take viral load into account, there is still broad consensus among HIV activists, public health professionals, and medical specialists that criminalizing HIV non-disclosure is wildly out of step with the current science of transmission and prevention (Adam et al., 2014; Barré-Sinoussi et al., 2018; Bernard et al., 2021; Cameron & Bernard, 2019; Loutfy et al., 2014; Mayer et al., 2018; McClelland et al., 2017; Mykhalovskiy & Betteridge, 2012). Indeed, the legal test for Canadian HIV non-disclosure law is whether or not a) the sex carried a "realistic possibility of transmission", and b) if non-disclosure of that fact "vitiates consent to sexual relations" (*R. v. Mabior*, 2012, p.1). That is, if it is determined that the HIV negative person would not have consented to sex had they known their partner was HIV+, the lack of disclosure invalidates their consent to sex; the offense is usually charged as sexual assault or aggravated assault. A recent Justice Canada report (2017) affirmed that an undetectable viral load is sufficient to waive the legal need for disclosure, but only Ontario, Québec, and B.C.

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<sup>167</sup> HIV non-disclosure, exposure, and/or transmission is criminalized through HIV specific laws in 75 countries (Cameron & Bernard, 2019).

have formally fallen in line with this federal directive, whereas for many years and in some jurisdictions both an undetectable viral load *and* a condom is required to meet the consent test (Canadian HIV/AIDS Legal Network, 2019; HIV Justice Network, 2020). Discriminatory attitudes held by performers therefore reflect Canadian legal norms, whereby the moral value of disclosure takes precedence over the medical necessity of disclosure.

Disclosure, then—not risk—was the fundamental issue of debate. For the crossover-critical camp, adding the Ag/Ab test was about reassurance; the test would perform the work of disclosure where individuals would not. The demand for the Ag/Ab test was well-captured in an article on porn news/gossip site MikeSouth.com, titled “Informed Consent is a must! Nothing else will do because someone in our industry is HIV+” (XXX Insider, 2019). The article sought to expose an allegedly HIV+ performer without directly naming them, warning performers to “Trust no one”. Regarding the Ag/Ab test, it states:

an antibody test [...] will let you know if anyone has the HIV antigens known as the protein or p24 and from what I’m told, this will show up, even if a person is on their meds, suppressing their viral load. Why is the FSC fighting so hard to keep us from knowing that the person we are working with is HIV positive? Informed consent matters. Nothing else will do. (XXX Insider, 2019, paras. 11-13)

Pressure mounted within the industry to have the Ag/Ab test added to the official PASS panel. As noted in Chapter 2, at this time I was a member of the PASS Advisory Committee, a governing body composed of Free Speech Coalition staff and board, performers, producers, agents, laboratories, and medical and legal professionals, responsible for voting on any changes to PASS protocol. However, before the Committee was convened to vote on the issue, Talent Testing Service, then the largest PASS-affiliated testing network, elected to add the Ag/Ab test to their performer panel at no extra charge. They announced this in a press release entitled “TTS

Enhances the Gold Standard Panel To Address Industry Concerns”, arguing that the science behind U=U still allows for the possibility of transmission and that “Due to this *extremely low probability of transmission, however minute*, it is still a risk and we should all err on the side of caution” (TTS, 2019, para. 2, emphasis added).

The Free Speech Coalition responded via their own press release the same day, underscoring the scientific rationale for prioritizing use of the HIV RNA test, reiterating the absence of HIV+ performers in the PASS-cleared pool, and calling out what they perceived to be stigmatizing motivations behind the addition of the Ag/Ab test:

Our true concern with the addition of the antibody test is that it’s not being done for scientific purposes, but in response to false and fear-based rumors of performers with HIV secretly working in PASS. Additions to the testing protocol should be done in consultation with medical doctors and infectious disease specialists, and based on actual risk. (2019c, para. 2)

The tone of the press release again insinuated that the debate was not over actual transmission probabilities, but the result of stigma and misinformation. Despite this mentality among the Free Speech Coalition, when the question finally came to a vote at the PASS Advisory Committee, the decision to add the test won by a narrow margin. The Free Speech Coalition opted not to announce the formal policy change in a press release because it did not change the current clinical operations, given that Talent Testing Service (and following them, the additional clinics in the network) had already decided to integrate the Ag/Ab test without wider consultation.

The fight over and eventual inclusion of the Ag/Ab test represents the triumph of a specific interpretation of transparency as the absolute basis of sexual consent. However, other voices and



practices in the adult industry trouble this model of consent. The next section explores how these porn professionals reveal shortcomings of mainstream consent discourse.

### 9.3 The Limits of Consent

*“The way I see it, if somebody takes the test, the next day they go to work with me. I don’t know this person. Their test says negative. If they’re undetectable, I end up not getting HIV and I never really find out that they had HIV, how is that hurting me? If anything, I would be more burdened with the information and the fear.”*

- Charlotte Sartre, performer/producer

Charlotte Sartre’s comment underscores several assumptions about sexual consent by openly defying them: she forwards a scenario where an HIV negative performer’s right to know their scene partner’s HIV status does not have automatic and unquestioned precedence over their (non-infectious) HIV+ co-worker’s competing rights to an income and privacy. She also acknowledges that human fear is not rational or reflective of actual risk, such that disclosure of unnecessary serological information could do more harm than good.

While sex workers have themselves long navigated the intersection of sex and work, formal institutions and policies struggle to appropriately address it. There is no formal model of consent specifically designed around sexual labour, no well-honed process to specifically address sexual *labour* gone wrong (what we might call “breaches of contract” in other domains). There being no ideal occupational framework available to emulate, the selection or refusal of scene partners has been borrowed from a recreational sexual consent model. Is this problematic?

Consent is generally understood as a self-evident process that involved autonomous agents making informed choices about their individual bodies and selves (O'Regan, 2020). Consent law asks what is necessary to be considered capable of making such decisions, and it asks what information is required for a choice to be 'informed', but the answers to these questions are not obvious or definitive. And several tensions arise when we apply this version of informed consent to porn work without troubling its premises or adapting it to the porn context. Some of these problems are particular to the sex work context; others relate to more general failings of the concept of consent. In this section I will discuss four such problems. Firstly, I will discuss how the notion of 'informed consent' is rooted in the idea of autonomy, itself based on the twin ideals of individual choice<sup>168</sup> (removed from social embeddedness) and bodily integrity (the idea that the body is bounded). These ideals fail to appreciate the reality of material bodies and the ways in which bodies are inextricably interwoven (particularly in matters of sex). Secondly, the application of a traditional occupational health and safety model is not the ideal basis for ethical worker health decision-making. Occupational health and safety is typically structured around an asymmetrical relation, but porn production involves a relationship between symmetrical workers. Thirdly, in place of a structural hierarchy (i.e. between employer/employee or provider/customer), traditional respectability politics determine how rights and responsibilities are distributed among workers in a way that unquestioningly privileges pathogen-negative

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<sup>168</sup> Feminist bioethicists—most notably Susan Sherwin—have pointed out that this interpretation of autonomy is pervasive in bioethics. According to Sherwin, autonomy is typically interpreted as the right, privileged above other moral values, of “independent, self-interested, and self-sufficient” individuals to be free from outside interference (Sherwin, 1998, p. 34). This fits within a “cultural ideal of competitive individualism” (Sherwin, 1998, p. 34). She and others have argued instead for a relational theory of autonomy that acknowledges a balance with other moral values like justice, and which appreciates how we are socially constituted and situated (Sherwin et al., 1998). The influence of relational autonomy theories can be seen in contemporary debates in both feminist and mainstream bioethics (Sherwin & Stockdale, 2017).

people. Finally, this calls forth the question of whether refusing to work with certain performers because of real or perceived disease status can be considered job discrimination, allowing occupational health protocols to ostracize the very performers they are intended to protect. I now develop these problems below.

### 9.3.1 'Gangbangs', or: The Ways We're All Connected

Consent is often taken to be a self-evident and ahistorical concept. Debate about consent tends to focus on if and how it can be communicated, rather than on what it actually *is* (O'Regan, 2020). As Karla O'Regan writes in her genealogy of the notion of consent, "the content of consent is left to presumptions about its heralded foundations in personal autonomy and free action" (2020, p. 7). Understood as an expression of individual autonomy, the idea of consent idolizes the myth of a universal, "individualized agency" (2020, p. 7). I argue that the notion of autonomy at the core of how we imagine consent is composed of two parts: this capacity for individualized choice, and the idea of a clearly bounded physical body to which that choice-making applies.

Anthropologists and ethicists have long critiqued the 'Western'/colonial notion of autonomy based in the liberal understanding of the subject. Autonomy is granted priority in these bioethical frameworks, and it relies upon a notion of the individual body as distinct from social structure, other people, and environmental surroundings (Brunger, 2016; Kaposy & Khraishi, 2012). This description of the self as atomistic is inaccurate; it ignores how the self is shaped by social forces, and relies on a false dichotomy between 'modern', egocentric individuals and 'traditional', sociocentric individuals. Ethnographic data suggests that all human beings experience some degree

of both egocentric and sociocentric understanding of the self (Smith, 2012). To overemphasize the individual, atomistic orientation to the world “is to deny or repress unavoidable or essential dimensions of being-in-the-world” (Smith, 2012, p. 58).

Sexual health scholars and practitioners have also warned against the problem of over-emphasizing individual action. “A challenge for HIV prevention” writes Mark Davis, is “its reliance on individualised action that does not address the ‘we’ of sexual practice and therefore joint action” (2008, p. 190). Sex, and therefore sexual health, is a collective project. Like all viruses, bacteria, and parasites, STIs connect bodies, even those that don’t touch directly. They have a way of revealing the inherent *we-ness* of even the most ardently individualized lives.

As Matthew Weait writes, many scholars recognize that the ideal of autonomy “fails to capture the relational, embodied, and affective dimensions of what human life comprises and entails” (2007, p. 108; see also Sherwin et al., 1998). As a result, autonomy is sometimes swapped out for “bodily integrity”, the assertion that “at a descriptive level”, “our bodies are understood as having some kind of innate integrity [...] and/or immunity” (Weait, 2007, p. 108). But while the shift to bodily integrity might avoid certain assumptions around agency, it retains other assumptions around separateness:

such a shift ignores, or discounts, the fact that *human beings lack the very bodily integrity* which is justification for that shift [...] just as it makes no sense descriptively to claim that we are autonomous, so it makes no sense descriptively to claim that our bodily integrity is a ‘given’ (Weait, 2007, pp. 109-110, emphasis added).

Lotus Lain cut to the heart of this reality while talking about how some performers avoid working with crossover talent as part of their sexual health plan:

[I don't understand] that whole sense of security that people give themselves when they put barriers in front of working with "crossover" talent. Because my argument to that is always: what is it when you're doing a threesome, or a gangbang? Or those double anal penetration or double pussy penetration scenes? Is that not literally a crossover scene happening right there in the very same vagina holes? Or anus holes? You know? [...] [Even] if you're not working with crossover, if you're not doing those kinds of scenes, even if you're just doing one-on-one boy/girl sex, who's to say that girl didn't just do a scene with someone that does crossover work? Or did a scene with a girl who does scenes with crossover? Like, we're all connected.

What Lotus illustrates so clearly here is that regardless of one's own choices about their individual actions, they cannot extract themselves from the web of connection with other performers. One inevitably comes into contact with someone who has, somewhere down the line, done 'crossover' scenes or worked with someone who has. Making decisions about one's own body cannot produce bodily apartness. Short of complete social isolation, there are no choices that render the body impermeable. Frameworks for decision making that treat bodies as discrete entities ignore the *inextricability* of one performer from another.

While the notions of bodily autonomy and integrity have important political and symbolic value, and should be considered when developing best practices around disclosure and consent, the idea of discrete bodies has little *material* value. Bodies are porous. This is why HIV and STIs (among other infectious diseases) provoke such anxiety: on a personal level, contagion reminds us that we are vulnerable, that any sense of personal impermeability is imagined. On a conceptual level, contagion also makes apparent the artificiality of our "discrete categories of existence", such as species, culture, and 'race' (Lin et al., 2017, p. 1). Contagion upsets the colonial "supposed natural order" of who is a host and what (who) is a parasite (Lin et al., 2017, p. 3).

Reactionary narratives about HIV often try to quell both these personal and conceptual anxieties by establishing order through a negative/positive binary, whereby HIV- individuals are framed as innocent and needing protection from HIV+ individuals who are framed as dangerous and blameworthy. This is the logic underlying HIV education campaigns that hold HIV+ people alone responsible for prevention (Davis, 2008) or frameworks of HIV criminalization that punish HIV+ individuals for non-disclosure but do not hold HIV- individuals accountable for their role in the safer sex decision-making of the sexual encounter (Weait, 2007). By focusing entirely on testing and opting to exclude any HIV+ performer regardless of viral load, straight porn has adopted a similar binary approach to occupational health that does not account for contextual factors such as harm reduction measures or differing infectiousness. This binary understanding of HIV prevention invokes an unjust asymmetry. As the next section discusses, while a principle of asymmetrical responsibility is appropriate for most occupational health protocols, it is not appropriate for a porn set, because the relationship between porn workers is not the same as the relationship between a boss and their employee.

### 9.3.2 Who's in Charge? Health & Safety in Symmetrical Working Arrangements

Occupational health and safety has traditionally depended on asymmetry between workers/clients or employers/workers to determine who is responsible for whom and the direction of liability. Workplace safety either: a) regulates conduct between providers and clients, where the provider is burdened with the task of ensuring a safe environment or procedure for the client (e.g. restaurant food safety, aesthetician services, or healthcare practices); or, b) regulates contact between workers and certain substances or conditions, where the employer is burdened with ensuring workers are safe (e.g. procedures to protect against contamination by toxic chemicals, the risks of using dangerous equipment, or exposure to environmental harms in the

workplace). While a principle of shared responsibility does inform many occupational health and safety philosophies, this usually refers to employees' responsibility to be informed of and adhere to protocols that are designed by their superiors (Alli, 2008; CCOHS, N.d.; WHO, N.d.). A hierarchy is still assumed or imposed, with emphasis placed upon employers' responsibility to provide a safe work environment, any necessary first-aid or personal protective equipment, and avenues for employee complaints and compensation in the event of illness or injury. While responsibility is shared, one entity is responsible for conducting certain practices or procedures that protect another; the protective relationship is not reciprocal.

Porn production, however, is different. For one, as discussed in Chapter 3 and throughout this dissertation, the employer/employee relationship is often blurry, with workers simultaneously operating as performers (employees) and producers (employers), or shifting from employee to employer day by day. Additionally, performers working together, regardless of who the boss is, pose a challenge to the occupational health framework. Direct service sex work like dancing or escorting can be plugged into the asymmetry framework<sup>169</sup>, but porn performance entails protecting performers from one another. This means regulating a *symmetrical* relationship. As porn labour lawyer Karen Tynan said, healthcare protocols are an inappropriate way to manage porn production because they were intended to regulate "a client to a professional or a customer

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<sup>169</sup> Reviewing the regulation of legalized prostitution demonstrates this. For example, Nevada requires that 'legal courtesans' (as they are referred to on their licenses) adhere to a STI testing regimen that can include restrictions of their movement, that is, not being allowed to leave the brothel during shifts, and having to get a fresh test once they go off-site for a given number of hours, whereas clients do not need to provide any kind of proof of testing (although clients with penises must wear condoms for all penetrative acts, akin to a 'no shirt, no shoes, no service' mandate of responsabilizing customers to contribute to overall occupational health and safety status) (Nevada Administrative Code, 441A.800-815; Nevada Revised Statute, 201.358).

to a professional relationship, not worker to worker. And so it was really a round peg in a square hole, right?”

If both workers are simultaneously the person to be protected and the potential source of danger, how do we adjust our traditional understanding of occupational health? Who is burdened with protecting who, and from what?

### 9.3.3 Pathogenic Asymmetry as Respectability Politics

In order to establish the kind of asymmetry that simplifies the distribution of occupational health rights and responsibilities, the traditional route in straight porn has been to simply position STI/HIV negativity and positivity in hierarchical opposition to one another. The preservation of pathogen-negativity is prioritized over any needs that pathogen-positive workers might have.

The emphasis on maintaining pathogen-negativity and, in particular, eradicating HIV serves many ends. For one, as pointed out in the Chapter 7, the control of STIs is the key feature of the Responsibility Defense, necessary for justifying the effectiveness of industry self-regulation and appealing external regulators. However, there are negative consequences of this approach to sexual health. Safer sex rhetoric often espouses ableist notions of what constitutes freedom, health, and the good life (Butler-Wall, 2016). If sexual responsibility is equated with being STI/HIV-negative there is an incentive to ostracize sectors of the performer pool that are stigmatized as ‘irresponsible’ or ‘high-risk’. A Mike South post about virally suppressed HIV+ performers worried:

The FSC is considering supporting HIV positive performers back into the talent pool. [...] At a time when there is a glut of performers and *porn has a bad reputation*



*with mainstream*, this seems to be a totally idiotic move. (South, 2017, paras. 1 & 3, emphasis added)

In short: allowing HIV+ performers could damage porn's reputation. Performer/producer

Courtney D explained further:

Performers with HIV are still like bogeymen in the industry [...] a bit of '*this gives us a bad name*, having performers with HIV' [...] There's so much pressure from political organizations that are trying to commute the spread of HIV within the adult industry that it seems like in order to be taken seriously within that debate, the industry has to position itself also *against performers with HIV*.

*This gives us a bad name*: the classic refrain of respectability politics. Because of pornography's precarious social and legal standing vis-à-vis mainstream society, in many ways the industry has been pressured into taking an anti-HIV position in order to secure a modicum of respect from the public at large. But as the long history of respectability politics within sexually marginalized communities<sup>170</sup> proves, "legitimation is an 'ambivalent gift'" (Butler, 2004, c.f. Huebenthal, 2017, p. 6). In an effort to secure or preserve certain powers and freedoms many gay, queer, trans, and sex worker rights movements have at times distanced themselves from certain members, be they disabled, racialized, non-normatively attractive, gender non-conforming, poor or working class, kinky, sex working, non-monogamous, 'promiscuous', et cetera (Califia, 2000; Conrad, 2014; Glover, 2017; Kinsman, 1996; Miller-Young, 2014; Mingus, 2011; Mount, 2020; Rubin, 2011; Sandset, 2019; Warner, 2000). Performer Sadie Lune described respectability politics as

a machine of judgement, stigma, and shame, so that people that are within a stigmatized world can always feel a little superior than other people within the same stigmatized world. Which is, I think, how the big world wants all marginalized people to be operating.

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<sup>170</sup> Respectability politics are present in other marginalized communities as well, and the term was coined in relation to hierarchies of class, morality, and mainstream acceptability in Black communities (Higginbotham, 1993).

The common theme is that marginalized subjects who align more closely with the heteronormative majority actively disown and exclude whatever undesirable contingent of their ranks is seen to be holding them back from mainstream respect and acceptance.

When sexual communities manage to become seen as respectable and responsible, they are less subject to “criminal law, policing and public health governance” (Kinsman, 1996, pp. 394), and can instead self-govern. The porn industry has been able to do this in part by creating porn health protocols that satisfy dominant ideals of sexual health. But creating an occupational health protocol that requires performers to be pathogen-negative inevitably excludes and therefore marginalizes pathogen-positive performers. Queer theorists have noted the limits of such tradeoffs:

Queer theory has a more conflictual and contradictory set of critical investments. Its hankering for sociomaterial arrangements that better support queer lives is complicated by its sensitivity to the fact that any process of stratification or stabilisation (any molar assemblage) runs the risk of producing its own misfits and shutting them out—i.e. other queers whose needs and lives are not serviced by what is set up. (Race, 2020, n.p.).

Respectability politics are therefore deeply concerned with establishing an *inside* and an *outside*. Health and immunity—both metaphorically and materially—are fertile grounds for doing this. The body is a key metaphor for the nation, its physical boundary a common stand-in for political borders. Fear of illness broadly, and contagion specifically, is militarized, used symbolically but also very literally to guard national or cultural definitions of ‘health’, ‘strength’, and ‘purity’ (Douglas, 1966; Ferri, 2018; Florêncio, 2018; Martin, 1994; Patton, 1996, 1999; Sontag, 1991). Indeed, public health’s role in colonization, immigration policy, and law enforcement constructs racialized Others and sexualized Others (women, sex workers, gender non-conforming/ 2SLGBTQ+) as sources of both social and biological infection (Burnett, 2011; Corbin, 1986; Davies, 2005; Eyford, 2006; Fairchild, 2006; Hunt, 1999; Kelm, 2005; Mahood, 1990; Mawani,

2006; Valverde, 2006; Walkowitz, 1980; Wiebe, 2009). Sexually transmitted illnesses are therefore ripe criteria for determining respectability. STIs/HIV are seen as both sexually deviant and socially irresponsible, so their eradication and denouncement is a pathway to social acceptance.

Respectability politics fracture groups that often share the same oppressive forces and have the same goals. For example, while perceived promiscuity and HIV risk is precisely the common point of stigmatization for both (female) sex workers and gay (male) communities, the debate over crossover performers was framed by some as a clash between sex worker rights and gay politics:

[Those critical of performers who refuse to work with crossover talent] made it a gay versus straight issue, and we made it a safety issue, and when you're not debating the same thing, nobody's gonna win that debate [...] Just try to take yourself out of that echo chamber for a second and see it from my perspective, from a health perspective, and not from a gay rights perspective.

[Dave Dixon]

Mercy West, on the other hand, argued that there is no reason for personal health decisions to come into conflict with social justice causes, stating you “don't [have to] throw an entire community under the bus because you decide to not take a shoot”. Yet ‘gay rights’ were seen by many as a threat to the health of porn performers, in a new iteration of the disconnect that often exists between gay and sex worker movements. As Becki L. Ross writes, gay men and sex working women share many of the same oppressive forces and political goals, since both “homosexuality and prostitution were administered by medico-moral authorities as sources of maladjustment, degeneration, and threats to the health of the white-settler nation” (2018, p. 257).

Additionally, both

navigated oppressive forces within institutional apparatuses of the law, organized religion, families, politics, mass media, medicine, and education. In the mid-80s a new moral

panic—AIDS—targeted ‘hookers’ and ‘faggots’ as sexually spoiled and fatally promiscuous. The pain and shame of imposed and internalized stigma necessitated subcultural formations as bulwarks against hate and violence. (Ross, 2018, pp. 258-259)

Despite this, the seeming natural ally-ship between gay men and sex working women did not establish itself, largely because when homosexuality was decriminalized and depathologized (but sex work was not), the mainstream gay movement embarked on a rights-based project of acceptance and assimilation, and “[t]he hoisting of white gay men ever higher up the respectability ladder impeded solidarity with otherwise logical allies—street-involved sex workers” (Ross, 2018, p. 259). In order to be embraced by dominant cultural institutions, gay activists had to cut ties with less respectable communities lest they be deemed unpalatable-by-association. The movement turned towards fighting for the right to participate in mainstream life goals such as marriage and child rearing, and disengaged from the fight for sex worker rights and sex work decriminalization.

The fissure within the porn industry over crossover performers and HIV plays into a similar dynamic, although now rearranged: crossover-critical camp porn voices (largely depicted as straight, cisfemale, and strictly professional) hoisting themselves up the respectability ladder by ostracizing those in the crossover-friendly camp (depicted more as male or trans, irresponsible, and embedded in a gay party culture where HIV *belongs*). This blanket division is widely accepted, and this has implications for labour equity and justice, which I now discuss below.

#### 9.3.4 Is it Job Discrimination?

To recap: occupational health and safety protocol depends on some kind of asymmetry to determine who is to be protected from what, and how. In the absence of a boss/worker or

provider/client structure, pathogenic asymmetry has become the default, justified through well-established respectability politics. Those who refuse to work with crossover performers maintain that their choice is a matter of individual preference protected by the inalienable right to informed consent. Without a porn-specific occupational health logic to think through, recreational sex has become the default framework available for thinking through these co-worker relations. But because it is *work*, this can raise the issue of job discrimination. When and how is it appropriate to refuse to work with someone, when that work is sex? In other words, is consent for work sex different than consent for recreational sex?

On one end of the spectrum is recreational sex, where people are entitled to select or refuse their partners according to whatever criteria they like, no matter how biased it might be. On the other end of the spectrum is mainstream work, where labour law dictates that people cannot be refused employment based on characteristics that are irrelevant to the work being performed. Doing so amounts to labour discrimination. Work sex resides somewhere in the middle. Performers' choice to work together entails choosing to have sex together. But if they refuse to work with entire classes of performers—in this case, crossover performers, because they are perceived as a higher HIV risk—this disadvantages some performers' ability to get hired for shoots and secure an income.

Here it is important to understand how performers are typically matched for a scene. Performers who book their own shoots without going through an agent exercise a high degree of agency to choose their co-stars. They might reach out to specific performers, usually through social media, to ask if they would like to make content together. The choice of who to work with may be informed by any combination of things like geographic convenience, benefitting from being

exposed to one another's fan base, or sexual desire for one another. For performers who work through an agent, the agent books scenes on behalf of the performer. These performers may create "no lists", which name specific performers they refuse to work with, without the need for justification. This enables performers to avoid working with someone for whatever reason, such as a lack of chemistry or a track record of problematic/abusive conduct on set. Note that consenting to work with someone does not mean 'anything goes', it is not a blanket consent. The specific sex acts to be performed are negotiated in advance of each scene. If performers do not respect these negotiations, that is still a violation of consent, and performers have developed strategies and systems, like "no lists", to avoid working with anyone who is unsafe or uncomfortable.

Not all performers can afford to be highly selective and still earn a decent wage; this depends on things like their time in and knowledge of the industry, their popularity, their marketability, how many different income streams they have, and so on. Taking all these elements of co-star selection together, we see that agreeing to work with others is more complicated than how recreational sexual consent is typically understood. Recreational sexual is often reduced to a binary of consent/refusal where the ideal is 'enthusiastic consent': the idea that in order to be an ethical sexual encounter, everyone involved should enthusiastically desire all the activity taking place (Kukla, 2019). This is not an appropriate standard for sex work<sup>171</sup>. We can consent to work (have sex) with someone we would not otherwise have sex with, or to perform activities at work (sex acts) we would not otherwise do. The fact that we would not have this sex outside of work does not mean that our consent has been violated or that an assault has occurred, it simply means

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<sup>171</sup> Nor is it an appropriate standard for recreational sex, according to Kukla (2019) and many others, including myself, but this is beyond the scope of this dissertation.

that our consent is contingent on payment. As sex worker activist, writer, and researcher Lorelei Lee (2021) said during the panel, “Sex Work as Work and Sex Work as Anti-Work”

[Work involves] consenting to something that you don’t necessarily want to do. Consent is something really different when we’re talking about work than when we’re talking about private sexual experiences, and I think part of the problem is that people have tried to apply the definition of consent from private sexual experiences—where the ideal version is enthusiastic desire to work—to sex work only, not other forms of work (1:12:10-1:12:35).

So: consent is relevant to sex work, but the context of *work* changes how and what consent means. Selecting individual co-stars is subject to all kinds of different freedoms, interests, and constraints, and this is not controversial. But again, what about the decision to refuse not specific individuals, but an entire *category* of performers? This invites questions around labour equity that aren’t relevant to recreational sex<sup>172</sup>. A recreational sexual consent model enables the universal rejection of performers because of their real or imagined pathogen status, even when there is no transmission risk or when there are ways to mitigate any existing risk (such as barrier usage or PrEP). In disability discrimination law, by contrast, people cannot be refused a role due to a health condition if accommodations can be made that would allow the person to fill that role (EEOC, n.d.). Otherwise, occupational health protocols can discriminate against the very workers they are supposed to protect.

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<sup>172</sup> Determining what categorical characteristics are relevant to the work performed in porn, and therefore not discriminatory, is highly contentious. That the work of porn involves performing certain sexual acts is used to explain why only performers with certain body parts might be hired for a role (i.e. if the sex act requires a penis, only people with a penis can be cast for it). That the work of porn involves appealing to the sexual fantasies of a certain audience is used to justify not hiring performers who are considered to only have ‘niche’ appeal. This might include fat performers, performers of colour, disabled performers, and so on. Indeed, as with other performing arts, individuals who are perfectly capable of doing a job can be ‘justifiably’ denied work because of the ways in which the appeal to the audience is considered a job requirement. My point here is not to delve into this thorny albeit fascinating debate, but rather to note that real or perceived HIV status, when transmission is not a risk, should not be considered a categorical characteristic relevant to performing the work of porn.

The question of whether performers have a right to claim labour discrimination if they are refused work based on stigma or generalizations about HIV has been raised. In 2019, Lambda Legal gave a presentation at XBIZ entitled “Sex, HIV & Videotape: How Discrimination Law Will Shape the Future of Sex Work” (Pardon, 2019)<sup>173</sup>:



**Image 22**

*Tweet, Scott A. Schoettes*  
Source: Twitter.com

<sup>173</sup> Questions of HIV+ worker rights have been raised before this. In 1997 Tony Valenzuela—the first openly HIV+ porn performer—was offered two roles and an exclusive contract from porn company All Worlds Video. When they discovered he was HIV+ they tried to revoke the contract, even though condoms were used in their films. The compromise was to offer Valenzuela a single film, *Positively Yours*, about an HIV+ character. Many criticized the film for “trying to make HIV fashionable” while others argued it sent hypocritical messages about HIV prevention that stigmatize disclosure and reinforce discrimination (O’Leary, 1998, para. 11).



As with accusations of homophobia, accusations of job discrimination are also met with the defense that informed consent on the part of pathogen-negative performers always takes precedence over any rights to work that positive performers might have (that is, pathogen positive performers do not have a right to work). As *Eric*, who directs for both gay and straight companies, said:

Personally, I think the entire industry should be tested only. The real conflict comes from how the gay industry allows so many HIV+ performers to work, which I have a problem with. But I have to suppress that opinion when working in that environment. It's an unpopular opinion. They see it as job discrimination. I see it as seeking a healthy work environment.

Later in the same interview, he conceded a more nuanced approach: "The HIV+ guys can work together, and if somebody wants to work with an HIV+ performer they can sign the release. No problem. It's not about discrimination. It's about providing a safe and informed workplace."

That *Eric* oscillates between these two philosophies—that a workplace is unsafe if HIV is present, but that HIV+ performers could be allowed to work provided a specific interpretation of informed consent is met—demonstrates the tension between the right to have work and the right to refuse a worker. The solution he comes to is a "reformulation (and expansion) of the procedural requirements of consent, thus leaving its foundations in autonomy intact" (O'Regan, 2020, p. 10). Pathogenic asymmetry is not challenged, and the element of labour is not incorporated in a way that meaningfully changes how consent operates. This is unsurprising, since any alternative would seem to force people to have sex with one another. But are there ways to trouble consent's foundation in autonomy without turning into coercion? Are there ways to ensure a right to have work in the face of another's right to reject scene partners? How could this possibly be reflected in occupational health and safety policy justly?

These questions matter, because so long as some performers are framed as devious infiltrators (that is, performers with HIV, performers suspected of having HIV, and performers who support their HIV+ co-stars), the porn worker pool will be divided. Porn work will uphold stigmatizing practices, and performers who are HIV+ or perceived to be HIV+ will suffer. Economic justice and fair hiring practices must be reconciled, however uncomfortably, with matters of consent and bodily autonomy. What alternatives can be forged against this fractured solidarity? This is what the next and final chapter will explore.

## 9.4 Conclusion

PASS testing protocol was designed in a specific time and place, to suit the needs and interests of the straight porn industry in the early 2000s. There were always sectors of the industry, namely gay production and production outside of the U.S.A., that used alternative occupational health systems. As the industry has continued to evolve, more and more creative applications and interpretations of sexual health have come to the fore, with increasing popular appeal. The previous chapter looked at shifts in geography and in the variety of types of work and sex performers participate in. This chapter looked at how developments in HIV prevention science (the effectiveness of PrEP and the effectiveness of antiretroviral therapy to suppress HIV viral load and prevent transmission) have also been extremely impactful upon porn health protocol. First, I traced the different opinions held about ‘crossover’ performers and the disagreements over the relative risk of working with them. This debate reveals limitations in the concept of ‘informed consent’ (and the notions of bodily autonomy and integrity, reason, and safety upon which it hinges). I discussed the ways in which use of traditional occupational health

frameworks, similar to HIV criminalization, disproportionately responsabilize pathogen-positive people in ways that are ableist and exclusionary. In doing so I've suggested that the presuppositions underlining porn health protocol are a) that one has the right to bring their discrete, individualist body into a pathogen-negative work setting; b) that workers must consent to work, and knowledge that the setting is pathogen-negative is a prerequisite for their consent to be valid; and c) that only this type of consent is deemed rational and valid, despite how its application disempowers some people to work, because it is taken for granted that protecting pathogen-negativity take precedence over other kinds of rights, goods, or protections. The next and final chapter explores alternative configurations of porn health practice that confront this particular brand of ableism and enable the inclusion of pathogen-positive performers.

## CHAPTER 10: PUSH BACK – ALTERNATIVES & CONCLUSION

### 10.1 Introduction

The previous chapter considered ways in which the porn health standard for straight, American production—PASS—can be used to justify the exclusion or stigmatization of crossover performers and undetectable HIV+ performers. This chapter presents some ways that performers and producers are adapting their occupational protocols to address these exclusionary injustices. This is done practically, through the use of biomedical HIV prevention technologies and alternative consent practices. It is also done ideologically, in how the meanings of ‘risk’, ‘safety’, and STIs themselves are differently interpreted, embodied, and communicated.

First, I discuss how the introduction of biomedical prevention tools like PrEP and U=U have shifted the divide between HIV+ and HIV- performers. Next, I note how some producers are dissolving the gay/straight binary that frames much porn production and, by extension, approaches to sexual health management. I then look at initiatives and production processes that explicitly enable HIV+ and STI+ performers to work in porn. This includes a discussion of how porn professionals are shifting the narrative around STIs to be less ableist, exclusionary, and alarmist. It also touches on an approach to worker-rights that honours pathogen-positive workers’ need to earn an income. Finally, the subjectivity of risk/reward ratios is discussed, destabilizing the very notions of risk and safety in relation to sex work. I will touch on each form of pushback in turn, and then end the chapter with a summary of the dissertation and some concluding thoughts.

## 10.2 PrEP and U=U: HIV as a Non-Issue

At the time of writing, any performer who ever tests positive for HIV is not permitted to use the PASS system. But there are HIV+ porn performers; they and their co-stars are simply operating outside of PASS, adopting alternative sexual health management strategies such as serosorting, PrEP, and condoms. Some performers and activists have suggested that what is needed is either an amendment to PASS or the development of a parallel testing program that would accept undetectable HIV+ performers. This would allow those performers to work within a structured system to test their viral load and screen for other STIs, instead of being excluded from the testing system that HIV negative performers use. The idea was discussed at the aforementioned panel on HIV prevention that occurred at the AVN adult industry trade show in 2019. As panelist Bella Bathory explained at that event:

What we're trying to do is have two separate databases, a regular PASS and then a PASS Plus. And it would be very similar where it's just the performer name, the checks or the exes [indicating availability to work], and when you opt to go into that system, you are consenting to work with undetectable HIV+ performers. And what we're trying to do with that is like remove the awkwardness, remove the having to disclose every single time.

'PASS Plus' remains hypothetical for the time being. In the absence of a formal system, performers have developed provisional ways to allow HIV+ performers to work with other performers who are comfortable doing so. But these performers have pointed out that there are problems of confidentiality when matching scene partners on a case-by-case basis, since this requires disclosing individual performers' HIV status and industry voices have been known to engage in speculation and disclosure around performer serostatus (e.g. FSC, 2013f; South, 2021). By developing a formal system that *only* includes undetectable HIV+ performers and the HIV negative performers who are comfortable shooting with them, one would not have to constantly

disclose performers' HIV status because it would be clear that everyone in the database is either undetectable and therefore non-infectious, or HIV negative and open to working with anyone undetectable. Having a system where everyone included has consented to work with undetectable performers removes the need to disclose who specifically is HIV+; the consent is implicit and so the distinction between HIV+ and HIV- is effectively irrelevant.

To render the HIV+/HIV- distinction irrelevant is precisely the approach that the gay industry has historically adopted, first through the default usage of condoms, which removed the need for individual disclosures, and now through the use of PrEP. Before the introduction of PrEP, retired performer *Olivier* explained to me, filming bareback amounted to a public declaration that one was HIV+. *Olivier* worked with Treasure Island Media, a gay studio that produced exclusively bareback content at a time when this was controversial, even within the gay industry. He described this work as a step toward embracing his own HIV diagnosis: « le fait de faire du bareback dans un monde où il avait pas de PrEP, ça veut dire que tout le monde savait que je suis séropo » / “the sheer act of doing bareback in a world without PrEP meant that the whole world knew I was positive<sup>174</sup>”. He expanded on the important, albeit imperfect, nature of this declaration:

J'ai l'impression que le fait de le montrer, de mettre sur une assiette de présentation quelque part, et de montrer aux gens, c'est ma façon de travailler ce point-là [mon diagnostic]. À l'époque [...] j'avais l'impression que de faire les choses devant les autres, c'était de les faire pour moi. Sauf qu'en fait, ce n'est pas la même chose. C'était ma façon de procéder. C'était toute l'intelligence dont je disposais à ce moment-là. Disons. Donc effectivement c'était par exemple de faire le deuil de ma santé, en le passant par une espèce d'hyper émancipation, tu vois ? Ou effectivement de montrer que je l'assumais plus que finalement je l'assumais.

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I felt like showing it off, placing it on a platter and showing it to people, was my way of working through it [my diagnosis]. At the time [...] I felt that doing things in front of

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<sup>174</sup> This and all other French-to-English translations by author.

others was a way of doing them for myself. But in reality, they aren't the same thing. But it was my way of moving forward. It was the best I could do with what I had at that time, so to speak. It was a way to mourn my health, of going through some sort of hyper-emancipation, you know? Or to prove that I accepted it more than I actually did.

Performing bareback used to imply a seropositive status, but PrEP and the science of undetectable = untransmittable (U=U) has changed the landscape and meaning of bareback porn such that this is no longer the case. Paul Morris, the owner of Treasure Island Media, has proclaimed that “we’re at a point where it’s altogether possible, given simple strategies like PrEP, to render HIV a nonissue” (McCasker, 2014, c.f. Dean, 2015, p. 240; see also Lee, 2013; McClelland, 2019; Persson et al., 2017). As the header image of a 2019 op-ed illustrates, PrEP has rendered the term and concept of ‘bareback’ obsolete. The image shows a gay group sex scene, the iconic blue PrEP pill acting as a censor bar across the point of insertion:

## Op-Ed: 'Bareback' is Obsolete

JC Adams

Sep 17, 2019 4:00 PM PDT



### Image 23

Header to the Op-Ed, “‘Bareback’ is Obsolete”

Source: XBIZ (image courtesy of JC Adams)

<https://www.xbiz.com/news/246925/op-ed-bareback-is-obsolete>

Because of PrEP, the vast majority of gay porn no longer uses condoms. And so, author JC Adams writes, the tags “‘raw’ and ‘bareback’ [...] no longer carry an illicit thrill. *They no longer differentiate content.* PrEP has changed the game for everyone. Today, marketing your content as bareback, or raw, is like advertising a fast-food restaurant as serving french fries” (Adams, 2019, paras. 18-19, emphasis added). PrEP had rendered the HIV+/HIV- distinction irrelevant by enabling HIV negative performers to prevent HIV acquisition without condom use. So too has antiretroviral therapy and establishment of the U=U principle, since to be HIV+ is not necessarily to be HIV-infectious. “It is certainly the case that the category of ‘undetectable’ disrupts the positive/negative binary”, writes Tim Dean (2015, p. 241).

These points aside, Jan Huebenthal (2017) warns against overly simplistic ‘post-AIDS’ utopianism. Such celebratory declarations fail to acknowledge the deep racial and economic disparities in access to medication. In Canada, PrEP may be covered by private drug insurance, and is covered by all provincial and territorial drug plans except Manitoba; it is also covered for individuals who fall under a federal health mandate (First Nations and Inuit, refugees, and armed forces; CATIE, n.d.). In Europe, PrEP is accessible in most countries, but sometimes it is only fully covered by national health plans for men who have sex with men and transgender individuals. Where patients must pay, the price ranges considerably, and in other places PrEP is only available through the black market or clinical trials (Hayes et al., 2019; Moseholm et al., 2021). In the U.S.A., most PrEP users pay for it through commercial health insurers rather than public healthcare coverage or assistance programs, and these third-parties cover on average 95% of the cost (Chan et al., 2020). Gilead, the pharmaceutical company that makes Truvada, also has an assistance program to cover the co-pay or full cost for uninsured individuals.



Drug coverage is not the only barrier to effective PrEP usage. Knowledge of PrEP, stigma around its use, and factors such as regular access to a managing physician, stable housing, regular income, and food security, also play a role (Mayer et al., 2020). Furthermore, there are ethical concerns around the development and distribution of PrEP. As Alexander McClelland (2019) summarizes,

[y]es, in initial trials, Truvada [the main component drug in PrEP] had been tested on female sex workers in sub-Saharan Africa, including some who had been displaced when foreign-owned oil drilling forced them from their land. Yes, it can feel counterintuitive to be advocating for a preventative pill for HIV-negative people when there are still over 10 million people globally living with the virus without access to anti-HIV drugs. Yes, that pill is now being primarily marketed to wealthy gay men in the Global North, including the settler-colonial state of Canada. It seems the epitome of globalized capitalism, patriarchy, white supremacy and medical apartheid wrapped up in one not-so-tiny capsule (2019, para. 18).

Since PrEP was first approved, there have been criticisms about allocating antiretrovirals towards prevention when people actually living with HIV still go untreated (Macklin & Cowan, 2012). Access can still be limited, even in countries with developed public drug programs. In Canada, antiretroviral therapy access and coverage differs across provinces and territories, particularly in relation to income and age. The option to cost-share with private insurers, when available, also differs by geography. So “while the establishment of antiretroviral prescribing programs and formulary listings are necessary conditions for access to coverage, they are insufficient to ensure universal equitable access to antiretrovirals”, and cost-related nonadherence has been documented (Yoong et al., 2018, p. E559). In Europe and Central Asia, the percentage of those diagnosed with HIV who are connected to treatment and have access to medications ranges from 27-96% with an average of 77%, and the costs to both the health system and to patients differ widely depending on the country (ECDC, 2017). In the U.S.A., access and pricing varies drastically. Passage of the Affordable Care Act has improved outcomes for many who did not qualify under previous frameworks, but eligibility and coverage is still determined by a

patchwork of state/federal programs and employer-sponsored/private insurers. According to a recent review, “[p]eople with HIV are most likely to rely on Medicaid (40%), followed by private insurance (35%), with smaller shares covered by Medicare (8%) and other sources (7%), and with 11% uninsured; this distribution differs markedly from the general population” (Kates et al., 2021, p. 1129). Indeed, as Nathan Lee writes, in countries like the U.S.A. where universal healthcare is lacking, pharmaceutical prevention has simply displaced “the positive/negative binary with the more urgent categories of insured/uninsured” (2013, para. 16). Many note, with trepidation, how pharmaceutical developments have brought HIV prevention in alignment with the individualized and stratified logics of neoliberalism and global capitalism (Lee, 2013; McClelland, 2019), as a privileged form of prevention that “instantiate[s] racialized and classed norms of disability: some get to be undetectable as others get detected” (Huebenthal, 2017, p. 14). Even those who can access medicine to become undetectable do not escape the gaze of public health surveillance, but simply become subject to it in a new way, through the imperative of viral load monitoring:

[Antiretroviral therapy has] inaugurat[ed] a third form of status and a new concept in biopolitics: “undetectable.” To the overdetermined categories of positive and negative has been added an elusive third term belonging to those who are simultaneously both. Signifying a presence that is absent, predicated on suppression and surveillance, the undetectable occupies an indeterminate space and produces new forms of connectivity, at once increasing the capacity of a body and subjecting it to a relentless regime of control. (Lee, 2013, para. 10)

Yet as Lee here notes, undetectability also increases bodies’ capacity for connectivity. As Tony Sandset (2019) suggests the responsabilization of individuals to manage their sexual health with PrEP and antiretroviral therapy is not motivated by a repressive threat of illness, but rather by the promise of sexual freedom and pleasure. Investment in risk management is also “an investment into a sexual economy of pleasure” (Sandset, 2019, p. 667); “the investiture of health, prophylactically, produces pleasure” (p. 660).

It is clear that those who advocated for the adoption of Ag/Ab testing seek to increase surveillance for the purposes of exclusion, but others seek to include HIV+ folks in production. Whether motivated by pleasure, connection, justice, or all three, ‘undetectability’ is allowing those performers to break down the HIV+/HIV- binary that have long characterized how the industry operates. The HIV binary is inextricable from the gay/straight binary, and as the next section outlines, the explosion of the gay/straight binary is another way that performers are challenging the industry status quo.

### 10.3 The Bi Porn Revolution

Crossover stigma is the product of the straight/gay distinction, but it also depends upon it—only by having these two distinct worlds with their different approaches can you claim to protect the one by excluding the other. Many industry voices have argued that the two sides did not always occupy such separate universes. There have always been men who performed in both gay and straight films, but this was more expected rather than scandalized. *Eric*, having worked in both gay and straight movies in the 90s argued that crossover performers were “not as big a concern” back then because “in the early days, a lot of male performers started in gay and then, as they proved themselves, worked their way into straight”. Other sources confirm it was more common for men to work in both industries during the 1980s and 1990s, however others report that crossover stigma was alive and well back then too (McNeil, 2012). For example, the Meese Commission quoted a 1986 Hustler interview with performer Amber Lynn about HIV prevention in the industry. It mirrored current beliefs that avoiding crossover stars is a valid form of risk management:

Lynn: There's an incredible fear of AIDS sweeping through the X-rated-film business right now. All of my girlfriends are talking about it. We're scared to death that we'll find out in three years we've only got a few months left.

Hustler: Why do you continue your promiscuous career then?

Lynn: I get a blood test regularly and am very careful about the people I work with. Hey, life's a f\*\*\*ing gamble anyway, and there [sic] is where I want to be. I can't think of doing anything else. That's not to say I'm reckless. For instance, I won't f\*\*\* some guy I know has been f\*\*\*ing a bunch of other guys not for a lousy thousand dollars. (1986, p. 874)

Whether or to what degree there was crossover stigma in the 1980s and 1990s, the divide has always been based on the two industries' different approaches to HIV, and was fortified and politicized in the 2000s. *Eric* blames the increase in gay bareback production that occurred in the late 1990s/early 2000s, when some companies "started just completely flouting any version of safety, that was when the conversation become polarized". Performer/producer Wolf Hudson told me that "once upon a time the straight side would actually go to the gay side, to their awards, and there was comradery. [...] I think things started to really change after 2004 when there was a male performer, a straight male performer, who became HIV+<sup>175</sup>", as this reignited HIV fear and stigma. The Adult Performance Artists Guild<sup>176</sup> identified the 2011 closure of Adult Industry Medical as the divisive moment, "when 2 sides of the same industry decided to take a different approach to eradicating the transmission of the HIV virus" (APAG, 2019a). Whatever the proposed theory, it captures two distinct industries making different occupational health and safety decisions.

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<sup>175</sup> This pivotal story was discussed in Chapter 4. It involved a straight male American performer travelling to film in Brazil, where the standard protocol was condom use rather than regular testing. The American performer shot with Brazilian talent without condoms, contracted HIV, and subsequently infected three female performers when he returned to work in the U.S.

<sup>176</sup> Then the Adult Performers Actors Guild.

But the gay/straight industry divide itself is being dismantled by a small, defiant group of performers, notably Wolf Hudson and Lucy Hart. Both have worked across industries their entire careers, and have led<sup>177</sup> the development of bi porn as a distinct genre.<sup>178</sup> New sites and awards categories have since followed suit, with director Jim Powers claiming “the bi market [is] the next frontier for the adult industry” because “[m]illennials are more open to exploring different aspects of their sexuality” (c.f. Adams, 2021a, para. 3). In 2021, XBIZ “Performer of the Year” was awarded the Dante Colle, a performer who has “simultaneously work[ed] in gay, bi and trans genres as well as big-budget, high-profile features intended for the straight market” (Adams, 2021b, para. 2). According to Lucy Hart in a recent podcast interview, “it was a huge deal” that Dante won this award, as it “put the nail in the coffin” of the crossover wars (c.f. Randall, 2021, 21:25-22:12). As bi porn grows in mainstream popularity, this will surely impact the once neat distinction between ‘gay protocols’ and ‘straight protocols’ upon which crossover stigma is based. That said, how best to include HIV+ performers remains unsettled. I now turn to one alternative initiative that has been proposed.

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<sup>177</sup> While growing in popularity now, bi scenes certainly predate this work. Barry Knight, a cinematographer working in gay porn in the 1970s, noted the existence of bisexual films and suggested that bisexuality “is the way that I think the major market is going to go. I think bisexuality is the coming thing, similar to the ‘Rocky Horror Show’” (Siebenand, 1975, p. 125). It took some time, but his prediction may finally be coming true.

<sup>178</sup> ‘Bi’ scenes are typically defined by the presence of two (or more) cismen and a ciswoman, where the men interact sexually with one another. Notably, another frequent combination—two ciswomen with a cisman—would not be considered bi porn, but rather fits within the canon of straight porn. Also, the ‘gangbang’ genre of multiple cismen taking turns having sex with a single ciswoman tends to fall in the straight category. In the same way that bi porn is disturbing the gay/straight distinction, the increased hiring of trans, genderqueer, and non-binary performers is also blurring these categorical lines.

## 10.4 Taking the Pledge

When producer/performers who work in the straight industry shoot with HIV+ performers it is usually done covertly, since they know other studios might refuse to hire them for having done so. In other cases, people are making a more public declaration of their commitment to hire undetectable HIV+ performers. The *Porn Professionals for Safety Against Discrimination* pledge, authored by porn performer and activist Jason Domino, asserts:

Having reviewed and discussed available trial results and medical information, we accept that individuals living with HIV who maintain an Undetectable Viral Load cannot pass on the virus to their sexual partners. As such, we encourage people living with HIV with an Undetectable Viral Load to approach us for work as performers without fear of discrimination. (PPSD, n.d.a, para. 2)<sup>179</sup>

Treasure Island Media was one of the few studios to have signed onto the pledge at the time of writing. As mentioned above, Treasure Island exclusively produces bareback content and has openly worked with seropositive performers for a long time. The site “arguably functions as ground zero of bareback as a distinct subculture” in San Francisco where it is based (Dean, 2015, p. 226). Treasure Island has committed to HIV-inclusive bareback content as a rejection of the ‘safer sex’ imperative as it is typically understood and enacted in porn production. Owner Paul Morris explains in an interview with porn/media scholar Susanna Paasonen:

For the most part, gay porn pretends to represent experience without peril, experimentation without damage. Most gay porn hides behind a façade of ‘safeness.’ But in my case, the men in my work are considered prized for being damaged, for having taken what conservative gays deem ‘the ultimate risk’ and lost. In a world increasingly dominated by the medical gaze, to willingly live in symbiosis with a virus is seen as

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<sup>179</sup> The other points on the pledge (<https://ppsdpledge.com/>) assert that HIV negative performers have the right to informed consent regarding whether or not they will work with HIV+ performers, while underscoring the need for confidentiality around serostatus and the importance of educating people in the industry around the U=U principle.

irrational and socially expensive. I see it as necessary and revolutionary.<sup>180</sup> (Morris & Paasonen, 2014, pp. 217-218)

Morris evokes an underrepresented approach to ‘sexual health’, that is, to demote the value placed on ‘safety’, emphasize the value of pleasure and community, and embrace an alternative relationship with what we call sexual risk.

Aside from Treasure Island Media, the other sites or studios that *explicitly* allow STI/HIV+ people to work are largely gay or queer-identified. I suggest that this is a reflection of queer politics, which tend to guide and infuse queer porn production in explicit ways.<sup>181</sup> Historically, gay porn was enmeshed in liberation politics, because its production was an inherent act of claiming space and asserting community identity; its exhibition or commercial locations were settings for gay community and cruising (Siebenand, 1975; Waugh, 1985). Similarly, queer porn developed out of the queer art film and activist landscape, unlike straight porn that locates its roots in profit-driven Hollywood (Ashley, 2016). There are various political positions that inform queer porn production, including disability justice.

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<sup>180</sup> But not *all* viruses, apparently: during the COVID-19 pandemic, Treasure Island Media’s regular skull and sabre pirate logo was fitted with an N95 mask:



Source: Treasure Island Media. <https://men.treasureislandmedia.com/men/>

<sup>181</sup> This is a generalization. There are mainstream companies that see their work as artistic, political, and guided by a certain ethics, and queer companies also have a profit motive. As Houston said in an interview, while Pink & White productions was “about asking, How do we get more representation of different body types? Where are the kind of people I want to see in porn? Where are *my* people? [...] It was [also] about making a *sustainable business* out of my art” (Hall, 2020, para.7, emphasis added). There are also instances of unethical companies employing the cachet of queer feminist rhetoric purely to sell their product. The goal is not to compare ‘good queer porn’ with a political goal to ‘bad mainstream porn’ with a profit motive, as this encourages unhelpful hierarchies. “People who engage in sexual labour experience enough shame from outsiders without also playing respectability politics from within”, writes performer/producer Vex Ashley (2016, p. 190). Such a distinction does nothing to support fair working conditions, as the look and feel of the final product tells you nothing about how it was made (see Ashley, 2016; Berg, 2021; McKee, 2015).

The connection between queer communities and disability justice relates to how both movements are “cultures [...] founded on access” (McRuer, 2003, p. 99). Access is a fundamental political goal for these movements because “another world can exist in which an incredible variety of bodies and minds are valued” (McRuer & Wilkerson, 2003, p. 14), and everyone is enriched by this heterogeneity. The linkage between queer and disability rights is most explicit within (but not limited to) movements for justice around sexual health and HIV status<sup>182</sup>. Queer communities have a history of advocating for the rights of seropositive folks, having been forced into such a role through state inaction in the early days of the HIV crisis. What remains is a legacy of confronting discrimination faced by people living with STIs and HIV, and of honing expertise in safer sex methods beyond testing, such as barriers and lubricants, strategic positioning, serosorting, and non-fluid-exchanging play (Webber, 2018).

A political orientation towards disability justice and access, coupled with technical expertise in harm reduction, broadens what constitutes safer sex (and by extension, occupational health), opening porn work to those who are excluded by a rigid system of testing only.

Consent, while ostensibly about ensuring personal freedom, actually entails “a series of unspoken presumptions about what is ‘normal’ human behaviour,” such that “the availability of consent

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<sup>182</sup> Of course, HIV infection is not limited to queer people: according to 2018 surveillance reports, heterosexual contact was the source of 32.3% of new HIV infections in Canada (Haddad et al., 2019) and 24% of new HIV infections in the United States (CDC, 2020). Nevertheless, HIV continues to be regarded as a ‘gay’ or ‘queer’ problem in both the public imagination and public health interventions. The activities considered abnormal and dangerous—sex work, multiple concurrent partners, anal sex, group sex, public sex, BDSM, and so on—remain largely unchanged since Gayle Rubin first diagramed the distinction between the socially approved “charmed circle” of “natural sexuality” and the “outer limits” of “damned sexuality” at the infamous 1982 Barnard Conference on Sexuality (Rubin, 2011, p. 152).



hinges on the ‘reasonableness’ of the defendant’s conduct<sup>183</sup>” (O’Regan, 2020, pp. 5-6). But what is considered reasonable within a disability justice framework? Productions that work with positive individuals challenge the ‘reasonableness’ of ableism, and aim to correct it in two ways: one, by troubling STI stigma and enshrining the right of pathogen-positive people to be sexual and sexually expressive; and two, using a variety of safer sex and harm reduction techniques to directly challenge the economic marginalization (Young, 2004) caused when performers are barred from working in the porn industry because of their serostatus. These are discussed below in turn.

#### 10.4.1 STIs are No Big Deal: The Right to be Pathogenically Sexual

I am sitting in the back seat of an SUV, looping through the streets of Vegas with another performer after the show floor has closed for the night. When we met at the AVN trade show the year before, she had only done solo webcamming, but since then she began doing ‘boy/girl’<sup>184</sup> movies too. I tell her I had the same trajectory: for years, I only worked solo or with ciswomen, primarily for live cams or fetish films, before eventually crossing the gulf into penis-vagina films, and all the additional considerations that entails. She half turns in her seat, making eye contact with me through the rear-view mirror.

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<sup>183</sup> As the language indicates, O’Regan is referring to the allocation of legal consent in judicial contexts, however I think the argument holds for other standardized norms, such as occupational policies and community standards.

<sup>184</sup> ‘Boy/girl’ or ‘b/g’ is commonly how scenes featuring heterosexual intercourse are described, to the disdain of many performers. “I hate that term” King Noire told me, “I don’t want to have sex with girls. I’m a grown ass man. I’ll say like, M/W, like I’ll say to someone ‘M/W’ and they’ll be like, ‘what the fuck is that?’ Man/woman. I don’t like the term boy/girl, but I think that that is also another thing for the higher ups to lessen the value of the actual performers. ‘Cause a lot of these performers [...] are in their fucking 40s and 50s. And they’re still doing ‘boy/girl’ scenes? That doesn’t make any fucking sense.”

“Did your first outbreak make you really sick?”

She’s asking about the herpes simplex virus [HSV], having just recounted how her initial outbreak occurred almost immediately after her first ‘boy/girl’ shoot. “I freaked out and called someone. I pulled some real new girl shit”. She talks about how she was afraid of getting it, and did not even realize that industry testing protocols do not include it. She relates how now she understands that “everyone” in the industry has it and it’s “no big deal”. She is embarrassed that she panicked the first time. When she asks me about my first outbreak, I find myself almost apologetically making excuses for never having had one: *I must be asymptomatic. Maybe it’s something genetic?* The car goes silent for a beat, and to fill the awkward pause I quickly bring up Mycoplasma Genitalium, the new STI going around.

STIs were frequently talked about as a common inconvenience. For one, STIs are widespread among the sexually active population, sex worker and civilian alike. As Delirious Hunter noted, “a lot of girls have had HPV, herpes, it’s common. They are STDs that a lot of people in the United States, Canada, everywhere, have.” When we talked about how these common STIs are not included in standard testing protocols, Delirious points out that “they can’t really be like ‘oh if you have this [HPV or HSV] then you can’t shoot’, because that would take out most of the adult industry right there.” Courtney D made a similar comment, that “I think it’s over half of [all] adults have HSV in some form, but only 1 in 10 express symptoms or are aware that they have symptoms. And performers—probably most of us have it, at the end of the day.” In Charlotte Sartre’s experience, while STI prevalence rates may be similar in both civilian and porn circles, fellow porn performers were less likely to shame each other for it:

I'm grateful for the porn people because with certain things, like herpes, there's generally a better attitude [...] I remember trying to disclose to [potential civilian sex partners, before starting porn work], like 'hey just so you know I have herpes, but I'm on medicine so you're not gonna get it' and then, ghosted. Whereas in porn, it never really comes up. But when I was new I thought, oh you're supposed to tell people and disclose that stuff, and everyone would be like, 'yeah, I have it too' [laughs], everybody does.

In several interviews and moments during fieldwork (such as my above-described SUV ride) it was made apparent that "freaking out" over contracting a common STI is "new girl shit", whereas seasoned performers are more level-headed if they "pop" a test<sup>185</sup>. As director Vito Vee Soho said, how a performer reacts to the process of getting tested "depends on where they are in their evolution as a performer". Charlotte Sartre further notes that,

younger or newer performers who haven't had much experience testing positive for stuff, or maybe just testing in general, have a more scared attitude about it [contracting an STI]. I think it just comes from a lack of experience and information. I remember my first time getting chlamydia, I had to cancel a shoot coming up and I texted the director and I was like 'hey I'm really sorry, you know, I don't know what to do, I'm really nervous and I feel bad that this happened' and she was like 'oh, one year I got chlamydia seven times, like, you're fine.' And I was like *oh thank god*.

While STIs are also common among sexually active people outside of sex work, many interviewees suggested part of being a porn performer is accepting that treatable STIs are simply a risk is the job<sup>186</sup>. For example, performer/producer Wolf Hudson said, "we're in an industry where yes, something *could* happen [...] chlamydia, gonorrhea, very common. It's one of those things where, ok, that's a health hazard in the industry, you have to deal with it."

Performer/producer Michael Vegas similarly explained that "you just kind of assume the risk

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<sup>185</sup> To 'pop' a test is to test positive for something.

<sup>186</sup> Not everyone accepted STIs as an inevitable part of porn work, however. Performer/producer/Free Speech Coalition advocate, Lotus Lain, told me "I've seen and heard some people have the attitude like, 'oh you're in the adult industry, you're gonna catch something eventually'. And I guess by 'something' they mean something low grade and curable, like gonorrhea or chlamydia. And I'm just like 'no the fuck it does not' [...] That's absolutely not something that everyone *has* to experience as part of being in the adult industry."

when you start doing this job, and you just understand that unprotected sex does lead to things, potentially.” Performers called attention to the double standard whereby STIs are treated as exceptional compared to other kinds of occupational hazards (see also Berg, 2021).

Performer/producer Mercy West explained:

Yes, there are risks involved with [porn] jobs [...] But there are also risks when you’re a construction worker. There are risks when you work in a lab. There are risks when you work on a fucking high rise, you know, when you wash windows. It’s calculated risks. It’s something that going into it, people know [there are risks involved].

Performer/producer Marcus Quillan—who has also worked in many professional kitchens—observed that most people consider porn environments “just worse” than other jobs “because sex is involved [...] even if it’s a low risk of something happening”. He elaborates by posing a hypothetical question:

But which would you rather? Getting herpes, which may never flare up and 99% of people have anyway, or have your hand cut off in a kitchen? [...] I think with so many workplaces it’s just taken for granted [...] that accidents happen. [...] And actually way less risky stuff, I would say, probably happens on average on porn sets, but still it’s seen as this big red flag, that like ‘sex is involved? Oh shit.’

*Adela* likewise agreed that there are risks involved in porn work, but challenged two interlocking myths underlying the demonization of porn risk. First, that any kind of *sex* can be made risk-free, and second, that any kind of *work* can be made risk-free:

Within the industry, there are certainly health concerns and issues. I mean there is no sex that is completely risk free. It doesn’t exist. [...] But there are very few jobs I can think of where you work around other people where you don’t have some risk of getting sick. But because the sick that we get involves our genitals and sex, it’s blown out of proportion. We don’t really bat an eye if a school teacher gets a cold or gets the flu because they’re working around children, who are germ factories. But if I get BV [bacterial vaginosis] from shooting like, ok that also sucks, it’s also bacterial, it also means I’m out of work for a little while, it’s not comfortable. But because it’s sexual, because it’s in my vagina, it’s something that is seen as just reproachful.

Mainstream sexual health rhetoric often presents STIs and HIV as disproportionately devastating and shameful in ways that other communicable infections are not. It is routinely taken for

granted—without justification—that infections involving the genitals are inherently more upsetting than infections involving other body systems. This inhibits prevention goals but also negatively impacts quality of life, arguably more than the infections themselves (Chollier, et al., 2016; Cunningham et al., 2002; Hood & Friedman, 2011; Hutchinson & Dhairyawan, 2018; Morris et al., 2014). Performers resisted this double standard and the tendency to view STIs as a moral rather than medical issue. For example, Sadie Lune argued that susceptibility to STIs is “just what it is to have a body”. As Delirious Hunter similarly stated: “It’s sex. It’s bodies. It’s genitals. It’s things going in there.” Malcolm Lovejoy expanded on this, pointing out that STIs are infections like any other:

There’s no human being on this earth that will get through this life without catching some kind of infliction that compromises their immune system. Do you know anybody that goes through a bunch of winters without getting colds or the flu or some kind of sickness or chicken pox or pneumonia? No. [...] I also like to parallel it to: are you gonna shame somebody ‘cause they get cancer or diabetes or something? Nobody can predict that they’re gonna get cancer or diabetes and nobody can predict if they’re gonna get gonorrhea or chlamydia or syphilis. It’s just shit that happens in life. [...] Hopefully you have access to bringing you back to a healthy balance and that’s it. No shame.

The proclamation ‘no shame’ connects STI-normalization to disability justice, and it was a position I heard expressed at other fieldwork events. During a panel on Ethical Porn Production at the 2018 Toronto International Porn Festival featuring performer/producer Icy Winters, performer/producer Rooster, and Oasis sex club marketing and event director Fatima Mechtab, the three argued that safer sex protocols should be guided by performer preference, not company policy. Icy further lamented that by not allowing performers with STIs to work, the mainstream straight porn industry appears to shame people for having STIs. Given the variety of options for preventing transmission, she argues, there is no reason to bar pathogen-positive folks from all sexual performance. Doing so insinuates that people with STIs no longer merit the right to be sexual beings. Producer Kate Sinclair agrees. She states that “as a society”,

we insist, “you’ve got HIV, you’re no longer a sexual person. You don’t get to enjoy things”. That’s pretty much it. It excludes those people from the porn world, and so other people who are HIV+ don’t get to identify [with the performers in porn films] in that way. Knowing that there is no space for them is really awful.

She continues, explaining how creating models for hiring people with HIV or other STIs would help normalize and guide the process: “It would be good to have that kind of space available and pre-sculpted for people who in normal, like ‘normal’, mainstream porn worlds, would be written off as ‘dirty’”. And in her own productions, Kate has done just that—not just, or even primarily, to ensure all performers can express themselves and be represented, but to ensure all performers can have the opportunity to make money. I turn to this aspect of anti-ableist porn politic next.

#### 10.4.2 The Right to Make Money

While at the time of our interview Kate Sinclair had not yet worked with any openly HIV+ performers, her policy allows for it. The FAQ on her site, *Ciné Sinclair*, includes the header: “I’d like to perform, but I have an STI.” The posted response says that all performers need to produce a recent STI test, and that “a safer sex conversation must be had before the shoot can go ahead”. However, “[h]aving an STI does not mean that you are not able to work as a performer for Ciné Sinclair. It does mean that your partner deserves to be informed, and that they will be, by you. If the partner consents to using barriers, the shoot will go ahead as planned” (Ciné Sinclair, n.d.).

I asked Kate to expand on the motivations behind this decision. She recounted a story of having worked with some performers who disclosed, only after shooting, that they carried the herpes simplex virus [HSV]. The situation made her ask herself, “why did these people not feel like they could disclose?” She continued:

Realizing that people won't come forward with things if they feel like the money they're gonna make, their job, is in jeopardy, I was like: ok, well, rather than crack down on it, I'm just gonna be like, 'declare everything and we'll find a way to make sure you get your money. We'll shoot something. We won't endanger your livelihood because of this.'

She describes this approach as a way to “put my money where my mouth is, to put myself at risk in that way, because people are putting themselves in a vulnerable position for me [when they perform]”. The decision is thus a “very deliberate act” that aims to balance performers' bodily integrity with their financial security.

To strike this balance, Kate employs a variety of harm reduction techniques on set including testing, barriers, and so on. On a panel about queer porn production, Shine Louise Houston and Jiz Lee similarly explained that sexual health management on their sets requires that any two of three elements be present: communication, testing, or barriers. Rather than adhering to any one strict protocol, talent are given autonomy around how they want to navigate their sexual health. So long as everyone involved in the scene has communicated and come to a common agreement and understanding, no particular protocol is mandated. In an essay penned for the Ethical.Porn website, Houston and Lee wrote of their sexual health process, “we ultimately trust that performers know what's best for their bodies” (2017, para. 6).

Interviewees who worked in queer, feminist, and art porn had the most experience working under more flexible, less prescriptive sexual health approaches. Both the material conditions and ideological foundations of these less mainstream genres lend themselves to different approaches to sexual health management, outside of the strict PASS mandate. Certainly, part of the reason is related to volume. PASS testing is expensive, the queer/feminist/art porn worlds are “not a lucrative corner [of the porn industry] at all”, laments performer/producer Marcus Quillan. Or as

Sadie Lune said, despite being a long-standing performer of the feminist art porn genre, she has “a pretty limited world of porn that I work in, which is also not a very profitable one. So it’s not a full-time job, it’s not a sustainable living”. “A lot of queers aren’t in the main talent pool” explained queer producer/director *Nailah*. “A lot of people are like ‘this is the one and only time I’m going to do this’. It’s not their career, so they’re not gonna fork out the money to be part of PASS just for this one shoot.” Working less frequently also means that performers are less likely to experience the kind of “condom-burn” that comes with a high volume of shooting. This reduces the need for testing, since they can more readily use barriers.

The other, more ideological reason that queer porn tends towards greater flexibility in safer sex protocols relates to how it manifests a political commitment to bodily agency, both for those with *and* without STIs/HIV. Rather than an agency focused on enabling exclusion, it is one oriented towards inclusion. Sadie Lune and I discussed this as I sat in her dining room, monitoring her toddler, while she brewed us some coffee. She reflected on the trajectory of her porn career, calling out over the whistle of the kettle. Returning with mugs brimming, Sadie told me that one of the reasons she concentrated on queer, feminist, and art porn films, rather than mainstream work, is because these productions were more likely to respect her safer sex standards (such as the use of barriers for manual sex and oral sex). After more discussion, we noticed a correlation that these productions were also less likely to ask her to remove body hair or piercings or otherwise change how she self-presents. The mainstream work she had done was more likely to demand a specific bodily presentation and safer sex approach (see also Berg, 2021), whereas queer productions invited her to present and protect her body in whatever way worked for her and her scene partners.



Kate Sinclair described queer culture, and the politic guiding much queer porn production, as “disclosey”: interested in transparency and communication. But unlike the approach to disclosure entailed by debates over inclusion of the Ag/Ab test, for example, this queer disclosure is not enacted for the purpose of excluding certain performers, but rather in order to determine how to include everyone comfortably. Sadie Lune described how “queer shoots [...] fall outside of the mainstream world of the way the systems work.” Instead, queer directors:

were basically like ‘ok this is gonna be our deal, like [safer sex] needs to be addressed and negotiated, but we will go with whatever you guys negotiate. And we’ll provide stuff [barriers, lube, etc.] or you can use whatever you want, or if you’re already partners you don’t have to, but that’s on you’.

Valerie: So they’d supervise that conversation?

Sadie: I don’t think they would supervise it, but they would facilitate it. They definitely kind of made sure that it was part of how people talked beforehand. Especially if they didn’t know each other.

Malcolm Lovejoy described two directors he had worked with in the queer feminist art porn genre, noting that one will “work with whatever happens. Like, erection or not, cum shot or not”. Another is “really open to any intimacy act, and definitely not following the traditional script in any way, shape or form as far as representation on screen, the positions that are done...”. As such, these companies allow performers to negotiate “their own safety protocols and boundaries” in very open terms, because it is more important that the finished product capture a certain mood or intensity than a particular series of sex acts.

A willingness to “work with whatever happens” lends itself to a different conceptualization of informed consent in the sexual health negotiation process. Note the wording of the second point in the above-mentioned *Porn Professionals for Safety Against Discrimination* pledge:

Performers who are not living with HIV will *have the opportunity to agree* to work with other Performers who are living with HIV with an Undetectable Viral Load. This must be consented to before the filming happens, and where ‘Open Disclosure’ or ‘Serosorting’ is used, with all parties agreeing to treat a Performer’s shared HIV status with respect and

confidentiality. Different Productions handle disclosure in different ways, including using methods for ‘Status Privacy’ (PPSD, n.d.a., para. 3).

Informed consent is still an element of the negotiation process, but it is stretched in important ways. First, a variety of status disclosure strategies are described, illustrating how both parties disclosing their HIV status is not the only way for consent to be ‘informed’; namely, ‘Status Privacy’ refers to a system where performers do not share HIV tests results, but have all agreed to work with others who have *either* a recent HIV negative or an undetectable viral load. This enables informed consent while protecting performers from having to share their HIV status (PPSD, n.d.b).

Second, rather than focusing on the right to refuse work with pathogen-positive performers, instead the right *to* work with and as a pathogen-positive performer is protected. Under this framework—and in alignment with disability justice—is a refutation of the asymmetry typically associated with sexual consent. As Kukla (2021) writes, sexual consent (like occupational health, as explored above) is often described as if sex is an asymmetrical encounter: something one person ‘does’ to another, if they are granted access. Under these terms, ‘consent’ is more a matter of refusal than assent: It “makes it sound like the default stance toward sex is rejection” (p. 272). Informed consent as it is usually applied within the porn context defaults towards protecting performers’ decision *not* to work with pathogen-positive people. The assumption is that this is the ‘rational’ choice pathogen-negative people will make<sup>187</sup>. In this pledge, however, the right to

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<sup>187</sup> Notably, this attitude is so pervasive that despite an intention to do otherwise, I’ve still written this account in a way that defaults to HIV-negativity, that undervalues the *increased* safety of working with knowingly U+ performers (versus working with those who have tested negative but are operating within testing window periods), and that implicitly positions HIV negative performers in the role of allowing or denying the participation of performers who are HIV+. This research would surely look different were it written from the perspective of a positive performer and/or someone who primarily worked and researched within gay porn production. In future iterations of this work I will be more attentive to these

*accept* work with HIV+ people is equally emphasized, as many people in the porn industry are comfortable doing so when policy allows them to. This broadens the scope of what we might consider ‘rational’, ‘reasonable’, and ‘consent-able’. This alludes to an alternative approach to risk and safety. This alternative orientation—one that refuses to be based in separation, certainty, and a reactionary fear of pathogens—appeared in many other ways, throughout my fieldwork and interview experiences. I close the chapter on this final point.

### 10.5 Against Carceral Safety

I have been waiting in the line for the KitKatClub for nearly two hours, inching up Köpenicker Straße to finally turn the corner onto Heinrich-Heine-Straße. I have time off from my fieldwork at the porn festival, and am determined to get into the famous Berlin nightclub.

After stripping off my street clothes in the coat check to reveal my fishnet bodysuit, I explore the space: passing an in-ground pool with no safety railing or step ladder (the best way in is via the rickety swing that soars overhead), past the candy shop corner down a darkly lit, uneven cobblestone staircase. I find myself in one of several larger spaces, each equipped with its own bar. Everyone is smoking, the air is thick and acrid. I start dancing, occasionally glancing at the blowjob happening in the middle of the dance floor. I feel a sudden flash of heat across the back of my neck, gazing up just in time to see a burst of flames shoot from the pyrotechnic dragon welded into the wall above me. Throughout the night it spews fire above this frenzied crowd; we sweat and squirm in our latex and leather.

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shortcomings, and I want to thank Jason Domino for his attentive and constructive criticism of the published version of this chapter for pointing out this bias (Webber, 2021).

This is the opposite of safety.

Shortly after returning to St. John's, I find myself alone in a spa, sitting in a whirlpool in a tiled room. Slumping to immerse myself in three feet of water, I look around the space and note that I am surrounded by more safety warnings and equipment in this one room than I saw in the whole of Berlin: a security camera in the corner, multiple life-preservers, a shepherd's crook, a defibrillator, a bright orange spineboard, and giant red-on-white signs warning me not to dive/jump/run/sit too long. Detailed signage reminds me not to enter if I have a heart condition or am pregnant or ever get dizzy.

The water isn't even very warm.

'Safety' is not objective, neither what it means nor how highly valued it should be. In many of the conversations and interviews I had throughout fieldwork, people suggested that an obsession with safety was misguided. Firstly, because nothing can be made 100% safe, and secondly, because even were it possible, complete safety would not be desirable.

Performers and producers pointed out that no aspect of life comes without risk.

Performer/producer Malcolm Lovejoy, who is also a musician, illustrates this point in reference to concert venues: "I always tell people when I go to concerts, there's no such thing as 100% security. There is no venue in the world [that is perfectly safe], there really isn't." He continues the train of thought:

It's human, it's flawed [...] There's always a way to slip through the cracks somewhere. There's no prison that can't be broken out of, there's no perfect system. [...] It's not anything to be paranoid about, we just protect it as much as we can, and then if something

does happen, we heal it the best we can. You know, I don't believe in paranoid fear of 'oh, the next person I have sex with might be the first one to get me infected while I'm a porn star'. No, if I contract something, I contract something.

In a similar vein, performer/producer Wolf Hudson suggested that many of the things we do to *feel* safe are pure pageantry. Regarding porn production measures, he said:

To me a lot of it [safety measures] is theatrical and it's like, you just have to trust somebody. And you can never really trust anybody, but you still have to trust somebody in order to engage in anything, or else you're just gonna be miserable. And god bless the industry for being as thorough as it is and trying to keep everybody safe, but I don't want people to be under the illusion of safety, of theatrics, and actually have concrete facts of how this actually works.

Earlier in the day we had been talking about airport security measures, so I asked Wolf if he saw a continuity between the two.

Valerie: It's interesting what you say about the illusion of safety and the theatrics. When we were talking about the TSA agents earlier, how it gives people the *sense* of security but that it is more a theatrical production.

Wolf: Absolutely. I get the game, and I play with it, but let's not kid ourselves, you know? We're in Las Vegas right now [for AVN]. People are having a great time, as well they should, but *god knows* what's going on, you know? And some of these people have to shoot with others within this week span or later in the week. Who knows what's gonna happen? [...] There's this false sense of security, people think 'oh I have a fresh test, I'm good'. And it's like, that doesn't mean anything. You took the test on a Thursday. You got your results back on a Friday. What did you do after you took your test, in that period? You could have easily done you know whatever your heart desired that's pleasurable, but been exposed to something. So by the time your results come back you may have been exposed to something. So to me this false sense of, 'oh I have a test so I'm *safe*', that's not correct. It's bullshit.

Beyond the impossibility of safety was the undesirability of safety, inasmuch as a concentration on a particular notion of safety severely limits the opportunities, experiences, and pleasures we can have in life. As producer/director Vito Vee Soho said:

Some of those things [sex acts] can be dangerous. Same if you need to use a jack hammer to build something, it's dangerous. If you need to use a car, it's dangerous. If you're going to play with fisting, it's dangerous. You have to learn, be prepared. [...] You can die any moment [...] Everything is dangerous. I mean we could live on a bubble or stay at home on the computer, but you want to live, you want to experience life, you want to try things.

Performer/producer Marcus Quillan discussed a similar conscious refusal to let anxiety dominate decision-making, in part by confronting and denouncing the social shaming attached to sexual pleasure-seeking:

*What could be more important than safety?* But then you actually think, ‘No. In my heart of hearts I am fine with the slight risks, or whatever you want to call them, that I have been taking all my life’. [...] So much goes into that thinking, even unconsciously, in terms of stigma and general social mores and stuff people say and jokes they make. There’s a lot of shame involved of course. I don’t know. Fear. But also shame and stigma and over-cautiousness. [...] My thinking a lot of the time, and I know it is [the same] for a lot of people: some things you do just have to think ‘ok, I know there’s maybe a low risk for this, but I’m ok with it.’ Like I’m fine with a stranger giving me a blowjob, the risk/reward is ok for me.

He goes on to address how subjective these risk/reward ratios are:

Different people have different ideas of risk, or what different kind of amounts of risk they’re ok with. And not even ‘amounts of risk’; when you say that, it sounds like you can determine objectively what the exact risk is of doing this or doing that and therefore you can say who’s comfortable with more risk versus less. It’s not even that simple because, in someone’s mind, they could be thinking of something as *extremely* risky for all sorts of reasons, scientific or not, reasonable or not, and someone else could be like ‘ehh, no it’s fine’. It is frustrating that there’s not a more objective way to look at it or to determine these things. I mean I’ve looked at the stats on this stuff [...] The best I found was a chart of all the different STIs, all the different sex acts, and then the relative risk for like a male receiving, a male giving, a female receiving, a female giving, which is great. [...] But even that, they’re still using words like ‘slight risk’ or ‘negligible risk’ or ‘some risk’ and it’s like ok: how do I know if I’m comfortable with ‘some risk’?  
Valerie: Right, what does ‘some’ mean?

Even if there are hard numbers to judge by, Marcus notes that “some people will be like, ‘oh, 1 in 100,00, that’s still way too high’ because of what they think of the potential thing that could happen.” Producer/director Vito Vee Soho and I similarly discussed the matter of risk ratios, in the context of shooting with someone with an undetectable HIV viral load:

There’s still a micro possibility [of transmission], so the person who is more insecure will feel that she’s taking a risk, [versus] the person who can make a relative calculation. [...] There are various types of personalities. One person will say ‘listen, I’m gonna make a

thousand bucks, maybe two, and I'm gonna risk my life on 0.0001%<sup>188</sup>. Or I could just get those thousand bucks and shoot with somebody that doesn't have [HIV].

Risk, writes Diane Goldstein, is often understood “as having a consistent shape and limited set of meanings”, such that “‘risk perception’ is understood as concerned with a single ‘objective’ form of risk” (2005, p. 66). But this is not how risk perception actually operates. Rather, “understanding attitudes towards susceptibility is dependent on understanding the variety of cultural issues and influences that constitute risk *for the communities and individuals in question*” (p. 67, emphasis in original). How then to understand the different approaches to risk assessment illustrated by the crossover debate?

“People have different risk perceptions” writes Åsa Boholm, “because they have separate world views, including general orientations on the role of the individual in society and on the constitution of the relationship between the social group and its members” (2015, p. 47). In their relational theory of risk, then, Boholm and Corvellac (2011) argue that risk perception is a framework that establishes a set of relations between a risk object (the potential threat) and an object at risk (the potentially threatened). Depending on one's world view, we slot different entities into each of these categories, producing different risk assessments and different solutions for mitigating that risk. In some cases, these contextual differences are straightforward: a given threat is simply more prominent in one context versus another, so it is perceived as a greater threat. In other cases, however, the difference is more ideological. By way of example, Boholm (2015) points to Swedish versus French approaches to child safety. In one context, the primary

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<sup>188</sup> One recent consensus statement on HIV transmission published the following per-act estimates, without a low viral load or barrier protection: oral-penile and oral-vaginal sex = 0 to 0.04%; penile-vaginal intercourse = 0.08%; anal-penile intercourse = 0.01% to 3%. It is generally found that risk is higher for a receptive than an insertive partner (Barré-Sinoussi et al., 2018).

‘risk object’ is considered the child itself, as an innately accident-prone type of human. Accordingly, risk mitigation focuses on teaching the child how to pay attention and behave responsibly. In the other context, the primary ‘risk object’ is the environment, as a set of manageable threats. In this case the focus is on controlling risk-prone environmental features through design: baby-gates, reducing sharp corners, outlet covers, and so forth. This relational approach to risk helps us understand why different attitudes are taken towards HIV risk and crossover performers (as well as full-service sex workers and other performers considered ‘high-risk’ scene partners, as discussed in Chapter 8).

Those opposed to working with crossover performers—who I referred to as ‘crossover-critical’ in the last chapter—appear to define the risk object as a particular *kind of performer*. The focus is on identifying potentially pathogenic subjects, and reducing risk through what could be called a carceral and ableist approach to safety: presuming that STIs or HIV-positivity is a violently undesirable state (Butler-Wall, 2016), and that it is appropriate to guard against this state through surveillance and sequestering of pathogenic performers. It follows that advocates of this position expressed a more individualized or divisive attitude toward risk reduction, and were more focused on technologies of detection than alternative harm reduction methods.

On the other hand, performers who are open to working with crossover and undetectable HIV+ performers, or who were critical of respectability politics within the industry—the crossover-friendly camp—does not define risk according to ‘types’ of performers perceived as high risk. Rather, risk is understood as the *actual presence* of an infectious STI or HIV, with the understanding that any performer may become infected, that risk can never be avoided entirely, and certainly not be avoiding ‘types’ of performers. I suggest here that the crossover-friendly



camp approaches risk mitigation differently, in a way that dismantles notions of safety based in separation and surveillance. Beth Ferri's presentation of autoimmunity, and João Florêncio's discussion of viral symbiosis, capture this attitude. In the last chapter, I presented norms around consent, autonomy, sex, and work that the porn work context troubles. Both Ferri and Florêncio offer understandings of the self/body that are not invested in these norms, but rather in an acknowledgement and appreciation for the ways in which we are intertwined.

Contagion is typically understood as an attack by something foreign, as implicating an *inside* and an *outside*. Beth Ferri (2018) presents the case of autoimmunity to challenge this understanding, asking: happens when the 'threat' is from within, in a way that upsets antagonistic approaches to keeping infection *out*? "[A]utoimmunity", Ferri writes, "requires a nonoppositional interchange: a deconstruction of self/nonsself" (p. 11). This becomes a useful basis for justice, if we consider the entire 'performer pool' as the self in question. Because while hesitant to use metaphor to "reduce disability to anything but what it is", Ferri argues that

a more ethical and embodied engagement with autoimmunity as an interpretive horizon has the potential to contest metaphors of conquest and cure and offer a more nuanced understanding of social conflict as well as disease and disability. (p. 11)

Rather than requiring battle between clearly defined *good guys* and *bad guys*, autoimmune disorders (both metaphorical and material) require "finding different ways to live" amidst the confusions of constitutive living, negotiating relations rather than engaging in conflict (pp. 13, 15). "[P]erhaps the lesson of autoimmunity is that we need a better response to our perceived enemies and terrors or we risk continuous damage to, and violation of, both self and other", finding ways "to allow cohabitation of self and other, alongside and within each other" (p. 15). She concludes:

To encounter autoimmunity is to grapple with how the self (as a body) always contains the seeds of its undoing. It cannot be placed in opposition to “the other”—because rather than a bounded, selfsame, unified subject, the self-body is many and one, heterogeneous, but not fragmented. Furthermore, grappling with (and bumping up against) autoimmunity brings to the fore a lived awareness that our encounters with the world are rarely simple, and never one-sided. (p. 16)

Similarly, João Florêncio’s (2018) analysis of the Treasure Island Media film *Viral Loads* suggests we

rethink modern ideals of individual autonomy and bodily integrity and alludes to alternative community formations enacted not by holding something in common but by relentlessly giving and exchanging foreign matter. (2018, p. 2)

Like Ferri, Florêncio deals in both material and metaphor, pointing out that pathogens and hosts do not evolve in isolation but rather in symbiosis with one another. The body is not a clearly bordered territory to be defended by the immune system, contrary to popular medical narrative. Immunology has typically been defined as a relationship between self and not-self, but contemporary understandings view the body more like an ecosystem that develops tolerant relationships with various elements. According to Florêncio, Treasure Island’s film, and I would argue, all the alternative approaches to safety developed by the crossover-friendly camp, “presents us a view of contemporary embodied subjectivities as compromises in living-together” (p. 22).

The crossover-critical camp’s approach to porn health protocols hinge on a certain degree of opposition: define an inside and police its borders. This approach justifies divisiveness via stigma, respectability politics, and exclusion of some performers from the labour pool. An autoimmunological and symbiotic approach, on the other hand, is more cooperative, less adversarial. It welcomes in performers deemed expendable by pathogenic ableism. It is also more

realistic, since the porn community is not actually characterized by either the bodily separations nor the community fissures that carceral safety hinges upon.

## 10.6 Conclusion

This chapter has explored how some performers and producers have recognized and worked around the limitations of status quo interpretations of informed consent and safer sex. I illustrated how people incorporate evolving HIV science into their work and adapt their occupational protocols to address exclusionary injustices in porn production. This is done practically, through the use of biomedical HIV prevention technologies and alternative consent practices. It is also done ideologically, in how the meanings of ‘risk’, ‘safety’, and STIs themselves are differently interpreted, embodied, and communicated. Performers are sensitively attuned to sex-based injustice and skilled in creatively confronting it, whether it is making bi porn that defies occupational health categorization, working openly or covertly with HIV+ and STI+ performers, or pushing against STI stigma and shame. Working with sex grants people a privileged position in regards to understanding how sexual health practices might serve as a source of injustice, making this an area of particular epistemic contribution.

That performers are unpacking the potential faults in a testing and disclosure-based occupational health protocol is not to say that testing and disclosure are inherently problematic. Testing and disclosure *become* problematic when they are wielded as tools of stigma, exclusion, and injustice. Performers are not unreasonable for wanting to avoid contracting an STI or HIV. I recognize that I risk complicating what might seem like an obvious material truth: that being pathogen-negative,

if possible, is preferable to being pathogen-positive, because symptoms can be uncomfortable and painful—especially the symptom of living in an ableist, pathogen-moralizing society. But the wider implication of a discourse focused on all performers being “clean” is that it can perpetuate the very stigma, and exclusion that creates that ableist, pathogen-moralizing society.

There is no one consensus on how to manage sexual health in porn. Creating better protections through standardization is difficult for a variety of reasons, first and foremost that most performers prefer a degree of flexibility that can be adapted to their different work contexts and their personal risk thresholds. As Heather Berg writes, “[p]orn workers want protection without standardization, and there is neither an existing model for this nor a good reason not to demand it” (2021, p. 251). All performers are interested in establishing some form of health and safety, however they might define it. But as in society broadly, understandings of what constitutes sexual health and responsibility are influenced by a host of narratives, many of which are whorephobic, homophobic, transphobic, racist, and so on (Butler-Wall, 2016). What I have aimed to show are some of the ways performers have rewritten these narratives, taking occupational health precautions as they see fit *without* reinforcing STI stigma, and without limiting the possibilities of what counts as “healthy” or “rational” safer sex.

External organizations and governmental bodies are not equipped to impose occupational health “solutions” on the porn industry. Performers must be firmly centered in the development of policies and protocols. Too often, performers have had to adapt to a protocol, rather than the protocol being adapted to performers. Health and safety processes that grant performers the autonomy to use a wider variety of harm reduction techniques would better enable everyone to secure work without judgement, pressure, and discrimination.

## 10.7 Listen and Learn

Porn performers are experts. We have enormous expertise surrounding our sexual and occupational health. Yet, as I have traced throughout this dissertation, porn workers are simultaneously silenced and spoken for—a form of epistemic injustice. Researchers, governments, and non-profits have consistently dismissed the knowledge and experience held by porn performers. This disbelief and disrespect animated a long struggle between the porn industry and external entities that were interested in regulating porn health policy—namely the AIDS Healthcare Foundation, and California’s department of occupational health and safety, Cal/OSHA. In response, the mainstream, American, straight studio porn industry developed and fortified an occupational health system called PASS, which clears performers to work based on a negative panel of STI tests conducted within the last 14 days. While data is limited in several ways, it nevertheless appears that PASS has been extremely successful at preventing on-set transmissions of HIV and reducing the incidence of other STIs.

Because PASS was developed around a very particular time and place within the industry, however, it is not suited for all kinds of production. It is high-cost and requires a privatized health system to function effectively, making it inaccessible to many who are geographically and financially disadvantaged. It focuses on testing at the expense of other harm reduction methods, which limits filming options and opportunities. And for many of those using PASS, adopting particular definitions of consent, autonomy, and transparency enables the exclusion of performers who are considered ‘unsafe’ or ‘irresponsible’ based on misguided stereotypes: performers who do full-service work, who are less professionalized, who are imagined to be higher risk for HIV, or who are HIV+ even if non-infectious. Regardless of actual risk probabilities, certain

performers become understood as the rightful members of the ‘performer pool’, and others are suspected of ‘infiltrating’ it.

So as an industry-created occupational health solution, PASS is creative, strategic, and effective. But because it legitimizes itself according to mainstream tenets of sexual health, it can also replicate unjust and exclusionary aspects of traditional occupational health and sexual health management. Many performers recognize these exclusions and injustices. As the porn production landscape shifts and HIV science evolves, porn workers resist the limitations—both material and ideological—of status quo approaches to sexual occupational health. Porn workers have debated and adapted their occupational health protocols to meet the needs of performers and productions that fall outside of the parameters best served by PASS, and to embrace new possibilities.

Whether it is utilizing the full breadth of barriers and other harm reduction options available, pushing back against STI stigma and exceptionalism, or troubling the very meaning of ‘informed consent’, porn workers inspire new ways of defining sexual health.

As was discussed in the introduction, epistemic injustice is not corrected simply by platforming certain epistemically marginalized subjects. Welcoming certain palatable figures, ideas, or practices into the realm of respectability does little to destabilize culturally dominant values and beliefs—in this case, values and beliefs regarding sexual health, responsibility, work, and pleasure. True justice will also require that we continue to question what constitutes expertise and expert practice, what constitutes responsibility and care. Porn workers dual ability to build effective and tailored occupational health systems, and to then reveal and remedy the discriminatory gaps in those very same systems, demonstrates the complex and ongoing nature of justice and resistance. Porn performers (and all sex workers) must navigate a terrain wherein any

critiques they make of their own workplaces are likely to be co-opted by outsiders whose goal is not the improvement but the abolition of those workplaces. The process of externally defending the industry while simultaneously internally critiquing the industry requires a nuanced political sensitivity that complicates simplistic understandings of struggle. Porn workers' approach to on-set health illustrates how one can simultaneously support a system while also pushing back against it, strategically aligning with and diverging from the status quo depending on the political and material needs of the moment. Porn workers, then, have much to teach about the nature of political resistance itself.

The story of porn health policy illustrates the dual consequence of epistemic injustice: ignoring marginalized voices leads to the creation of problematic policy while simultaneously failing to benefit from insider knowledge. Political bodies, scholarly communities, and popular media need to listen to and trust sex workers' own evaluations of the sex work experience, both to stop perpetuating harmful 'solutions' and to appreciate our epistemic contributions. In particular, I have focused on how our unique approaches to occupational and sexual health are useful. Taking porn worker knowledge seriously disrupts taken-for-granted assumptions about foundational ideas like sex, bodies, autonomy, infectivity, work, risk, and so on. Troubling these concepts is useful far beyond scholarly circles and far beyond the context of sex work. This specific porn knowledge has a lot to offer us all in 'the new normal' of the COVID-19 pandemic, during which this dissertation was written. Porn workers have experience negotiating between livelihood and communicable disease. We understand the ways that disease prevention and practice can create injustice, and the importance of creating alternatives. We experience, intimately, the ways in which we are all vectors and victims of risk: pathogenic risk, social risk, economic risk, and so on. We challenge the taken-for-granted avenues typically used to negotiate those risks. Porn

workers teach us all how to resist the unjust hierarchies that typically organize those risk relations, and we offer ideas for how to build different webs of interconnectedness with one another. Perhaps now, in a world trying to maintain connection while navigating pathogenicity, porn performers and other sex workers might be seen for the wealth of knowledge that we are. Porn illuminates what we take for granted about bodies, sex, health, work, risk, rationality, consent, and responsibility. Porn also shows us how things could be otherwise. All we need to do is listen.



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## Appendices

### Appendix A: Research Ethics Board Approval Letter



**Interdisciplinary Committee on  
Ethics in Human Research (ICEHR)**

St. John's, NL Canada A1C 5S7  
Tel: 709 864-2561 [icehr@mun.ca](mailto:icehr@mun.ca)  
[www.mun.ca/research/ethics/humans/icehr](http://www.mun.ca/research/ethics/humans/icehr)

ICEHR Number:	<b>20180439-ME</b>
Approval Period:	July 18, 2017 – July 31, 2018
Funding Source:	SSHRC (RGCS: 20170899)
Responsible Faculty:	Dr. Fern Brunger Faculty of Medicine
Title of Project:	<i>Public Privates: Pornographic Sex and the Ethics of Public Health</i>

July 18, 2017

Ms. Valerie Webber  
Division of Community Health and Humanities  
Faculty of Medicine  
Memorial University of Newfoundland

Dear Ms. Webber:

Thank you for your correspondence of July 18, 2017 addressing the issues raised by the Interdisciplinary Committee on Ethics in Human Research (ICEHR) concerning the above-named research project.

ICEHR has re-examined the proposal with the justifications and revisions submitted, and is appreciative of the thoroughness and clarity with which you have responded to the concerns raised by the Committee. In accordance with the *Tri-Council Policy Statement on Ethical Conduct for Research Involving Humans (TCPS2)*, the project has been granted *full ethics clearance* to July 31, 2018. ICEHR approval applies to the ethical acceptability of the research, as per Article 6.3 of the *TCPS2*. Researchers are responsible for adherence to any other relevant University policies and/or funded or non-funded agreements that may be associated with the project.

If you need to make changes during the project, which may raise ethical concerns, please submit an amendment request with a description of these changes for the Committee's consideration. In addition, the *TCPS2* requires that you submit an annual update to ICEHR before July 31, 2018. If you plan to continue the project, you need to request renewal of your ethics clearance, and include a brief summary on the progress of your research. When the project no longer involves contact with human participants, is completed and/or terminated, you are required to provide the annual update with a final brief summary, and your file will be closed.

Annual updates and amendment requests can be submitted from your Researcher Portal account by clicking the *Applications: Post-Review* link on your Portal homepage.

We wish you success with your research.

Yours sincerely,  
Kelly Blidook, Ph.D.  
Vice-Chair, Interdisciplinary Committee on  
Ethics in Human Research

KB/lw

cc: Supervisor – Dr. Fern Brunger, Division of Community Health and Humanities, Faculty of Medicine  
Director, Research Grant and Contract Services



## Appendix B: Field Site Consent Form



Faculty of Medicine, Division of Community Health & Humanities  
Health Sciences Centre, 300 Prince Philip Drive  
St. John's, Newfoundland, Canada A1B 3V6

### **Informed Consent Form & Fieldwork Agreement**

This agreement is in regards to a research project entitled:  
***Public Privates: Pornographic Sex and the Ethics of Public Health***

Researcher:

Valerie Webber (a.k.a –*performer name*–)  
1(xxx) xxx-xxxx // [valerie.webber@mun.ca](mailto:valerie.webber@mun.ca)

Supervisor:

Dr. Fern Brunger  
1(709) 864-6677 // [fbrunger@mun.ca](mailto:fbrunger@mun.ca)

This form is intended to give you a basic idea of what this project is about and to establish an agreement between your organization and myself. It also describes your right to withdraw from the project. It is entirely up to you to decide whether to take part in this research. In order to decide whether and how you wish to participate in this research project, you should understand enough about the potential risks and benefits to be able to make an informed decision. Take time to read this carefully. If you have any questions about the study or want information that is not included here, please ask me.

#### **A. BACKGROUND**

I am a Doctoral student at Memorial University in Newfoundland, Canada. I am also an Adult Performer and have been involved in the Adult Industry since 2002. Two laws have attempted to mandate condom use in the making of pornography in California: Measure B, which passed in 2012, and Proposition 60, which was defeated in 2016. Many states, as well as countries outside of the United States, have passed bills that call pornography a “public health crisis”. This research asks why policy makers are increasingly calling pornography a “public health” issue, and how this affects people who work in the Adult Industry. This research is funded by the Social Sciences and Humanities Research Council of Canada.

#### **B. PURPOSE**

The purpose of the research is: 1) to discuss why policy makers are interested in defining pornography production as a public health problem, 2) to discuss why policy makers are interested in defining pornography consumption as a public health problem, and 3) to talk to Adult Industry Professionals and other stakeholders about their views on making pornography, viewing pornography, sexual health and the use of barriers like condoms, and public health policies. This study aims to contribute to the fields of public health ethics and porn studies, and to influence health and labour porn policies.

#### **C. WHAT YOU WILL DO IN THIS STUDY**

“Participant Observation” is a way that qualitative researchers collect data by spending time with people as they go about their regular activities. Specifically, I would like to attend two to four shoots (depending

on what would be convenient for you), participating in both the production and spending time with case and crew during breaks and leisure time. I will not take photos or record any video or audio. I will not interrupt work processes; if someone wished to participate in a more formal interview with me, this would occur outside of work hours. I cannot compensate you or your organization for your time, however I would happily contribute to your studio in any way possible. For example, I have experience with and would be available to act as a production assistant, camera operator, or boom mic operator on set. Together we will decide when and how I will spend time with your organization in the agreement section below.

#### **D. POSSIBLE RISKS & BENEFITS**

Some people find that they benefit from being given a chance to share their views and experiences on a given topic. However, while you may not receive any immediate or direct benefits to yourself, your participation in this project may contribute to the fields of porn studies and health ethics. It may give voice to those involved in the Adult Industry who are not often heard.

Risks of participating include having discussions of a sensitive nature about sex, employment, health, and condom/barrier usage. Your organization will not be named in the research, and every effort will be made to protect your confidentiality. Confidentiality means I will know, but not reveal, your identity. However, the Adult Industry is relatively small, and so there is always the possibility that some people may be able to identify your organization based on your role in the Adult community and the issues we discuss. If your confidentiality is breached, there could be negative social and financial consequences. For example, if you share an unpopular opinion or call out a specific company or production practice, this could have an impact on your reputation in the Adult Industry.

In the event that my presence upsets anyone in your organization, they can contact the Adult Performer Advocacy Committee at 818.927.2903 or <http://www.apac-usa.com/>. They offer support and guidance to performers. If after our conversation you wish to take any legal action (for example, against a producer), I will advise you to find an attorney who specializes in media, porn, and labour conflicts.

#### **E. DATA STORAGE & CONFIDENTIALITY**

No recordings (audio, photo, video) will be made during the fieldwork process. Handwritten field notes will be typed and stored on an encrypted, password protected laptop and the hard copies will be destroyed. A photo of this signed consent form will also be stored on the encrypted, password protected laptop, and you can retain this copy for your records. These files will also be backed up on Memorial University's secure, encrypted servers. Only myself and my supervisor will have access to these files. These files will be retained for 5 years as required by Memorial University's policy on Integrity in Scholarly Research. After that they will be deleted.

Every effort will be made to keep your organization and its employees confidential: only pseudonyms will be used in the writing of the research, and other identifying features will be altered. However, given the relatively small size of the Adult Industry, there is always the possibility that your organization – and therefore the individuals who work for it – will be identifiable in future publications.

In the event that I witness or you disclose any illegal activity to me (for example, filming a scene without a condom in violation of Measure B) I will NOT disclose this information to any legal authority. However, I am legally required to report if I am told about or witness the abuse of a minor.

#### **F. REPORTING OF RESULTS**

Upon completion, my dissertation will be available at Memorial University's Queen Elizabeth II library, and can be accessed online at: <http://collections.mun.ca/cdm/search/collection/theses>. Results of this study may also be released in a shorter basic summary, scholarly journals, popular media, and conference presentations. These will be freely available on my academia webpage

[<https://mun.academia.edu/valeriewebber>] in accordance with copy right agreements. You will be able to access these documents through that website without having to contact me.

## **E. FIELDWORK AGREEMENT**

Researcher Valerie Webber will spend approximately \_\_\_\_\_ hours per week for \_\_\_\_\_ weeks between \_\_\_\_\_ (date) and \_\_\_\_\_ (date) conducting fieldwork at (Name of Organization). There is no financial compensation for participation in this project, however Valerie will freely contribute (work product/skills/services such as administrative or office tasks, research or writing projects, production assistance or camera/microphone operation, et cetera) to the Organization. She will not disrupt or disturb regular work activities; if individuals are interested in participating in a more in-depth interview, this will be done after work hours. Valerie will not take photographs or record video or audio of anything that occurs on the premises; only handwritten observations (“field notes”) will be made.

Consent for Valerie's presence must be obtained from (The CEO/Supervisor; a majority of staff members; all staff members) in order for the fieldwork to take place. [if applicable:] In the event that some staff members do not consent to Valerie's presence, they will be given an opportunity to inform her of this privately, and she will not make any observations that will implicate those persons.

We may discontinue participation in the research at any time up until the participant observation is complete, that is, until Valerie leaves our premises for the final time. If we discontinue participation, all data collected will be destroyed.

In the final written work and any subsequent publications, the Organization will be kept confidential, although confidentiality cannot be guaranteed due to the relatively small nature of the Adult Industry. Individual employees will only be named if they explicitly wish, and only to the degree that their identification does not breach anyone else’s confidentiality.

**Your signature on this form confirms** [please check boxes]:

I have read what this study is about and understand the risks and benefits. I have had adequate time to think about this and to ask questions, and my questions have been answered. I agree to participate in the research project understanding the risks and benefits of my participation.

I agree to participate in the research project understanding the risks and contributions of my participation. I understand that our participation is voluntary, that I may determine the length of time that the researcher may spend at the organization, and that I may alter this at any time.

I understand that I may withdraw consent to participate at any time up until Valerie's participant observation is complete i.e. until she leaves the premises for the last time, and that all data will be destroyed. I understand that I cannot withdraw consent after this time.

I understand that the researcher is available to contribute to the organization in ways that are mutually acceptable and fulfilling.

A copy of this Informed Consent Form has been given to me for my records.

This agreement is in no way legally binding and field work may be shortened, extended, amended, or discontinued at any time. By signing this consent form you do not give up your legal rights and do not release the researcher from her professional responsibilities.

---

Signature of organizational lead

---

Date

Researcher's Signature

I have explained this study to the best of my ability. I invited questions and gave answers. I believe that the participant fully understands what is involved in study participation and that they have freely chosen to participate.

---

Signature of researcher

---

Date

The proposal for this research has been reviewed by the Interdisciplinary Committee on Ethics in Human Research and found to be in compliance with Memorial University's ethics policy. If you have ethical concerns about the research, such as the way you have been treated or your rights as a participant, you may contact the Chairperson of the ICEHR at [icehr@mun.ca](mailto:icehr@mun.ca) or by telephone at 1-709-864-2861.

## Appendix C: Recruitment Email Script

Dear \_\_\_\_\_,

I am an adult performer (a.k.a. *–performer name–*) and graduate student doing research on the Adult Industry. Specifically, I am looking at how the media and policy-makers talk about pornography as a public health issue. The project is entitled: ***Public Privates: Pornographic Sex and the Ethics of Public Health***. The study is funded by the Social Sciences and Humanities Research Council of Canada. As you may know, two laws have attempted to mandate condom use in pornography made in California: Measure B, which passed in 2012, and Proposition 60, which was defeated in 2016. Additionally, many states, as well as countries outside of the US, have passed declarations stating that pornography represents a “public health crisis”. Adult Industry workers are rarely included in these discussions. I am interested in knowing what other people in the Adult Industry think about these policies.

I am hoping to interview people like yourself who are connected to the Adult Industry. The interview would be audio recorded and take about an hour. It would be conducted at a time and place of your convenience, and if you wish your responses would remain confidential to the best of my ability; given the relatively small size of the adult industry I cannot completely guarantee that your responses would not make you identifiable, but you would have a chance to review and revise your interview afterwards. This project may offer an opportunity to have your voice heard on the subject. There is no financial compensation for participation in the study.

The proposal for this research has been reviewed by the Interdisciplinary Committee on Ethics in Human Research and found to be in compliance with Memorial University’s ethics policy. If you have ethical concerns about the research, such as the way you have been treated or your rights as a participant, you may contact the Chairperson of the ICEHR at [icehr@mun.ca](mailto:icehr@mun.ca) or by telephone at 1-709-864-2861.

If you have any questions about this project, or if you would like to take part, please contact me at:

[valerie.webber@mun.ca](mailto:valerie.webber@mun.ca)

1-xxx-xxx-xxxx

If you know anyone else who may want to participate, feel free to forward this information to them and they can contact me if they are interested.

Thank you for considering participating, and I look forward to hearing from you,  
Valerie/*Performer Name*

## Appendix D: Interview Prompts

- a. Tell me a bit about how you got involved in the adult industry /OR/ Tell me a bit about how you got involved in lobbying around the issue of pornography as a public health concern? (For performers, probing questions may inquire about type of work performed, frequency and geographic locations of shoots, and typical barrier/testing practices is any, et cetera. For non-performers, probing questions may include timeline and major stages of career, other industries worked in, interest in pornography and/or public health, et cetera).
- b. Why do you think people talk about porn as a 'public health crisis'? What do you think about the associations these arguments make between pornography use and issues such as 'porn addiction', relationship quality, erectile dysfunction, aggressive tendencies, sexual 'promiscuity' and 'unsafe' sex, et cetera?
- c. Do you think statements that porn is a public health issue are a threat to the porn industry? Why or why not?
- d. Do you think there are any health hazards in the porn industry? [If positive] How should those issues be handled? Who should be responsible to enforce or deal with those?
- e. (For performers and producers) Do you have any preferences around condom or other barrier use when shooting? What goes into your decisions around managing your/performers sexual health when on the job?
- f. Why do you think the AIDS Healthcare Foundation and their supporters want to mandate condom use in porn production?
- g. Do you think any group or organization has the right or duty to determine condom use in porn? Why or why not? If so, whom? Do you think any group or organization has the right or duty to determine other aspects of porn production, content, or consumption?
- h. Why do you think members of the Adult Industry rallied together in opposition to Proposition 60 [the law that would have mandated state-wide condom use in California-made pornography]? Were you involved? Why or why not?
- i. Do you think that pornography consumption has any potential negative impacts on the health of the public at large, on society? [If positive] How should those issues be handled? Who should be responsible to enforce or deal with those?
- j. How do you feel about the fact that I am involved in the adult industry myself? Would you have felt differently about this research if I wasn't?

## Appendix E: Interview Consent Form



Faculty of Medicine, Division of Community Health & Humanities  
Health Sciences Centre, 300 Prince Philip Drive  
St. John's, Newfoundland, Canada A1B 3V6

### Informed Consent Form

You are invited to take part in a research project entitled:  
**Public Privates: Pornographic Sex and the Ethics of Public Health**

Researcher:

Valerie Webber (a.k.a *-performer name-*)  
1(xxx) xxx-xxxx // [valerie.webber@mun.ca](mailto:valerie.webber@mun.ca)

Supervisor:

Dr. Fern Brunger  
1(709) 864-6677 // [fbrunger@mun.ca](mailto:fbrunger@mun.ca)

This form is part of the informed consent process. It should give you a basic idea of what this project is about and what your participation will involve. It also describes your right to withdraw from the project. It is entirely up to you to decide whether to take part in this research. In order to decide whether you wish to participate in this research project, you should understand enough about the potential risks and benefits to be able to make an informed decision. Take time to read this carefully. If you have any questions about the study or want information that is not included here, please ask me.

#### A. BACKGROUND

I am a Doctoral student at Memorial University in Newfoundland, Canada. I am also an Adult Performer and have been involved in the Adult Industry since 2002. Two laws have attempted to mandate condom use in the making of pornography in California: Measure B, which passed in 2012, and Proposition 60, which was defeated in 2016. Many states, as well as countries outside of the United States, have passed bills that call pornography a “public health crisis”. This research asks why policy makers are increasingly calling pornography a “public health” issue, and how this affects people who work in the Adult Industry. This research is funded by the Social Sciences and Humanities Research Council of Canada.

#### B. PURPOSE OF STUDY

The purpose of the research is: 1) to discuss why policy makers are interested in defining pornography production as a public health problem, 2) to discuss why policy makers are interested in defining pornography consumption as a public health problem, and 3) to talk to Adult Industry Professionals and other stakeholders about their views on making pornography, viewing pornography, sexual health and the use of barriers like condoms, and public health policies. This study aims to contribute to the fields of public health ethics and porn studies, and to influence health and labour porn policies.

#### C. WHAT YOU WILL DO IN THIS STUDY

You will be interviewed about your attitudes, behaviours, and beliefs about pornography, mandated condom use, and public health. The interview will be audio-recorded and then transcribed by me.

Interviews will take approximately one hour. There is no compensation for participation in this study. You are under no obligation to participate and are free to refuse any question. You may withdraw your consent and discontinue participation without negative consequences anytime during the interview, and the recording and consent form will be destroyed. After the interview is complete and has been transcribed, I will send it to you and you will have two weeks to review it. You may then edit or delete anything you said, or decide to withdraw your consent entirely. If you withdraw entirely, the audio files, transcript, and consent form will be destroyed. After those two weeks, you will no longer be able to withdraw from the study or edit your transcript.

#### **D. POSSIBLE RISKS & BENEFITS**

Some people find that they benefit from being given a chance to share their views and experiences on a given topic. However, while you may not receive any immediate or direct benefits to yourself, your participation in this project may contribute to the fields of porn studies and health ethics. It may give voice to those involved in the Adult Industry who are not often heard.

Risks of participating include having discussions of a sensitive nature about sex, employment, health, and condom/barrier usage. If you do not want to be named in the research, every effort will be made to protect your confidentiality. Confidentiality means I will know, but not reveal, your identity. If you refer to other people or production companies during the interview, this information will be changed to protect both your and their confidentiality. However, the Adult Industry is relatively small, and so there is always the possibility that some people may be able to identify you based on what you've said. If your confidentiality is breached, there could be negative social and financial consequences. For example, if you share an unpopular opinion or call out a specific company or production practice, this could have an impact on your reputation in the Adult Industry.

In the event that our conversation upsets you or you feel you want additional support navigating the adult industry, you can contact the Adult Performer Advocacy Committee at 818.927.2903 or <http://www.apac-usa.com/>. They offer support and guidance to performers. If after our conversation you wish to take any legal action (for example, against a producer), I will advise you to find an attorney who specializes in media, porn, and labour conflicts.

#### **E. CONFIDENTIALITY & STORAGE OF DATA**

Your identity will remain confidential to the best of my ability. You can sign this consent form using your legal name or your stage name (if applicable). I will not ask for any other identifying information from you. In the event that you disclose any illegal activity to me (for example, filming a scene without a condom in violation of Measure B) I will NOT disclose this information to any legal authority. However, I am legally required to report if I am told about the abuse of a minor.

Audio files and interview transcripts will be stored on an encrypted, password protected laptop. A photo of this signed consent form will also be stored on this encrypted, password protected laptop. You can retain this paper copy for your records. These files will also be backed up on Memorial University's secure, encrypted servers. Only myself and my supervisor will have access to these files. These files will be retained for 5 years as required by Memorial University's policy on Integrity in Scholarly Research. After that they will be deleted.

#### **F. REPORTING OF RESULTS**

Upon completion, my dissertation will be available at Memorial University's Queen Elizabeth II library, and can be accessed online at: <http://collections.mun.ca/cdm/search/collection/theses>. Results of this study may also be released in a shorter basic summary, scholarly journals, popular media, and conference presentations. These will be freely available on my academia webpage



[<https://mun.academia.edu/valeriewebber>] in accordance with copy right agreements. You will be able to access these documents through that website without having to contact me.

**Your signature on this form confirms** [please check boxes]:

I have read what this study is about and understand the risks and benefits. I have had adequate time to think about this and to ask questions, and my questions have been answered. I agree to participate in the research project understanding the risks and benefits of my participation.

I understand that my participation is voluntary, that I may refuse any question, and that I may discontinue the interview at any time without having to give any reason why. I understand that there will be no negative consequences for me, and that all data collected will be destroyed.

I understand that after the interview, I will have two weeks to review the transcript of my interview and remove or modify any of its contents. I may also decide to withdraw entirely and have the interview destroyed. I understand that after these two weeks have passed, I can no longer withdraw my data from the study.

A copy of this Informed Consent Form has been given to me for my records.

I agree to be audio-recorded: YES  NO

I agree to the use of direct quotations: YES  NO

I want to remain **confidential** in the research: YES  NO

If YES, I want to be identified by the following pseudonym: \_\_\_\_\_

I want to be **identified** in the research: YES  NO

If YES, I want to be identified by the following name: \_\_\_\_\_

By signing this consent form you do not give up your legal rights and do not release the researcher from her professional responsibilities.

\_\_\_\_\_  
Signature (legal name, stage name or alias)

\_\_\_\_\_  
Date

**Researcher's Signature**

I have explained this study to the best of my ability. I invited questions and gave answers. I believe that the participant fully understands what is involved in study participation and that they have freely chosen to participate.

\_\_\_\_\_  
Signature of researcher

\_\_\_\_\_  
Date

The proposal for this research has been reviewed by the Interdisciplinary Committee on Ethics in Human Research and found to be in compliance with Memorial University's ethics policy. If you have ethical concerns about the research, such as the way you have been treated or your rights as a participant, you may contact the Chairperson of the ICEHR at [icehr@mun.ca](mailto:icehr@mun.ca) or by telephone at 1-709-864-2861.

## Appendix F: Research Ethics Board COVID-19 Amendment Letter



### Interdisciplinary Committee on Ethics in Human Research (ICEHR)

St. John's, NL Canada A1C 5S7  
Tel: 709 864-2561 icehr@mun.ca  
[www.mun.ca/research/ethics/humans/icehr](http://www.mun.ca/research/ethics/humans/icehr)

ICEHR Number:	20180439-ME
Approval Period:	July 18, 2017 – July 31, 2018
Funding Source:	SSHRC (RGCS: 20170899)
Responsible Faculty:	Dr. Fern Brunger Faculty of Medicine
Title of Project:	<i>Public Privates: Pornographic Sex and the Ethics of Public Health</i>

July 18, 2017

Ms. Valerie Webber  
Division of Community Health and Humanities  
Faculty of Medicine  
Memorial University of Newfoundland

Dear Ms. Webber:

The Interdisciplinary Committee on Ethics in Human Research (ICEHR) has reviewed the proposed modifications for the above referenced project, as outlined in your amendment request dated April 2, 2020, and is pleased to give approval to a **temporary change of the data storage location of the interview transcripts during the public health emergency until restrictions are lifted**, as described in your request, provided all other previously approved protocols are followed.

If you need to make any other changes during the conduct of the research that may affect ethical relations with human participants, please submit an amendment request, with a description of these changes, via your Researcher Portal account for the Committee's consideration.

Your ethics clearance for this project expires July 31, 2020, before which time you must submit an annual update to ICEHR. If you plan to continue the project, you need to request renewal of your ethics clearance, and include a brief summary on the progress of your research. When the project no longer requires contact with human participants, is completed and/or terminated, you need to provide an annual update with a brief final summary, and your file will be closed.

Annual updates and amendment requests can be submitted from your Researcher Portal account by clicking the *Applications: Post-Review* link on your Portal homepage.

The Committee would like to thank you for the update on your proposal and we wish you well with your research.

Yours sincerely,  
Kelly Blidook, Ph.D.  
Vice-Chair, Interdisciplinary Committee on  
Ethics in Human Research

KB/bc  
cc: Supervisor – Dr. Fern Brunger, Faculty of Medicine

## Appendix G: Code List

### PROTOCOL PREFS

1. PASS
2. Protocols are never only about 'actual' risk – values, psych.
3. Open communication/discussion
4. General self-care/wellness
5. Disclosure paperwork
6. Know your co-star (esp. avoid IV-drug users), use community info resources
7. Test (10 day, 2 week, 1 month)
8. Test as the equalizer of various sex and sex work practices
9. Gay side = less testing/more condoms, PrEP, POZ performers
10. Models choose each other
11. Case-by-case, no rigid standards
12. Safety standards = arbitrary (15 days v. 30 days); a fiction/pageant of safety
13. AVN strategy: shoot fluids early in the week, solo + fetish @ end of week when everyone is sick (STI + "AVN flu")
14. Strategy: only work w/ 'high risk performer' on day 1 or 2 of their test
15. Ciné Sinclaire: disclose an STI + we'll ensure you can still make \$
16. TTS discounts @ AVN
17. Since most ppl follow rules its ok that some ppl break them
18. The test is enough, or isn't. Inflects How it is used

### CONTEXT

1. Type of shoot impacts protocols:
  - 1.1. Studio v. amateur
  - 1.2. Strangers v. friends/couples
  - 1.3. Queer/gay/straight/arty
  - 1.4. Professional talent v. one-timers
  - 1.5. Still photo v. video
  - 1.6. Solo v. couples/groups
  - 1.7. BDSM – consent-based, producer just mediates discussion-
  - 1.8. v. vanilla
  - 1.9. g/g v. b/g
  - 1.10. "authenticity" as the goal/the selling point
2. BDSM standards should be used on all sets
3. NH v. LA/Vegas; Where shoot is matters, more lenient in places w/ less shooting opportunities

## 'ETHICAL'

1. Hypocrisy in the 'ethical/feminist porn world'
2. Allyship
3. Flat rates
4. Ethical.Porn
5. 'Healthy' set + 'ethical' set criteria are intertwined

## INFRASTRUCTURE

1. Social v. private medicine
2. Places w/ socialized med. Are more justified in gov't intervention
3. US healthcare too expensive/weak insurance coverage
4. Availability of TTS + other draw sites differ by jurisdiction (+ cost more if shipping)
5. Canada: use Dr paper tests instead, longer wait times + slower results, but less hoots + lower rates, so less \$ for testing even if it were available
6. No industry advocacy grps in Canada
7. An STI is a bigger deal if you have to fly to shoot: loose shoot and ticket \$
8. Europe – hard to standardize, each country tests different + results look different
9. UK: free w/ NHS but public systems have limitations (max. # of tests allowed)
10. Germany: Drs less prevention focused; lie and say you have symptoms!

## PROBLEMS

1. PASS could/should add swabs (but \$costs\$)
2. HIV exceptionalism (eg only moratoriums for HIV) other STIs not taken seriously
3. Can't use anonymous tests; need to check name
4. If working in genre or location w/ fewer shoots and/or lower rates, can be hard to afford tests
5. U=U performers are denied the benefits of PASS e.g. testing for other STIs
6. Risks are assumed rather than outlined
7. Who pays for PASS? models? studios?
8. Uninformed producers
9. Window periods – getting STIs from ppl w/ neg. tests "only as good as last test" / "must take at face value"
10. Euro tests all look different, not compatible
11. Potential forgeries
12. Giving blood sucks (hurt arms, bruising)
13. Work context can evoke illusion of safety
14. Undetectable performers 'sneaking into PASS'. What about viral load fluctuations?
15. Anti-body test?
16. My TTS, followed by 4 partners = "still good"

## ON SET/OFF SET

1. On set should be treated like off set – no regs.
2. Foolish to make on set more rigid than off set
3. Home life may be more or less risky than work, depending on context
4. All off-set sex should be treated the same, paid or unpaid
5. Using birth control enables more on set work but also broadens off set sex options
6. Hold off set + one set sex to same standards – TTS + IKnowMyStatus.com
7. Need to (offset) fuck other performers if you want to go condom free
8. Performers partners are not necessarily tested
9. Having a pool of sexy tested ppl to bang is a luxury
10. It's not right to try + police ppl's private sex lives
11. Concerns re: med adherence of POZ performers
12. Straight male performers have secret gay sex
13. Off set behaviours used to judge viability of scene partner
14. "pornstar" title gets you laid, or not, + never gets you dated

## 'THE PUBLIC'

1. Porn a direct threat to the public (vs. a 2-step media influence)
2. Performers = part of 'the public' but also outside of it

## CONDOMS

1. Condoms are uncomfortable
2. Don't stand up to 'porn sex'
3. But they don't 'ruin the fantasy'; that's the wrong criticism
4. If all porn had condoms ppl would still buy it
5. Microabrasions, chaffing, = more STI risk
6. Not 100% effective
7. Erection interference, need Viagra/Cialis
8. Condom context still sells
9. Good studios are condom optional
10. Always used w/ full service clients, safer
11. AHF is the only real condom-proponent, not the focus of other anti-porn grps
12. Blacklisting around condom use/requests
13. Condoms should be treated as unique among protocols bcuz you see them, no excuse not to do testing
14. Condoms-only would be a terrible system
15. Condoms are not the only solution, that is an old mentality

16. There is a correlation between sites that respect body style + those that respect safer sex preferences – both forms of bodily autonomy
17. ~2012 gay porn starts to do bareback to increase value
18. “escorts fuck all day and don’t seem to mind them”

### HYSTERIA/CONSPIRACY THEORIES

1. APAG, idea that FSC wants to infect ppl w/ HIV
2. Mistrust of PASS-affiliated labs, AIT = “no license”

### OTHER HEALTH ISSUES

1. General risks of filming, esp. on location
2. Safety on set – cleanliness, good equipment, food + water, etc
  - 2.1. often poor due to small budgets
3. mental health
4. chronic illness
  - 4.1. often why folk get into sex work
5. non-STI genital health
6. all work carries occ. health risks e.g. desk work -> carpel tunnel
7. hormones for transition
8. stress (stigma)
9. ATM bacteria
10. Anal prolapse
11. Colds + flus, esp. AVN-flu
12. Ringworm
13. Addictions/Drug use
14. Birth control side effects
15. Financial health mgmt
16. Uncomfortable positions on set
17. Trimex, ED drugs
18. Toy cleanliness
19. Too much tickle fetish -> headaches
20. Spit -> colds/flus
21. AVN – fans stalking, touching, etc.

### AUTHENTICITY/ENJOYMENT/ART

1. Vs. careerists/work
2. Europe = very close knit family
3. Actors know each other = chemistry
4. ‘it’s just sex’, aim for ‘natural’; undirected content

5. cinema vérité/documentary approach
6. aesthetic vs. action
7. documentary narrative (e.g. T.I.M.) enables a more laissez-faire approach to occ. health -> if it's NOT work, it's not the place for occ. health
8. Flat rate encourages consent AND 'authentic' sex
9. Political motives
10. Artful porn 'activates me fully'
11. Porn + Sex – both are performative
12. Porn + Life intertwined
13. ≠ strict body standards
14. Gay men fantasize about doing porn but rarely follow through – enjoy fantasy more than reality
15. Some ppl have explicit personal reasons (beyond \$) for doing porn
16. Video so omnipresent (iPhone) it is standard part of gay sex now
17. Faking things
18. Need to structure the bizness aspects even if it is a labour of love/art
19. Careerist = body maintenance requirements + less autonomy re: one's self-presentation. In some ways implies a stricter safer sex (PASS) but in other ways less strict standards (T.I.M.) or less safer sex autonomy
20. Finally real orgasm interrupted by co-star due to spotting

## RESPECTABILITY

1. Crossover debate
  - 1.1. Misinformation/fear
  - 1.2. Transphobia/homophobia
  - 1.3. + serophobia; encouraged by agents
  - 1.4. shame + stigma leads to higher-risk behaviour
  - 1.5. 'we're all connected'
  - 1.6. performers 'irresponsible' practices
  - 1.7. use stigma to deflect personal responsibility or nuanced critical thought
  - 1.8. there will always be ppl w/ stigmatizing beliefs in any industry
  - 1.9. Facts over Fear, Science over Stigma in FSC P.R.
  - 1.10. U=U v. informed consent is a right + includes serostatus
  - 1.11. 'clean' vs. 'negative'/nin-reactive
  - 1.12. right to make porn/be sexual w/ STIs/HIV
2. Whorearchy
  - 2.1. More SW solidarity these days
  - 2.2. Debate over if porn ppl should be involved in fights like FOSTA/SESTA ('our work is legal, prostitution isn't')

- 2.3. Activists focus on Instagram censorship; ignore the FOSTA-SESTA things affecting full service workers
- 2.4. Double standard – w/ escorts, the test will reveal any problems; w/ crossover. STIs will somehow sneak through
- 2.5. Stigma against Full service workers ‘bringing in STIs’
- 2.6. ‘erotic’ vs. ‘porn’
- 3. Art vs. Mainstream = cross judgement: Do it for the \$ (sellouts) vs. do it for cheap/free (sucker)
- 4. PrEP
  - 4.1. Responsibility for one’s self
  - 4.2. This notion leads to incredulous seronegative folks
  - 4.3. The general imperative to prevent HIV transmission means that to be respected, industry voices (like FSC) have to take an anti-HIV position (like no POZ in PASS)
- 5. Only issues impacting top 10% of performers get any attention/are acted upon
- 6. Some forms of scene partner choice hinge on presumed bodily discreteness that is Fantasy

## SEXPERTS

- 1. Lower STI rates in industry than gen pop  
Or
- 2. Higher STI rates (due to bad study design)
- 3. Importance of genital/sexual knowledge (beyond transmission stuff)
- 4. Many ppl very STI aware before entering industry
- 5. SW have more knowledge + safer practices than the lay public
- 6. And are more sane + moral sexually
- 7. Partly bcuz it is their business, livelihood (‘my body is my business’)/(‘sexual athletes’)
- 8. Body awareness is honed, body maintenance
- 9. Porn stars are consent pros
- 10. Porn can play an educational role
- 11. e.g. good kink practices or STI destigmatization, esp. Feminist/Queer
- 12. OR not – porn limited in the influence it can have on safer sex practices
- 13. Early AHF argument was that porn influences viewer practices
- 14. Bad sex ed + unrealistic porn = a shared influence
- 15. PASS RNA test is advances, ‘boutique’
- 16. Mainstream emulating industry eg. IKnowMyStatus.com

## ATTITUDES RE: RISK/STIs

- 1. One should expect to get bacterial STIs (or Not!) but not HIV



2. STIs are normal, just another kind of infection (like colds + flus passed around workplaces)
3. There is STI misinformation in the industry
  - 3.1. Debate over the FACTS APAG/MikeSouth vs. APAC/FSC
4. Bodies as weapons
5. risk ≠ objective
6. risk awareness vs. pleasure – either can override the other
7. LIFE, all of it, is dangerous
8. Sexual risks are not viewed as valid/valuable/worth it (compared to other kinds of risk)
9. Assume the risk knowingly – all jobs come w/ risk
10. Panic over popping shows one is a newbie/unprofessional/amateur vs. Not getting worked up shows you're seasoned + mature
11. Special treatment of HSV/HPV
12. It is problematic that there is little concern of prevention non-HIV STIs
13. Tweeting TTS results
14. Ciné Sinclaire policy re STI are A.OK.
15. Concerns of 'safety' vs sentiments of stigma
16. Medical vs. Psychological vs. Political benefits of dif tests (e.g. HIV antibody)

## SELF-REGULATION

1. Porn ppl are the experts on their work + their needs
2. Media/public/policy makers ignore the porn perspective (erasure, pseudo-empathy\_); even porn adjacent workers like lawyers + marketing staff may not listen/understand – they don't have the perspective of Fucking on camera
3. Regulators want to wipe out porn, any tactic will do.
4. 'Health' is just a new form of the same argument
5. outsider concern if not really about protecting performers but about (dis)approving certain fantasies
6. industry has successfully self-regulated
7. producers ≠ condom police
8. slippery slope/chilling effect
9. industry tries/wants to cooperate w/ govt
10. bosses + workers are on the same side (rare in regulatory debates)
11. Rhetoric of CHOICE – consent + risk awareness are the keys – my body my choice, reconciling w/ justice + labour...
12. Health focused industry attacks -> creation of Ian's role @ FSC
13. Fluid exchange IS the job – can't regulate it like you would other jobs
14. Cal/OSHA + AHF interventions

15. Weinstein's motivations are financial\$
  - 15.1. AHF paid Measure B protestors
16. Outsiders assume abuses of power + condom coercion

## STIGMA

1. Slut shaming at TTS draw sites
2. SW stigma (+ withdrawal of services) from
  - 2.1. healthcare/social services
  - 2.2. banks/cash apps
    - 2.2.1. denial of service
    - 2.2.2. higher payments
  - 2.3. law/police/courts/legislators
  - 2.4. social media
  - 2.5. mainstream media – no access to that \$
  - 2.6. science – won't study SW health needs
3. stigma leads to mistrust of regulators
4. 'can't trust the gov't'
5. Trafficking rhetoric, assumption everyone is abused
6. Use stigma to encourage getting health service "say you're a prostitute!" to get tested
7. More ppl becoming SWers, but-
8. Stigma of SW is what allows us to charge so much
9. Stigma placed on porn viewers, who remain silent
10. Regulators + lobbyists use scorned retired performers to prop up their positions
11. Outside world equally stigmatizes 'Ethical' + 'mainstream' porn (Erika Lust on YouTube)

## SOLIDARITY

1. Community rallied around Prop. 60
2. AHF was identifiable target
3. Top girls did not tweet about it
4. Info sharing (or NOT) between performers
5. APAC, APAG, FSC-INSPIRE
6. Transient worker base, hard for organizing (less commitment to industry)
7. Need rate transparency, an on-boarding process
8. Those who organize get blacklisted
9. Fragmentation of the industry (gay/straight etc)
10. Often everyone agrees in the face of proposed legislation that impedes out ability to work

11. Safer sex OFF set is part of care for the community
12. Need a culture shift in industry re: racism, sexism, devaluation of performers

## ATTITUDES TOWARDS REGULATION

1. By place:
  - 1.1. Florida = "Wild West", unprofessional
  - 1.2. NH – Live Free or Die
  - 1.3. Cali more paternalist than Nevada/Vegas
  - 1.4. No one in LA is following condom/permit rules
  - 1.5. Ppl moving from LA to Vegas
  - 1.6. SanFran more progressive than other California Public Health Dept's bcuz of HIV history
  - 1.7. Canada – less 'rules averse' or anti-gov't compared to USA
  - 1.8. AngloSaxons LOVE policies and procedures
  - 1.9. Germany – strong culture of personal responsibility, non-paternalist
    - 1.9.1. Enabled by public health system
  - 1.10. Brazil – condoms more likely, testing too expensive/unreliable. Darren James case
2. Religion – Catholicism
3. USA: small/untrustworthy gov't, concerns that any regulatory measures lead to slippery slope/chilling effect
4. BUT USA is actually very regulation heavy
5. Industry attracts a lot of people who dislike being told what to do, who are rebels/rules averse
6. They are more likely to change bcuz of social pressure than government regulation, more self-regulation friendly vs. would just try to evade external reg.
7. "Marketplace of Ideas"
8. When do you get to/need to protect ppl form themselves?
9. Regulation can be a source of respectability for the industry
  - 9.1. Corporatization -> regulation (to avoid litigation) -> professionalization
  - 9.2. PASS/testing is THE sign of professionalism/legitimacy: defines 'US' vs. 'THEM'
10. Vs. suspicion of PASS (APAG)
11. Porn vs. brothels
12. Worker to Client vs. Work to Worker
13. Testing/body maintenance vs. other attitudes that convey professionalism
14. Both health + other regulatory affairs affecting porn are discussed in tandem, strictness in one links to strictness in others w/ no clear distinction
15. IS there a role for expertise and coercive paternalism + collective good when it comes to porn health mgmt.?

## LABOUR

1. USA is the hub of labour
2. What is consent within capitalism?
3. Work risk needs to be treated different than life risk bcuz of the coercive + legal dilemmas potential
4. Studios outsourcing to ind. directors
5. Shooting when sick, need the \$, \$ pressures put ppl more at risk
6. Hard to live on g/g shoots alone
7. Mandating safer sex protocols should be avoided bcuz it leads to liability
8. Porn offers better pay/schedule (esp. for women/TS/POC) than most work
9. Porn as creative, freeing career
10. Is it selecting a co-star or discrimination? (when based on HIV status, etc)
11. Mistrust/stigma keeps ppl out of the industry
12. Less ability to get insurance
13. MINDGEEK monopoly
14. TUBES = less \$ = less work + lower wages = more performers doing full service (which requires more admin work) + doing more bareback shoots now to boost sales
15. Employee status would mean HIPAA, makes disclosure of health info illegal; how PASS gets around it
16. DMCA's make your info public record
17. Pros + cons of subcontractor vs. employee status, AB5
  - 17.1. Freedom v. stability
  - 17.2. Accountability v. responsibility for safety + other benefits
18. The focus on HIV is bcuz other STIs cost less to treat, less chance of a lawsuit + less cost if there is one
19. Struggles to organizing + absorbing cost of shoots yourself (payment processing, PASS etc).
20. Performers take the bodily risk, Need to have voice around it
21. Like other creative industries, hard to get enough work, esp. in certain places
22. Consumers feel entitled to have porn for free, act like paying for it is a 'favour' or makes them a 'superfan'
23. Closet trans viewers feel entitled to TS performers time + energy
24. US vs. THEM – who makes up 'the porn industry'? Who speaks for it?
25. Industry responses like Ethical.porn focus on consumption + production practices rather than content
26. Ciné Sinclaire – PWYC pricing
27. Occ. Health works best for asymmetrical relations, not symmetrical (like porn)

28. Shut downs impact performers more than they do studios
29. Art/queer porn world still respects mainstream US industry kin a way, despite anti-capitalist politics
30. Less \$ in porn reduces protections available to performers @ AVN etc.

## ABUSE

1. Consent gets assumed
2. Clients are in a vulnerable place, can be hard to deal with
3. 'suitcase pimps', bad agencies
4. drama/gossip common
5. studio outsourcing enables abuses
6. receptive partners named as the (only) vulnerable party in condom debates
7. should ppl need to be 21 to enter porn?
8. Stories of abuse paint a bad picture of the industry/directors
9. Trafficking rhetoric
10. Need a grievance system (+ recent developments)
11. Recent examples in news (NB, JD, LR, R)
12. Performers often devalued
13. FOSTA/SESTA, censorship and bank closures etc. actually enable more pimping + middle men, and are state abuse.
14. Studios w/ codes of conduct – AdultTime, Wicked, Wasteland

## EPI/STI INSTANCES

1. Syphilis Fall 2017
2. Ringworm winter 2017/2018
3. HIV production pause Apr 2018
4. 'introduction' of Mycoplasma – AVN convo, press release FSC
5. HIV hold Aug. 2018
6. Jan 2019 syphilis in Europe
7. Fen 2018 HIV in Europe
8. History of early outbreaks (somewhat written)
9. 2011 AIM shut down
10. 2004 Darren James/Lara Roxx
11. Apr. 2017 possible HIV shut down

## AUTONOMY

1. New platforms = democratization of the means of production, cover base costs like CCBill
2. But most cammers spend many hours to make very little \$

3. But are still big companies
4. PR as being a site of social justice (ManyVids)
5. Social media is key to branding
6. Clients want to see fake 'authenticity'
7. Need to really hustle full time to make a living on clips
8. TS marketing/slurs (can avoid if self-employed but your videos won't be found)
9. Don't Rock the Boat vs. Speak up – if not beholden to producers you can be more political e.g. IR rates, abuses/pimps etc.
10. Minimize STI risks to keep OSHA at bay
11. Freedom to complain vs. Pretend all is well so that industry outsiders don't seize upon any problems.
12. Social media means performers are more vocal, so can't easily pain them as clueless. Health becomes a good reason to 'save' them.
13. Can't hide unethical practices as easily w/ the internet + vocal performers
14. Can't object for moral reasons to companies you need a paycheck from
15. More ppl involved in industry now – raises 'US' vs. 'THEM' concerns, but, more ppl allows for less monopoly + thus less abuse.
16. As industry decentralizes, for-profit apps will try to enter the STI prevention space that PASS currently occupies.

# Appendix H: Code Sheet

**LABOUR**

- subcontractor v. employee (pros/cons) freedom vs. stability, responsibility/acceptability for safety/benefits etc.
- struggles to setting up trusts your self/absorbing costs (PMS, etc)
- Performers take the liability risk, need to have voice around it
- US vs. Them: who makes up the Plan Industry? who speaks for it?
- ability to get insurance
- what is consent within capitalism? Porn offers better pay/schedule (esp. for women/TS/POC) than most work
- mandating safety protocols should be avoided because it leads to liability
- porn as a creative, freeing career
- speaking when sick, need the \$ pressures but ppl more at risk

**EXPLOITATION & LABOUR**

- consumers feel entitled to have porn for free, paying is a ' favour' or 'pract one is a 'super fan'
- closet trans consumers feel entitled to TS performers time + energy
- Tubes = less \$ = less work + lower wages → performers doing more full-service work
- employee status = HIPAA = disclosure of health status, is violation of workplace rights (how PASS is HIPAA compliant)
- need for a grievance system
- NLRB: Benz, James, beam, etc. performers devalued
- hard to live on 99 shots alone

**ADVICE**

- clients are in a 'whorehouse' place, can't hold to deal with them
- drama/gossip
- receipts/party named as the (only) ultimate party in condom disputes
- these stories paint a bad picture of the industry/directors/performers/presence of other performers
- Trafficking rhetoric
- need for a grievance system
- NLRB: Benz, James, beam, etc. performers devalued
- need for a grievance system

**AUTONOMY / TRANSPARENCY**

- platforms = democratization of means of production
- Don't have the best vs. speak up, not be held to producers, be more political
- Freedom to complain US
- pretend all is well so industry - outsiders don't seize upon the problems
- social media performers = more vocal, so can't easily point them as clueless
- Health incomes good reason to 'save' them
- can't hide unethical practice
- can't object for moral reasons to companies you need paycheque from
- put still one bit of companies, or as long as title of social justice
- TS marketing/sales
- IR rates
- abuses/pimps
- minimize STI risk to keep OSHA at bay
- Clients want to see fake authenticity

**OTHER HEALTH ISSUES**

- risks of filming, why contract
- safety on set
- cleanliness, good equipment
- mental health/trauma
- chronic illness
- non-STI recognized health
- Health & trauma, AVN, FIU
- colds + flus / ring worm
- ATM bacteria
- anal prolapse
- Addictions / drug use
- unclean furniture sex sets positions that SW of softened SW
- hygiene STI rates in

**STIGMA**

- SW stigma in health care + social services + TS stigma
- stigma from legislators
- stigma from mainstream entertainment industry
- stigma in media
- Trafficking rhetoric/assumption
- more ppl becomes SW
- stigma of viewers = silence

**CONDOMS**

- condoms are uncomfortable
- but they don't ruin the night
- important to wear them
- micro abrasions, vaginal dryness
- more STI risk
- creation: interPenetration
- condom content still sells, good studios are condom optional
- always used in full service clients, not the real condom advocate, not the other anti-porn ppl
- AHP = only other anti-porn ppl
- AHP = only other anti-porn ppl
- AHP = only other anti-porn ppl

**CONTENT**

- type of shoot
- impacts use of barriers (shells vs. vibrator, straps vs. video)
- still photos vs. video
- solo vs. couples/broads
- BDSM - consent based, producer just mediates discussion between performers
- gfy vs. v/a
- consent to risk awareness of the 'job'
- Flood ex Change IS the 'job'
- Flood ex concern not really about protecting performers
- outsider concern not really about protecting performers
- HEALTH just a new form of the same
- Producers = condom police
- slipper slope (chilling effect)

**CONTEXT**

- queer/gay vs. straight
- tests
- STI rates

**VALUES/POSITIONS**

- relationships to regulation as a whole (by country, by type of performer)
- regulation as a source of respectability for the industry
- PASS/testing is the sign of professionalism/legitimacy: defines "US"
- Florida = Wild West
- NH = Live Free or Die
- Germany = Non-Potentialist
- culture of personal responsibility
- US, small govt / untrustworthy govt, slippery slope + chilling effect
- Industry + threat lots of ppl who dislike being told what to do: respond before to social pressure self-reg. than external imposed self-reg. (which then would just try to evade)
- "virtue" of "less"
- or only work w a high risk performer on day 1 or 2 of test

**RESPECTABILITY**

- crossover debate
- misinformation
- transphobic homophobic
- respectability politics
- Whorearchy
- Full service is trying to bring top 10% performers set any attention acted upon
- general impervious to STI/HIV transmission
- means to be respected, industry voices (like POC)
- how to take an anti-HIV position (like no POC in PASS)
- more SW solidarity
- There will always be ppl w stigmatizing beliefs in any industry
- performers w 'irresponsible' practices
- shame/stigma leads to higher risk of more behavior
- informed consent is a right + moral dec. serv status

**PREP**

- general impervious to STI/HIV transmission
- means to be respected, industry voices (like POC)
- how to take an anti-HIV position (like no POC in PASS)
- more SW solidarity
- There will always be ppl w stigmatizing beliefs in any industry
- performers w 'irresponsible' practices
- shame/stigma leads to higher risk of more behavior
- informed consent is a right + moral dec. serv status

**PROBLEMS**

- potential test improvement
- problems w PASS
- cost of PASS, who pays? Models? Studios?
- window periods: getting STDs from ppl w 'clean tests'
- Potential for test forgery
- Ongoing success
- undetectable HIV performance
- making on set more than off set is finally
- on set sex should be treated the same: off set behavior used to judge validity as a caution
- using birth control enables more on set work but also
- hold off set sex to same standards as on set sex
- TTS + 1 month status con
- ppl to bring is a lot only
- not right to try + police ppl's
- private sex life
- off set/med adherence of POC performers
- straight performers have secret gay set

**INFRASTRUCTURE**

- Health Resources differ by jurisdiction
- US healthcare too expensive/weak insurance coverage
- use paper Dr tests instead
- less TTS in rural US/non-LA regions
- shipping time + costs
- Canada longer wait times/slower results
- lower paid shoots in Canada = less \$ for testing even if TTS is available
- Focus is HIV only, other STDs not taken so seriously
- if wearing in glove/ not wearing in glove/rates
- esp. location for lower rates

**SOLIDARITY**

- community rally (esp. w: Prop 60)
- info sharing between performers
- transient workers = no commitment to industry
- fragmented industry (esp. where TS...)
- fragmentation of the industry
- AHP was an attempt to improve the industry
- need a culture shift in industry
- racism, sexism, devaluation of performers

**SELF-EVALUATION**

- Porn ppl are experts on their work + their need
- Media/public/policy makers deny this / is more porn perspective - no sure
- industry self-regulation
- consent to risk awareness of the 'job'
- Flood ex Change IS the 'job'
- Flood ex concern not really about protecting performers
- outsider concern not really about protecting performers
- HEALTH just a new form of the same
- Producers = condom police
- slipper slope (chilling effect)