

Promotion of Adult Film Industry Performer Safety by the UCLA Reproductive Health Interest Group

Adam Carl Cohen, MPH, Mark Roy McGrath, MPH, Rebecca Butler, AB, Paula Tavrow, PhD

Presentation Outline

Background: Since 1989, adult film production has been legal in California. However, the vast majority of films are produced in ways that are hazardous to employees and lead to workplace-acquired infections and injuries. Injury prevention plans are mandated under current California state law. However, many adult film producers have chosen to produce adult film content in violation of this law because enforcement is spotty and fines are limited. The UCLA Reproductive Health Interest Group (RHIG) has been working since 2006 to address the issue of occupational hazards in the adult film industry.

RHIG has promoted performer safety mainly through:

Strategy Symposiums

- Started a new wave of dialogue pertaining to best practices in the adult film industry, which ultimately inspired prominent nonprofit organizations to prioritize adult performer health and safety as a central component of their advocacy agenda.
- Brought the issues of workplace-acquired infections and injuries to the attention of government policy-makers and regulators.

Health and Safety Discussion Panels at UCLA

- Created a platform to allow the airing of diverse and divergent perspectives, including those of performers, directors, producers, lawyers, and health officials.
- Informed and framed the issue to a stakeholder population comprised of public health practitioners, government regulators, adult film producers and performers, and UCLA faculty and students.
- Gained insight into the normalization of hazardous workplace practices by producers and performers.

Occupational Health Board Meeting Presentations

- *State level:* Provided comments to the Cal/OSHA Standards Board throughout the advisory council process on adult film practices, as well as on the consequences of potential modifications of the Bloodborne Pathogens standard to make it more applicable to the adult film industry.
- *City level:* Challenged the Los Angeles City Attorney's report on the film-permitting process for adult films, and provided a list of easy mechanisms to better promote healthful workplaces.

As a result, RHIG has helped to convince Cal/OSHA to draft a proposed set of detailed rules pertaining to the Bloodborne Pathogens standard for this sex worker population, a first in California history.

Next Steps:

- Support activities of nonprofits, including the newly-formed Adult Performers Association, in developing and implementing strategies to improve health and safety of performers.
- Lobby the California governor's office regarding three Standards Board seats that need to be filled, and keep the matter central to the Board until they vote.
- Educate future public health students and train new leadership on the issue.
- Solicit support and assistance from traditional labor advocacy groups, which have been resistant.
- Convince more organizations to sign on as supporters as we advocate for adult film industry worker health and safety.

Five Lessons Learned:

- It is important to learn the jargon of the population of interest and to be able to "translate" terms from one group to another. For example, "fecal-oral transmission" is a standard public health term, but "ass-to-mouth" is how the concept is expressed in the adult industry.
- Outspoken and visible individuals do not necessarily represent the majority of stakeholders; the *silent majority* may be reluctant to speak out and must be actively sought.
- 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.
- Traditional labor advocacy groups have a myopic view of what constitutes a valid worker class and have been slow to respond to the needs of this *de facto* workforce.
- A graduate student group can be an influential actor in occupational health issues, particularly if it can gain the trust and cooperation of different groups and improve communication and understanding among them.

THE REPRODUCTIVE HEALTH INTEREST GROUP AND
LAW STUDENTS FOR REPRODUCTIVE JUSTICE PRESENT

CONDOMS IN THE ADULT FILM INDUSTRY



THURSDAY, NOVEMBER 18, 11:30AM-1PM
UCLA SCHOOL OF LAW, ROOM 1457

PANEL SPEAKERS:

PETER KERNDT, MD, DIRECTOR, STD PROGRAM
LA COUNTY DEPARTMENT OF PUBLIC HEALTH

MR. MARCUS, ADULT FILM PERFORMER
MRMARCUS.COM

WHITNEY ENGERAN-CORDOVA, DIRECTOR, PUBLIC HEALTH DIVISION
AIDS HEALTHCARE FOUNDATION

SHELLEY LUBBEN, EXECUTIVE DIRECTOR
PINK CROSS FOUNDATION

MODERATED BY PETE GREYSHOCK, COORDINATOR
SOUTHERN CALIFORNIA COALITION FOR OCCUPATIONAL SAFETY AND HEALTH

JOIN US FOR A PANEL DISCUSSION FOLLOWED BY Q&A

★ LUNCH WILL BE PROVIDED ★

reproductive health interest group and law students for reproductive justice present:

CONDOM USE IN THE ADULT FILM INDUSTRY

PART II

PANELISTS

derrick burts, former performer,
"patient zeta"

brian chase, assistant general counsel,
aids healthcare foundation

kevin riley, director, research programs,
ucla losh

shelley lubben, former performer,
executive director, pink cross foundation

april garris, former performer,
executive assistant, pink cross foundation

moderated by pete greyshock,
coordinator, socal cosh

artist: andres serrano
title: untitled VII
(ejaculate in trajectory)
year: 1989

thursday,
january 20, 12-2pm
dean's conf. rm., 16-059
ucla school of public health
latecomers welcome!
LUNCH WILL BE PROVIDED!

DETAILS

The Reproductive Health Interest Group, Queers for Public Health, and Law Students for Reproductive Justice present:

CONDOM USE IN THE ADULT FILM INDUSTRY

Part III: Gay Porn

PANELISTS

Derrick Burts
Former performer

Trent Pace (aka Trent Austin)
Former performer

Adam Russo
Performer, model, director, and producer

Rob Romoni
Performer, model, and producer

Jan Milstead (aka Chris Steele)
Performer, writer, director, and producer

Brian Chase
Assistant General Counsel
AIDS Healthcare Foundation

THURSDAY, APRIL 14, 2011, 12-2PM
DEAN'S CONFERENCE RM (16-059 CHS)
UCLA SCHOOL OF PUBLIC HEALTH

LUNCH WILL BE SERVED ~ LATECOMERS WELCOME!

The Reproductive Health Interest Group, Queers for Public Health, and Law Students for Reproductive Justice present:

Health & Safety in the Adult Film Industry

Part IV: The Performer Perspective

Panelists:

Ela Darling, Danny Wylde, Nica Noelle,
January Seraph, & Brittany St. Jordan



Tuesday, October 11, 11:30-1:30pm
UCLA School of Public Health, Rm 33-105 CHS
LUNCH WILL BE SERVED

Adult Film Industry Historical Timeline, 1970-2011

Acronyms:

ACLU	American Civil Liberties Union
AFI	Adult Film Industry
AHF	AIDS Healthcare Foundation (aidshealth.org)
AIM	Adult Industry Medical
AMA	American Medical Association (ama-assn.org)
APHA	American Public Health Association (apha.org)
ASHA	American Social Health Association (ashastd.org)
Cal/OSHA	California Occupational Safety and Health Administration, which protects the public and workers from safety hazards and enforces the California's occupational and public safety laws (dir.ca.gov)
CCLAD	California Conference of Local AIDS Directors (cclad.org)
CMA	California Medical Association (cmanet.org)
CSTDCA	California STD Controllers Association (stdhivtraining.org)
FSC	Free Speech Coalition, an adult film industry lobbying association (freespeechcoalition.com)
HIV	Human Immunodeficiency Virus
IIPP	Injury and Illness Prevention Plan
LA	Los Angeles
LACDPH	Los Angeles County Department of Public Health (publichealth.lacounty.gov)
LA Times	Los Angeles Times, a daily newspaper published in Los Angeles, California (latimes.com)
NCSDD	National Coalition of STD Directors (ncsddc.org)
NIOSH	National Institute for Occupational Safety and Health, a research agency focusing on occupational health and safety (cdc.gov/niosh)
OSHA	Occupational Safety and Health Administration, a research agency designed to prevent work-related injuries, illnesses, and occupational fatality by issuing and enforcing standards for workplace safety and health (osha.gov)
RHIG	Reproductive Health Interest Group, a UCLA graduate student organization (bixby.ucla.edu)
STI/STD	Sexually transmitted infection/disease
UCLA	University of California, Los Angeles (ucla.edu)
USC	University of Southern California (usc.edu)

Year	Month	Event
1971	Dec	OSHA and NIOSH established by Congress of the United States under the Occupational Safety and Health Act, signed by President Richard Nixon.
1973		Cal/OSHA established.
1987		Harold Freeman, a producer and director of pornographic films, was arrested and criminally prosecuted for hiring adult actors, which the prosecution interpreted as pimping. The case became known as <i>California v. Freeman</i> .
1989	Feb	The prosecution's interpretation in <i>California v. Freeman</i> was ultimately rejected on appeal by the California Supreme Court. As a result of this precedent, the making of pornography was effectively legalized in California.
1995		Documented transmission of occupationally-acquired HIV infection within the AFI.
1997		Documented transmission of occupationally-acquired HIV infection within the AFI.
1998		Six cases of documented transmission of occupationally-acquired HIV infection within the AFI. ¹
	Jan	AIM founded by former AFI performer Sharon Mitchell with the purpose of reducing disease transmission through HIV testing of adult film performers every 30 days, and relaying their results to producers. ²
1999		Documented transmission of occupationally-acquired HIV infection within the AFI.
2000		LACDPH STD Program starts a pilot collaboration with AIM to offer routine screening for syphilis, chlamydia and gonorrhea for AFI performers.
2003	Jan	LA Times staff writer PJ Huffstutter reports on the increasing incidence of HIV and other STIs among AFI performers. ³
	Feb	<p>LA County Board of Supervisors requests Cal/OSHA to:</p> <ul style="list-style-type: none"> Review the applicability of the Bloodborne Pathogens standard (California Code of Regulations, Title 8, Section 5193)⁴ Review the need for a new standard to protect AFI performers from occupational exposure to STIs and other health risks Require a written IIPP for worker health and safety <p>LACDPH STD Program begins work on a model IIPP regulation and Exposure Control Plan for the AFI.</p>
2004		AIM diagnoses 16 cases of HIV infection within the AFI since 1998.
	Apr	<p>Four cases of documented transmission of occupationally-acquired HIV infection are discovered within the AFI in California. AFI in California closes temporarily as a result.⁵ LACDPH STD Program and Cal/OSHA initiate investigation into the outbreak.</p> <p>Vivid Entertainment Group implements a condom-only policy based on the April HIV outbreak.</p>
	May	Assemblyman Tim Leslie (R-Tahoe City) introduces AB 2798, which would require testing within two weeks before production, a shorter time frame than the current industry practice of monthly screenings. ⁶
	Jun	<p>Chair of the Assembly Labor and Employment Committee, Paul Koretz (D-West Hollywood), conducts an informational hearing on worker health and safety in the AFI in response to the HIV outbreak. Assemblyman Koretz sends a letter to the AFI urging them to voluntarily require performers to use condoms for all non-oral sexual intercourse and require twice monthly testing for HIV and monthly testing for gonorrhea, chlamydia, and syphilis or face legislation mandating condom use.</p> <p>Cal/OSHA creates website for AFI performers and employees to promote industry compliance. It states that</p>

Cal/OSHA standards are applicable to AFI, specifically the Bloodborne Pathogens and IIPP standards.

Cal/OSHA issues four citations each to two production companies at \$30,560 per company for failure to:

- Comply with Bloodborne Pathogens standard
- Report serious work-related illness
- Record injuries and illnesses
- Prepare and follow written IIPP

Sep Director of LACDPH sends a letter to 760 AFI production company custodians of record recommending:

- Use of condoms for all sex acts
- Routine periodic HIV/STI screening
- Hepatitis A and B vaccination
- Provide worker training

2005

1,349 STI infections reported among 1,116 individuals testing at AIM since 2003.⁷

2006

Feb Vivid Entertainment Group changes policy from condom-only to condom-optional for its workers.

Dec Cal/OSHA assesses final fine of \$18,560 for one violation to Evasive Angles for:

- Serious accident-related violation of the Bloodborne Pathogens standard
- Failure to record occupational injuries and illnesses
- Failure to develop, implement and maintain written IIPP

Mar Publication: de Cesare M. (2006). Resolving the problem of performer health and safety in the adult film industry. Southern California Law Review, 79: 667-710.⁸ This article discusses the legal reasons why AFI performers should be considered employees and not independent contractors.

Apr Publication: Brooks JT et al. (2006). Molecular analysis of HIV strains from a cluster of worker infections in the adult film industry, Los Angeles 2004. AIDS, 20(6): 923-928. This article helps to prove that HIV infection was transmitted in the creation of adult films in LA.

Oct UCLA Bixby Program and RHIG convene day-long “think tank” at the UCLA campus on health and safety issues, as well as legislative options, for the AFI. Meeting included 55 individuals representing AFI producers and performers, public health agencies, lawyers, academics, and city, county, and federal officials.

2007

Jan Publication: Taylor MM et al. (2007). Epidemiologic investigation of a cluster of workplace HIV infections in the adult film industry: Los Angeles, California, 2004. Clinical Infectious Diseases, 44(2): 301-305. This article demonstrates that current testing methods may shorten the HIV infection diagnosis window period but fail to prevent transmission of occupationally-acquired HIV.

Jun Publication: Grudzen CR et al. (2007). The Adult Film Industry: Time to Regulate? Public Library of Science, 4(6): 993-996. This article proposes policy changes in order to improve health and safety in the AFI.

Cal/OSHA issues citations to five adult production companies for failure to:

- Implement an IIPP
- Implement exposure control plan
- Provide employee training
- Provide personal protective equipment (condoms) on the set

2008

2,175 chlamydia and 1,294 gonorrhea infections are reported among AFI performers since 2004. Seventy-three percent are among female performers. Incidences of STIs are significantly higher compared to other at-risk groups, and one in four workers diagnosed with chlamydia or gonorrhea are re-infected within one year.

LA County and AHF drafted a bill with the help of RHIG to decrease the risk of occupationally-acquired HIV and STI infection among AFI workers through:

- Consistent use of condoms and lubricant among performers during filming of penetrative acts
- Requiring production companies to provide and pay for HIV/STI testing for all performers
- Provide written health and safety programs to performers at every AFI worksite

- Oct The Joint Public Policy Committee of the LA County Commission on HIV Health Services sponsors public hearing on condom use in the adult film industry with presentations from the LACDPH and Cal/OSHA.
- Nov RHIG, LACDPH and CAL/OSHA host a panel presentation at APHA annual conference in San Diego entitled, “Business as Usual”: Unaddressed Worker Health and Safety Issues in the Adult Film Industry. About 100 people attend.¹⁷

- 2009**
- Oct The House of Delegates of the CMA adopts Resolution 727-09 calling for mandatory condom use in the AFI throughout the United States.
 - Apr Publication: Grudzen CR et al. (2009). Condom use and high-risk sexual acts in adult films: A comparison of heterosexual and homosexual films. American Public Health Association, 99(S1): S152-S156. This article concludes that heterosexual films portrayed condom use less often than homosexual films, which raises concerns about STI and HIV transmission among performers in the heterosexual AFI.
 - Jun Documented transmission of occupationally-acquired HIV infection of a female performer within the AFI, tested at AIM.
 - AHF files lawsuit against LACDPH to compel the LA County to mandate that all AFI performers use condoms in the making of hardcore pornography.
 - ACLU files lawsuit against AIM and Cal/OSHA on behalf of the female performer, “Patient Zero”, who tested positive for HIV to prevent AIM from disclosing medical records and information to Cal/OSHA.
 - Dec RHIG hosts a one-day “strategy symposium” at the UCLA campus on improving statewide health and safety of AFI performers at the School of Public Affairs. Seventy students, public health professionals, industry personnel, and sex worker advocates attend.
 - Dec Cal/OSHA issues seven citations to AIM Healthcare for failure to maintain an IIPP, failure to insure proper health worker vaccinations, and others.

- 2010**
- Cal/OSHA issues citations to four AFI production companies.
 - Mar ASHA publishes “Statement on Worker Health and Safety in the Adult Film Industry”.
 - Apr AMA publishes resolution “Adult Film Industry Worker Safety and Health”, supporting mandatory condom use legislation.
 - Aug Cal/OSHA convenes a subcommittee to discuss control issues in the adult film industry. The subcommittee includes representatives from LACDPH, AHF, RHIG and others. AHF petitions the Cal/OSHA Standards Board to revise the California Code of Regulations, Section 5193 “Bloodborne Pathogens” specifically for the AFI.
 - Sep RHIG organizes panel discussion addressing various aspects of occupational risks within sex worker populations, held at the UCLA School of Law.
 - Oct NCSD publishes “Policy Statement on Worker Health and Safety in the Adult Film Industry”. This statement calls to reduce STI infection in the AFI through federal and state mandates, as well as OSHA enforcement.
 - Oct LA Times publishes editorial calling for “Safe Sex on the Set” in which the paper argues for mandatory condom use.¹⁸
 - Oct Documented transmission of occupationally-acquired HIV infection within the AFI.¹⁰
 - Nov APHA passes resolution on “Prevention and Control of Sexually Transmitted Infections and HIV among Performers in the Adult Film Industry”.
 - Nov CSTDCA publishes position statement, “Worker Health and Safety in the Adult Film Industry”. This statement calls for state and federal regulation of the AFI.

	Dec	LACDPH issues AIM a cease and desist order for operating without a clinical license. ¹¹
	Dec	AHF petitions Cal/OSHA to amend regulations, explicitly requiring condoms in porn. ¹²
2011	Jan	RHIG organizes panel discussion addressing various aspects of occupational risks within sex worker populations, held at UCLA School of Public Health.
	Feb	CCLAD publishes “Position Statement: Worker Health and Safety in the Adult Film Industry”. This position statement supports regulations that decrease the transmission of STIs and HIV.
	Feb	The LA City Council votes unanimously to request that the LA City Attorney report back within 60 days on the mechanisms necessary to enforce occupational health and safety through the city’s film permitting process (known as Film LA).
	Mar	The LA City Attorney reports back to the LA City Council that they are preempted from acting because Cal/OSHA has jurisdiction.
	Apr	RHIG organizes panel discussion addressing various aspects of occupational risks within gay sex worker populations, held at UCLA School of Public Health.
	Apr	AIM database breached and protected health information of thousands of performers gets posted online. ¹³
	Apr	The LA City Council unanimously passes a resolution requesting Cal/OSHA and the LACDPH to work together to improve occupational health and safety in the AFI.
	May	AIM declares bankruptcy and closes. ¹⁴
	May	Report of the Chief Legislative Analysis writes a report regarding how to get Cal/OSHA and LACDPH to work together and improve occupational health and safety of AFI performers.
	Jun	Cal/OSHA advisory panel presents proposed rules and changes to the Bloodborne Pathogens standard tailored for the AFI. FSC reaction is very negative.
	Jun	Court rules that the compelled release of HIV test records of adult film performers to state investigators would violate state and federal privacy guarantees (Patient Zero case). ¹⁵
	Jul	Publication: Goldstein BY et al. (2011). High chlamydia and gonorrhea incidence and re-infection among performers in the adult film industry. <i>Sexually Transmitted Diseases</i> , 38(7): 644-648. This article demonstrates that chlamydia and gonorrhea infections are common and recurrent among AFI performers.
	Jul	Publication: Klausner JD et al. (2011). Occupational health and the adult film industry: Time for a happy ending. <i>Sexually Transmitted Diseases</i> , 38(7): 649-650. This article calls for occupational health standards in the AFI.
	Jul	Cal/OSHA responds to the LA City Attorney report, stating that the city can and in fact should institute mechanisms necessary to enforce occupational health and safety through the city’s film permitting process.
	Aug	HIV scare shuts down industry, but turns out to be a false positive. ¹⁶

Works Cited:

- ¹ http://www.excaliburfilms.com/pornlist/malepgs/Marc_Wallice.htm
- ² <http://www.nytimes.com/2004/05/10/us/voice-of-health-in-a-pornographic-world.html>
- ³ <http://articles.latimes.com/2003/jan/12/magazine/tm-porn>
- ⁴ <http://www.dir.ca.gov/title8/5193.HTML>
- ⁵ <http://www.nytimes.com/2004/04/17/us/hiv-cases-shut-down-pornography-film-industry.html>
- ⁶ <http://articles.latimes.com/2004/may/02/local/me-adult2>
- ⁷ <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5437a3.htm>
- ⁸ http://lawweb.usc.edu/why/students/orgs/lawreview/documents/deCesare_Maria_79_3.pdf
- ⁹ <http://articles.latimes.com/2009/jun/11/local/me-porn-hiv11>
- ¹⁰ <http://www.latimes.com/health/la-me-porn-20110420,0,65155.story>
- ¹¹ <http://articles.latimes.com/2010/dec/10/local/la-me-porn-hiv-20101210>
- ¹² <http://www.aidshealth.org/news/press-releases/ahf-petitions-calosha-to.html>
- ¹³ http://blogs.laweekly.com/afterdark/2011/04/porn_wikileaks_the_facts_how_y.php
- ¹⁴ http://blogs.laweekly.com/informer/2011/05/porn_clinic_closed_aim_testing.php
- ¹⁵ <http://www.aclu-sc.org/releases/view/802905>
- ¹⁶ <http://articles.latimes.com/2011/sep/04/local/la-me-porn-hiv-20110905>
- ¹⁷ <http://apha.confex.com/apha/136am/webprogram/Session24094.html>
- ¹⁸ <http://articles.latimes.com/2010/oct/25/opinion/la-ed-porn-20101025>