

The Truth About
California's Adult Entertainment Industry

White Paper 1998

Dear Legislators:

On behalf of the adult entertainment industry's trade association, the FREE SPEECH COALITION, we offer you our 1998 White Paper entitled "The Truth About California's Adult Industry."

Our report is a combined effort of industry representatives in an effort to inform you about the actions and workings of California's multi-billion dollar adult entertainment industry.

We shall entertain many of California's most basic questions about adult entertainment. But first, what does this report cover?

Past industry White Papers have focused on the motion picture and live entertainment sides of the industry. In this update, we provide new information on health issues as well. Initially, we need to define just what "pornography" is.

Legally, the word "pornography" has no meaning whatsoever. As defined by the Supreme Court of the United States in *Miller v. California* (1973), "obscenity" is not a synonym for "pornography." In fact, Webster's dictionary defines pornography as "writings, pictures, etc. intended primarily to arouse sexual desire." Therefore, much of society's poetry, music and any other art form can be interpreted as "pornographic."

Unfortunately, prosecutors and other would-be censors often use these terms interchangeably, creating a false image - an image that more often than not insinuates (if it does not claim outright!) that "pornography" involves children, violence and/or rape. This is completely untrue and unfounded. By the actual definition of pornography, everything from adult movies to Calvin Klein ads to Tom Jones songs could be deemed "pornographic," simply because all could be seen as "intended primarily to arouse sexual desire." This is a far cry from the rigorous, three-tiered obscenity standard required by the Constitution.

The erotic entertainment provided by the adult industry may be dismissed as obscenity by some individuals; yet it is not necessarily obscene simply by the nature of its sexual content. That is why Henry Miller's *Tropic of Cancer*, James Joyce's *Ulysses* and the film *Carnal Knowledge* were all initially ruled obscene by courts, but all of those rulings were reversed on appeal.

While community standards play a significant role in determining what is legally obscene, just because one community is offended by a book or film does not render the communication illegal. Indeed, notwithstanding the extremely conservative standards of certain communities, less than one-tenth of one percent of all commercial adult entertainment has ever been charged as being obscene. Moreover, most of those titles would not even be accused of obscenity in 99% of the rest of the country.

Remember, despite the misuse of the term by the media, as well as some legislators and prosecutors, "pornography" is legal; "obscenity" and "matter harmful to minors" are not.

We have prepared this report to dispel other myths and replace them with facts, in the hope that this material will be used as an educational tool and provide insight into an industry regulated but seriously misunderstood by government.

In this report, you will find specific information about the following aspects of our industry:

- 1) Industry statistics
- 2) Employment
- 3) Underage workers and child pornography
- 4) Content and consenting adults
- 5) The Adult Entertainment Industry and Insurance
- 6) The Adult Entertainment Industry and HIV
- 7) Rape and sexual abuse
- 8) Working conditions
- 9) Substance abuse
- 10) Legislative positions

Sincerely,

FREE SPEECH COALITION

Gloria Leonard, President

Jeffrey J. Douglas, Executive Director

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STATISTICAL INFORMATION

The information used in the video portion of this report is derived from two sources: a survey of 5000 retailers who answered an annual national questionnaire composed and analyzed by Adult Video News (AVN), the trade publication of the adult video industry, with additional information provided by Paul Kagan & Associates and the Video Software Dealers Association (VSDA), the trade association for the entire home video industry.

The VSDA estimates that over 60,000 retail outlets in the United States carry home video. Adult video cassettes are carried in over 25,000 retail outlets across the United States, including such major chains as The Warehouse, Tower Video, Palmer Video, Movies Unlimited, West Coast Video and others. In addition, hundreds of small boutique and large mail order companies sell adult tapes directly to consumers.

The information used in the dance sections of this report is based on statistics collected from targeted cities and specific clubs. Performers have also provided input.

VIDEO:

FACT: In the United States in 1997, adult video rentals and sales made up 13.49% of the entire video market, for a volume of over \$4.2 billion. This figure includes transactions in retail outlets but does not include mail order. Nearly 36% of the nation's rental and sales transactions involving adult tapes took place on the West Coast, with more than half of that in California!

FACT: Nationally, in stores that carry both general release and adult videos, the adult portion of sales and rentals was 25.4% in 1997.

FACT: In stores in the Western Region of the United States (California, Arizona, Oregon and Washington), adult video made up 35.6% of the sales and rentals in stores that carry both general release and adult video. This means that many if not most video retailers depend upon adult product to stay in business.

FACT: Approximately 2800 retail stores carry adult video for sale and/or rental in the State of California. The average store in the State of California stocks over 700 different adult tapes for rental. This excludes tapes stocked for resale.

FACT: During 1997, in the United States, stores reported a total of 697 million rentals of adult tapes, more than three-quarters of which were produced in California. Nearly 110 million of those rentals took place in the State of California. If each of those rentals were for one day only, a minimum of \$27 million sales tax dollars would have been generated for the State of California. This excludes any tax generated by purchase, or additional money generated by multiple rental days!

FACT: The wholesale sales value of tapes sold to retailers from distributors in the United States in 1997 totaled \$828 million, with over \$125 million in wholesale sales to retailers in California.

DANCE:

FACT: In the exotic dance arena, there are an estimated 7500 full-time dancers with another 5000 part-time.

FACT: Dancers run the gamut from students to housewives to exotic dance professionals. What do they all have in common? They enjoy the financial independence and the excitement of erotic dance.

FACT: There are over 175 legally operating dance clubs in California.

FACT: The dance industry creates over 20,000 jobs in California, while providing almost \$1 billion in revenues.

FACT: The dance industry brings in an estimated \$500,000 to local governments in much-needed tax revenue, most of which goes towards law enforcement.

FACT: Much of the dance talent has the opportunity for job promotion and thus income expansion in other adult entertainment areas.

EMPLOYMENT:

VIDEO:

Adult products are often the primary profit center for non-chain video stores. Adult videos carry higher rental fees, rent for longer periods, and are more likely to convert to sales. Without adult product, many of California's 2800 retailers that carry adult videos would not stay in business, costing Californians thousands of jobs.

The adult video business is made up of producers (who create product), manufacturers (who duplicate and distribute their own products as well as other producers' product), wholesale distributors, retailers (including Internet sites) and mail order companies. In California alone, AVN has identified 175 manufacturers, each of whom employs an average of 16 employees, making for 2800 jobs. An additional 60 wholesale distributors and mail order outfits exist in California, with an average of ten employees each (600 jobs). Moreover, these figures do not include the numerous California producers and publishers of adult magazines, novelties and websites, all of which are economically significant industries in their own right.

In February of 1997, US News & World Report stated that adult entertainment was estimated to be an \$8 billion economic giant. AVN and other industry professionals estimate that the figure is \$2-\$3 billion higher than that.

Several hundred performers residing in California are employed in the adult movie industry, as are thousands of technicians, directors, editors, producers, makeup artists, art directors, designers, photographers, line producers, lighting technicians, cinematographers, artists, computer experts, camera operators, caterers, drivers, janitors, builders, Foley artists, musicians, etc. Each of these employees pays state income taxes. Many of the fine technicians and artists who work in the "mainstream" entertainment industry have previously worked behind the scenes in the adult movie business, showing that the adult industry provides a training ground for people wanting to work in Hollywood. Many continue to work both in mainstream and adult productions.

DANCE:

FACT: May entertainers earn 5-6 times the state's official minimum wage.

FACT: Dancers choose their own working environment and work schedules, many times opening their own businesses.

FACT: Dancers enjoy a level of financial independence not found by women in other areas.

FACT: Female dancers earn 3-4 times the amount of money earned by their male counterparts.

UNDERAGE EMPLOYMENT AND CHILD PORNOGRAPHY:

VIDEO:

Congress has found that commercial child pornography does not exist in this country. In the 15 years that Adult Video News has been published, it has never received one tape depicting child pornography, nor has it received a single request to place an advertisement for child pornography, nor come into contact with anyone who produces or distributes child pornography. The regular, commercial adult movie industry, operating in California (and in fact in all 50 states) employs only consenting adults over the age of 18 and produces material for consumption solely for consenting adults over the age of 18. Since 1990, the FREE SPEECH COALITION has worked with the Federal government to create a workable regulatory system designed to prevent minors from working in the adult entertainment industry. That law [18 U.S.C. §2257] requires, in essence, that no one can work in the industry without having copies of their passport or driver's license, and a declaration under penalty of perjury of their age and true name, on file with the production company's custodian of records, and available for inspection by law enforcement.

Additionally, the FREE SPEECH COALITION offers a reward of up to \$10,000 for information leading to the arrest and conviction of anyone involved in production or distribution of child pornography.

Robert Best, who owns Bon Vue Enterprises, a video company specializing in fetish fantasies, was indicted in a sting operation for shipping fetish tapes to the State of Arizona. To avoid having his employees brought to trial, he pled guilty to one count of distributing obscene material, spent four months in jail, and paid a small fine.

After this harrowing experience, someone sent Best some film which, after development, was found to be of child pornography. Best reported this fact to the FBI; charges were

filed against the sender, who was consequently convicted. For this, Best was formally commended by the U.S. Postal Service. The FREE SPEECH COALITION awarded Best its \$10,000 reward, which he accepted and subsequently donated back to the organization to continue its free speech work. There are very few groups as dedicated to the eradication of child pornography as the FREE SPEECH COALITION is - and have the track record to prove it.

The industry was given a black eye when current mainstream actress Traci Lords acted in adult videos and was later discovered to have been underage at the time. Prior to her entry into adult video, Lords used a false birth certificate to defraud the United States Government into providing her with a passport, which she then used to fraudulently obtain a California driver's license that falsified her age. It was this state-issued identification that Ms. Lords provided as proof of age when applying for work in adult videos.

Once the industry was made aware of her criminal fraud, all master tapes, duplicate masters, existing tape inventory, slides and other images, and any other product or depictions of the underage performer were immediately pulled, recalled and/or destroyed by the video companies involved, in a simultaneous and mutual self-policing action. Such action was voluntary and, as one might imagine, very costly.

The one video wholesaler who knowingly continued to sell Traci Lords products after this discovery was arrested and found guilty of distribution of child pornography. In that case, the adult industry did not support that distributor, and in fact condemned his actions. It is interesting to note that Ms. Lords did not incur any criminal punishment for her costly and intentionally-fraudulent actions, but instead has parlayed her stage name and notoriety from the scandal surrounding her crime into a lucrative career as a television and B-movie actress. (Please see Legislative Proposals found at the end of this report.)

Those who would censor adult material always lump mainstream, Constitutionally-protected adult materials together with child pornography, and the media often takes such a connection as fact and consequently reports incorrect information to the public. It is a fallacy that those who operate production and distribution businesses in the adult industry also traffic in child pornography. No one from the modern commercial adult industry has ever been associated with the manufacture, distribution or sale of material depicting pubescent or prepubescent children.

Indeed, when testifying before an Assembly committee, attorney Jan LaRue of the California Law Center for Family and Children, an expert anti-pornography advocate, testified that there is no connection between child pornography and the modern adult entertainment industry.

DANCE:

In the dance and theater circuit, in many jurisdictions, entertainers must show proof of age via California or U.S. identification cards. Additionally, some cities and counties like San Diego and Sacramento are about to or have established requirements for the licensing of exotic dancers.

CONTENT AND CONSENTING ADULTS:

VIDEO:

The content of every single adult tape on the shelves of every video and adult store in the nation involves consenting adults. Roughly 90% of the material produced and distributed over the past 14 years contains mainstream sexual acts (oral sex, anal sex, group sex, etc.). Adult movies do not contain any depictions of rape, coerced sex, sex with animals, excretion, violence, incest or child pornography. The other 10% of the material available could be classified as specialty material (i.e., foot fetish, tickling fetish, bondage, spanking, etc.) which does not contain explicit sex, but which still involves consenting adults.

DANCE:

All dancers are of legal age and are recognized as consenting adults based on documents which are required to be presented to the club by the dancers themselves.

WORKING CONDITIONS:

VIDEO:

Like all motion pictures, adult movies are shot either at a soundstage or a location. Working hours vary, with overtime compensation paid for excess hours. Performers ("Talent") are scheduled to appear when they are needed, so although some shoots may take more than eight hours, talent is rarely on set for the entire duration. As in mainstream Hollywood movies, adult productions employ production managers, assistant directors, production assistants and other production personnel not only to make sure the shoot is proceeding as planned, but to take care of the talent as well. Catered meals and snacks are served at regular intervals, and scheduled breaks are provided, as well as facilities for the talent to rest and take care of personal hygiene, which is also of the utmost importance when shooting sexually explicit entertainment. Indeed, the industry's "crossover" talent (those who work in mainstream films as well as on the adult side) often report that adult productions treat their actors much better than their mainstream counterparts.

The FREE SPEECH COALITION has put thousands of hours and the majority of its financial resources into talent support services. A health and welfare corporation, wholly owned by the FREE SPEECH COALITION, was established to manage the talent services previously undertaken by the COALITION. The PROTECTING ADULT WELFARE FOUNDATION (P.A.W.) runs a peer counseling hotline staffed by experienced members of the adult community, who have been trained by a licensed psychologist. This service has been in place for over four years, and has helped hundreds of industry members to deal with substance abuse, depression, relationship problems and the full gamut of stress-related issues. Likewise, P.A.W. runs educational seminars, offering assistance in estate and pension planning, tax preparation, health education, sexually-transmitted disease (STD) testing, life skills and other support services for the male and female actors in the industry, and is currently seeking access to a credit union for industry personnel.

DANCE:

Working conditions at gentlemen's clubs vary depending on the age of the facility and the philosophy that the club embraces. In most cases, the clubs are well-lighted, adequately protected by house security, and are tastefully and in some cases lavishly decorated.

These clubs have top-of-the-line sound and stage lighting systems, and the entertainment provided is on par with what you might expect at Las Vegas cabaret shows. As a result, most of the entertainers work on stages, under bright lights, dancing to rhythmic music (usually of their own choosing). They are protected by in-house security at all times. Now that the FREE SPEECH COALITION offers its members health, dental, vision and life insurance, the number of insured dancers is growing.

THE ADULT ENTERTAINMENT INDUSTRY AND INSURANCE:

One of the great accomplishments of the FREE SPEECH COALITION is the availability of the full range of insurance to adult entertainment industry businesses and individuals. As recently as three years ago, no insurer was interested in providing insurance to the industry. Not only was health insurance simply unavailable for actresses, actors and dancers, production insurance for movie-making and even premises liability insurance for warehouses and retail outlets was either unreasonably expensive or utterly unavailable. Now, all forms of insurance are available, with excellent benefits at reasonable prices. Most exciting, members of the FREE SPEECH COALITION have available to them dental, vision and health insurance of the highest quality. For health, we offer not only a PPO policy through Blue Cross, but also an extraordinary HMO policy through Maxi-Care. The HMO is extraordinarily comprehensive; its services and prices are equivalent to that offered by the Screen Actors Guild. Furthermore, the policies are underwritten by manufacturers through a 4% employer payroll contribution. This means that an actor or actress working several times per week (as is the norm) can get health insurance free! The long-term significance of this cannot be over-emphasized. The availability of quality insurance in our country often impacts life expectancy and the quality of life. Under these policies, early detection of health conditions and preventive treatment, as well as treatment for drug and alcohol problems, will be a mainstay of the lives of the actors, actresses and dancers, to say nothing of the lives of retail employees, warehouse workers and others who could not get access to insurance.

A fundamental mission of the FREE SPEECH COALITION is to improve the quality of life for those people who earn a living in the adult entertainment industry. The efforts of providing access to insurance to thousands of people previously without ready access is an accomplishment to be most proud of. It reflects both an industry which is maturing and the recognition of that maturation by the insurance industry.

THE ADULT ENTERTAINMENT INDUSTRY AND H.I.V.

The adult entertainment industry has reacted with remarkable responsibility to the tragic arrival of H.I.V. into the community of adult actors and actresses. Despite the fact that the on-set practices of the industry, as well as the testing programs, delayed the advent of H.I.V. for over 15 years, this year, several members of the community have tested positive for the disease. With the extraordinary guidance of retired actress Miss Sharon Mitchell, a certified chemical dependency specialist, and gang and H.I.V. counselor, the FREE SPEECH COALITION and its health and welfare affiliate, P.A.W., enlisted internationally-recognized researchers and treatment specialists to create a state-of-the-art testing program.

Every 27 days, each and every actor and actress voluntarily tests for the presence of H.I.V. in their blood by means of the newest, best test available, the PCR-DNA test.

Compliance with the testing regimen is nearly universal among performers. These artists have accepted responsibility for their own health - and they inspect certified copies of each other's H.I.V. tests before performances.

Even more importantly, the industry is addressing not only the health of its performers, but also the health of its audience. All of the major manufacturers of XXX motion pictures and videos have announced a policy of accepting only all-condom sex scenes in their productions. Moreover, they are supported in this effort by most of the largest wholesale purchasers of XXX tapes. The wholesalers have pledged to give preferential treatment to condom-only productions in their sales effort.

This commitment reflects concern not only for the health of the actors and actresses, but also concern for the health of the scores of millions of people who comprise the adult entertainment audience. An entire generation of the population has learned about sex through the industry's products and services. While adult entertainment is undeniably fantasy material, the major manufacturers recognize that their products represent sexual role modeling for the world. The presence of condoms throughout sexually explicit productions is a great step forward.

SUBSTANCE ABUSE IN THE INDUSTRY:

Substance abuse has a negative impact on all sectors of business productivity in the United States, and the adult entertainment industry is no exception. It is the industry's policy, however, to ban the use of all drugs and alcohol on production sets and in gentlemen's clubs, and to provide an opportunity for counseling and therapy for those industry members who find themselves with a substance abuse problem.

Often, information on industry members' abuse problems comes from other performers or producers who are as concerned about the health integrity of their industry as they are with creating entertaining product. Again, such self-policing measures often prove to be a reliable safety net beneath the industry's other safety policies. The industry has numerous veteran performers who provide support, education and intervention when talent is determined to have substance abuse problems.

RAPE AND SEXUAL ABUSE:

A common fallacy is that adult entertainment activities like dancing and movies lead to rape. Indeed, it is likely that the opposite is true.

As part of just one of the U.S. Government's most thorough and in-depth investigations into pornography, a study was conducted of a broad sampling of felons in the U.S. penal system which charted their exposure to sex education as well as sexually explicit materials. The results paint a picture that clearly refute the pornography/rape connection. The highest incidence of exposure to adult material was found to be among non-sex-crime related offenders, while rapists, child molesters and other sex-crime offenders showed a preponderant lack of exposure to sex education, sexual experience, and sexually-related materials.

Decades of psychological studies (none of which were sponsored by, nor were in any way conducted by or associated with the adult industry or its members) have established that it is the inability to fantasize that is connected to the violent acting-out of sexual assault; thus confirming the accuracy of the homily that rape is an act of violence, not of sex.

The conclusion, then, could easily be reached that lack of sexual education and sexual outlets like adult videos, dance clubs and magazines lead to the ignorance, anger and frustration that may prompt sex-related crimes. This conclusion is supported by the dramatic reduction in sex offenses in Scandinavian countries following the decriminalization of sexual materials in the early 1960s. Clearly, then, the viewing of sexually explicit materials is a source of sexual fantasizing for the consumer and not an impetus for rape.

Another misconception about the adult entertainment industry is that women are coerced against their will to perform. Yet, the truth of the matter is that the talent in the adult industry, both female and male, solicit their own work, and most are represented by licensed and bonded agents. In fact, many more women want to work in the adult entertainment industry than the industry can accommodate.

Talent often give their own input as to how a scene will be played out, and also have the option of working with the performer(s) of their choice. They are never forced or coerced into working with anyone. No substantiated report of coercion within the industry has been made in over 20 years. Linda Lovelace's tale of being forced at gunpoint to commit sex acts against her will, whether true or not, is not only ancient history, but more of an indictment of her relationship with her lover/manager than of the practices of the early XXX movie industry, which at the time resembled nothing of its present-day counterpart. There is not one actress or dancer in the contemporary adult entertainment industry who has been made to perform an act against her will.

INDUSTRY LEGISLATIVE PROPOSALS - 1998

PROPOSAL #1 - The Traci Lords Act (written by the Legal Committee of THE FREE SPEECH COALITION):

Underage persons defraud employers and/or retail businesses by presenting identification obtained by defrauding government agencies. Relying upon government-issued identification, employers lose tens of thousands of dollars destroying materials created in good faith, but unsalable upon discovery of the true age of the performer. Distributors and retailers lose equally substantial sums destroying or returning product. Under current law, there is no disincentive for underage persons to engage in this practice. Instead, because of the publicity generated, there is an actual affirmative incentive to attempt to engage in this fraud! Minors offering false identification may attempt to enter establishments which offer entertainment suitable and lawful only for adults. There is likewise no disincentive to engage in such activity.

For example, in the 1980s, Norma Kuzma, performing under the name of Traci Lords, defrauded scores of manufacturers of adult films by presenting valid California- and Federally-issued identification, which was fraudulently obtained. Then a "superstar" in the adult industry, Kuzma performed sex acts while underage for several years, and cost the unaware adult entertainment industry millions of dollars when her deceit was revealed. Kuzma has since exploited her conduct to create a career as a B-movie actress in Hollywood.

In 1996, it was discovered that Aaron Lance Denno, performing under the name of Jeff Browning, engaged in behavior identical to that of Kuzma. Acquiring State and Federal identification by fraud, Denno presented this identification in order to perform in more

than a dozen gay movies. The adult entertainment industry lost tens of thousands of dollars retrieving copies of those movies and eliminating Denno therefrom. No civil remedy can adequately reimburse the industry. However, no defrauding underage performer has ever been prosecuted for his/her actions, or even threatened with prosecution. Rather, they are looked upon as the victims!
Proposed solution: Create a deterrence to such fraud by specifically criminalizing the behavior.

PROPOSAL #2 - The Access To Seized Records Act (written by the Legal Committee of the FREE SPEECH COALITION):

Problem: Current law provides of the seizure of business records and the computers on which such records are usually housed. Review of those records can be time-consuming for law enforcement. However, during the period of review, the loss of the business records housed on the computers can shut down lawful businesses, or create insurmountable problems for creating tax records, making tax payments, maintaining customer good will and fulfilling orders. Moreover, since many small businesses, especially home businesses, use computers for personal as well as business records, loss of access to that computer's records may cause loss of access to vital personal records, such as medical or school records.

Furthermore, absent a statutory means for providing duplicate copies of records, unnecessary litigation against law enforcement agencies for loss of income and similar damages is inevitable.

For example, the Los Angeles Police Department executed a search warrant on a home business in 1995, alleging that the operator of the business, which published a newsletter, possessed child pornography. All computer equipment, which contained the company's complete business records, including subscriber and tax information, was seized. Eight months later, the computer equipment and records were returned without any evidence of child pornography having been found. No criminal charges were brought.

Only good will, fear of reprisal and an un-trendy reluctance to litigate on the part of the business owners prevented a bitter civil rights action against the L.A.P.D.

Proposed solution: Provide a systematic means to duplicate and return business records to the entities from whom the records were seized, while providing law enforcement with the means to protect society from the dissemination of illegal matter by means of immediate judicial review.

Thank you for your attention. If you have any comments or questions, please feel free to contact our Legislative Advocate, Kat Sunlove, at (530) 888-1554, or the offices of the FREE SPEECH COALITION at (800) 845-8503.