1-1-2004

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VECTORS, POLLUTERS, AND MURDERERS: HIV TESTING POLICIES TOWARD PROSTITUTES IN NEVADA

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A dissertation submitted in partial fulfillment
of the requirements for the

Doctor of Philosophy in Sociology
Department of Sociology
College of Liberal Arts

Graduate College
University of Nevada, Las Vegas
December 2004

UNLV
UNIVERSITY OF NEVADA LAS VEGAS

Dissertation Approval

The Graduate College
University of Nevada, Las Vegas

November 22, 20 04

The Dissertation prepared by

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Entitled

Vectors, polluters, and murderers: HIV testing policies toward prostitues in Nevada.

is approved in partial fulfillment of the requirements for the degree of

Doctor of Philosophy in Sociology

Examination Committee Chair

Dean of the Graduate College

Examination Committee Member

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ABSTRACT

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by

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This case study explores HIV testing policy and prostitution in Nevada. Three general themes emerge from analysis of Nevada's HIV/AIDS policy regarding prostitution. First, HIV testing policies reflect and reproduce hegemonic sexuality--specifically gender inequality, heterosexist orientation, and negative stereotypes of prostitutes. Second, Nevada's legalized prostitution industry makes visible the effects of economic dynamics, specifically tourism, on policies related to sexuality. Finally, the policymaking process depicts conflict between two approaches to regulation: the punitive control measures favored by law enforcement, and prevention and public health strategies favored by health bureaucracies. Testing prostitutes for HIV became the dominant policy response to an emerging moral panic about AIDS in the mid-1980s. Nevada's conflicting policy approaches both tend to protect Nevada's economic interests and stigmatize prostitutes. The research examines public documents, newspaper accounts, and interviews with policymakers to describe the emergence of Nevada's regulatory policies, particularly in the context of interplay between sexuality, gender, economics, and political action. Further study of the relationship between moral panics and morality politics is necessary to understand how fear is transformed into policy through legislative processes.

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ACKNOWLEDGEMENTS

Without the guidance of the academic and intellectual community surrounding me, as well as the emotional, financial, social, and psychological support of family, friends, and colleagues, this work would not have reached fruition. I want to thank Dr. Kate Hausbeck for suggesting this project, which combined my interest in sex industry research with my experience as an HIV educator, while we floated in our condo complex pool; Dr. Robert Futrell for his keen ability to clarify difficult concepts and help me think out the process; my friend Dr. Michele Berger for encouraging my intellectual growth as an academic coach, co-facilitator, and mentor during this often frustrating process; and Dr. Carol Mason for her enthusiasm and willingness to help in the writing and job-search process during my last year at the University of Nevada, Las Vegas. The direction and organization of this case study must be credited to my chairperson and mentor, Dr. Barbara Brents. I doubt she realized how much she would be personally, emotionally, and professionally involved in this process. Who else would continue to mentor me while feeding newborn twins and caring for a three-year-old?

This research was funded in part through a grant from the Graduate and Professional Student Association at University of Nevada, Las Vegas. I also want to thank my graduate student colleagues and friends in the Sociology, Geoscience, and Women's Studies Departments at UNLV. Without Paula Walsh, Pete Simi (University of Nebraska-Omaha), Candice Seppa, Kristin Kerrigan, Jaime Phillips (Ohio State University), Sasha DeCania, Kelli Weaver, Nate Williams, Nicole Rogers, Michele Gladman, James Rutahindurwa, Monique Diederich, and especially Troy McGinnis, this journey would have been much

lonelier and drier. I especially want to thank Troy, without whose humor, intellectual passion, coffee talks, and ability to hear my voice amid my theoretical musings, I doubt I would have found the courage to finish.

I am grateful to my friends Karl Kingsley, Mark Keiserman, Becky Boulton, Christy Lapitan, Amy Bruer, Bufford Craig III, Christy Lake, John Parker, Robert Stovall, Ellen Cronan Rose, Lois Hembold, Paul Ferguson, Carol Hoeffle, Andy and Tina Fontana, Dr. Ken Marks, Tonya Thomas, Diane Vanderpol, Kyle Felker, Darrell Privatt, Fred Bachhuber, and the rest of the Geoscience department, Peg Rees, Maralee Mayberry (University of South Florida), Barbara Chesney, Patrick McGuire, and Cary Kart (University of Toledo), Marlo Tonge, Rick Reich, Jason Butts (Clark County Health District), Kate Winstrol and my friends at the Las Vegas Athletic Club, and my colleagues in the UNLV Women's Studies Department. Each of you helped make this academic and intellectual journey better through your intellectual support, fine dining experiences, and or by offering me safe spaces to think, relax, and work. In particular, I want to thank N. Mark Rauls for his willingness to stay at my side, reading my manuscript and offering invaluable critiques throughout this process.

Ultimately, I must thank my mother Betty, brother Carl, and father Robert for everything. I would not have been able to reach this dream without your unconditional love and support. And Dad, while you were not with me physically as I went through this process, you were always with me in spirit.

CHAPTER I

PROSTITUTION AND ITS DISCONTENTS

In the contemporary United States, Nevada is unique as a site of both legalized and criminalized prostitution. The state's bifurcated treatment of prostitution is reflected in its two distinct responses to the presumed emergence of AIDS[1] in the prostitution population, and a building moral panic. In this dissertation, I illuminate the similarities and contradictions within the mechanisms of state policy development addressing both of the state's systems of prostitution. Both employ a complex set of assumptions and tropes regarding prostitution, disease, gender and sexuality which are used to justify and maintain regulatory regimes and disciplinary mechanisms which have historically targeted the female prostitute body. Ultimately, both of these seemingly contradictory sets of policy were designed primarily to protect Nevada's economic interests.

Particularly for prostitutes[2] working legally in the state's brothels, the policy entailed methodical screening and mandatory condom use. Thus, it focused on surveillance and preventative techniques managed by the state's health division, an agency entrusted to protect public safety. In contrast, the policy toward non-legal prostitutes expanded the powers of law enforcement and enhanced punitive measures on an existing criminally defined class. Each initiative reflected the state's need to circumvent panic and reassure prospective tourists, thereby protecting the state's economic lifeblood. Despite rhetoric to the contrary, the state responses on both fronts were driven by economic need and focused on the regulation of the prostitute expression of sexuality rather than the protection of public health.

This dissertation is an exploration of the regulation of sexuality in the contemporary U.S. I use the case study of Nevada's seemingly contradictory HIV/AIDS policy regarding prostitution to examine three elements. First, the ways these policies reflect and reproduce hegemonic sexuality—specifically gender inequality, hetero-normative orientation, and stereotypes of prostitutes. Second, I use Nevada's unique legalized prostitution industry to examine the effects of economic dynamics on the contours of sexuality policy. Finally, I examine both the contours of policy and the contradictions and conflicts in the policy-making process.

A Context for the Regulation of Gender and Sexuality

HIV/AIDS represents one of the most recent disruptions in the persistently normative construction of sexuality. The disruption materializes as moral allegories that fuse ideas about sin and the body in policies supposedly privileging "cleanliness" over depravity. Thus, while contemporary policies governing sexuality tend to work ideologically, they control and regulate deviant bodies in both familiar and unfamiliar ways. The form this regulation has taken has shifted over time, but in the modern era the hegemonic form has been one where sexuality reflects gender inequality, heteronormativity, monogamy, and reproductive sex (Hawkes 1996). Policies governing sexuality are built upon the increasingly compelling authority of scientific and medical discourses. However, these policies become embedded and institutionalized only when policy makers react to the public's fears.

In this dissertation I argue that these influences indelibly shape how and why HIV/AIDS policy for legal and illegal prostitutes developed in Nevada. Sexuality in the Silver State is regulated by a regime of laws, rules and restrictions *rationalized* by science and medical discourses as opposed to a system grounded on purely moral or even populist sentiments. This illustrates Foucault's (1978) bio-power at work. Within modernity, there is the emergence of a historically novel apparatus of social control that structures how we think and act

toward sex and the body. These mechanisms of regulation are defined, supported and justified through the rationally sanctioned discourse of science.

Sexuality is a complex interaction between physiological desires, emotional states, and cultural attitudes that create, organize, express and direct sexual desire. Thinking about sexuality in this way is useful in addressing the variety of ways that sexuality is discussed and represented in our culture. It signifies that sexuality is socially constructed from meaningful interaction with others, and impacted by context and history. As a sociologist, what interests me about sexuality are the cultural attitudes that create, organize, express, and direct sexual desire. These attitudes are products of larger social systems—institutional and discursive—that regulate sexuality. The regulation of sexuality in late modernity[3] is a mix of formal policy through legal statutes and administrative code and informal moral ordering that promotes some expressions of sexuality while demonizing others.

Sin, Science and the Disciplining the Body

The late twentieth century is fraught with deep-rooted and unresolved tensions about sexuality (Hawkes 1996). These tensions revolve around dissonant ideas of danger and pleasure, temptation and restraint, and rationality and abandon which often result in the management of sexuality. Historically, sex and sexuality have been regulated ideologically, with moral arguments fused with ideas about "sin" and the body. As the bases for knowledge and truth shifted in modernity from religion to science, sexuality's regulation had to be legitimated by scientific and medical discourses:

> The often contradictory sets of ideas that surround sex and sexuality in the sexualized world we inhabit reflect a confidence in modern scientific thought that has eradicated old irrational ideas of dark fear or original sin, replacing it with an ordered and orderly set of ideas and practices in which "norms" are not defined in terms of a universal doctrine or religious beliefs. (Hawkes 1996:2)

This process of creating docile bodies through scientific discourse is seen in the work of Michel Foucault. Conceptualizing *bio-power*, Foucault (1978) believed that the modern regulation of sexuality began in the eighteenth century. Through what Foucault calls *the disciplines* and *regulatory controls*, individual bodies and the body of the population became subjugated and reconceived as machines that were part of the development of capitalism (p. 139). With the increased need for elements in the mode of production (human bodies, machines, and raw materials), these elements needed to be controlled, predictable, and available. With the rise of capitalism through industrialization, a change in power relations occurred. One of the results was a paradigmatic shift in how the world was known and regulated. Science replaced religion as the dominant source of knowledge from which life gained some certainty.

During the nineteen century, the regulation of sexuality was internalized. Sexuality and its control are located not only at the site of the individual body and its properties, but are embedded in the social body as well. Scientific and medical sensibilities of the nineteenth century provided the foundation for the emergence of identity politics, in which non-normative individual and group behaviors (i.e. homosexuality, promiscuity, nymphomania, etc.) were interpreted and scientifically classified as deviant based on prevailing notions about health. While regulation of sexuality shifted from an ideology based on religion and sin to one of science and disease, morality-based justifications for the regulation of sexuality were incorporated into scientific justifications. A variety of social movements based on competing but often complementary ideologies (i.e. feminism, religion, and science), mobilized to focus on the eradication of "vice" or unhealthy sexuality. The targets for control included sexual materials like pornography, birth control and abortion information, art, and music; and sexual practices such as masturbation, homosexuality, and prostitution (Rubin 1993:4).

Foucault interprets this mobilization as the process by which scientific justifications became political techniques which are dispersed, institutionalized and utilized both at the structural and individual levels of society. Law and public policy, which were once based on ideas of truth derived from religion and the soul, were incorporated and subsequently

deployed by a "continuum of apparatuses" built upon the rationalizing discourse of early science (Foucault 1978:144). Herein lie the roots of bio-power and modern strategies for regulating sexuality.

Fueled by discussions about the organization and discipline of sexuality vis-à-vis Foucault, historians and social theorists such as Brandt (1985), Fee (1988), Hobson (1987), Rubin (1993) and Walkowitz (1980) have influenced explorations of the manner in which bodies are controlled through medical discourse and the state. Sociologists have previously focused on prostitution and the sex industry as either functions of society, a reflection of gendered and/or economic inequality, or the lived experience of prostitutes and their clients. For example, Joel Best (1998) explores the regulation of sexuality as part of a neglected discussion of deviance and social control entities. Studying the de facto regulation of brothels in St. Paul, Minnesota in the late nineteenth century, Best finds that conflicting bio-political discourses at work within the system of social controls eventually eliminated the quasi legal brothel system. Schneider and Jenness (1997) examine the regulation of prostitution during the early years of the AIDS epidemic through moral panic theory. As noted by the authors, the identification and then regulation of a population traditionally labeled under the category of a "deviant" sexuality is a crucial characteristic of a moral panic. Thus, previous discussions of prostitution and the regulation of other marginalized expressions of sexuality may become all the more applicable and informative when examined in the context of the fear surrounding AIDS in the mid 1980s.

It is within the scientific medical discourse that metaphors of prostitutes shifted from those of sin and moral turpitude, to ones of disease, dirt, poor hygiene, and unsanitary conditions. These terms themselves were part of a revolutionary shift in medicine where the causes of disease and illness were traceable to a single source (specific etiology) and specific locations (body, geographic locations, and public spaces). The rise of public health campaigns and public sanitary movements focused policy efforts on making social spaces and certain populations less "polluted." Thus, if social spaces could be altered and unclean

individuals purified, the health and living conditions of the general population would be improved: people would live longer, healthier, and happier lives. Prostitution comes to be associated, as the discourse of science and medicine merges or replaces morality, with tropes of disease, filth, and other unclean situations. The rhetoric that chronicles and discusses this alignment is predominately from feminist and public health sources. Specifically, critical public historians and social scientists began exploring the cultural and environmental conditions of the regulation of sexuality and women through the study of prostitutes beginning in the late 1970s with the rise of feminist scholars in the academy who were influenced by Foucault, and riding the second wave of the women's rights movement.

Historical Associations: Prostitutes and Disease

As introduced in the previous section, prostitution has long been associated with the spread of disease. Prostitutes' lives and activities were often confined to particular commercial areas to regulate their sexuality and control other deviant and criminal activity often associated with prostitution. For instance, in Paris, most prostitutes practiced their trade in an area known as "the Clapier." This area became synonymous with the venereal disease gonorrhea, and gave rise to the contemporary slang term "the clap" (Bullough and Bullough 1987:25). The period predominantly associated with the first major outbreak of syphilis in Europe was the sixteenth century. Triggered by the invasion of Italy by France, syphilis's spread is attributed to the mixed nationality army and the prostitutes who accompanied them (1987:148). The response to the epidemic was strict regulatory policies toward prostitutes issued by religious authorities and manifested by municipal police ordinances (p. 152). While those with power drew an association between prostitutes and the spread of disease, the link between the two is not made explicit in historical accounts. This parallels current practices for regulating sexuality, but today, medical and public health experts have replaced religious leaders as the voice of authority.

The beginnings of the scientific study and medical regulation of prostitution is most evident in post-revolutionary France. The reasons that prostitution and venereal disease were becoming synonymous and a threat are attributed to three factors. The first was the spread of syphilis and gonorrhea by troops mobilized for the Napoleonic Wars and other conflicts such as the War Between the States. The movement of troops along with their accompanying camp followers, visits of soldiers to municipal brothels, and the spread of venereal disease throughout Europe and the United States by subsequent partners of soldiers (married, victimized, and other) are attributed to the spread of venereal disease through contact with prostitutes. Second, there was an increased knowledge of the manifestation, virulence, and trajectory of venereal disease. Based on the studies of Bell, Hunter, and Ricord, syphilis and gonorrhea were differentiated. Syphilis was characterized as having three stages, and shown to be infectious via inoculation (Bullough and Bullough 1987: 190). Finally, many municipalities' prostitutes (and interestingly, their customers in Berlin) were threatened with jail time for the transmission of venereal disease. Policy, such as the Prussian model of 1792, emerged as the knowledge of the virility of syphilis increased.[4] Thus, increased knowledge about sexually transmitted disease and its source of contact facilitated increased scientifically-based regulation.

The state's regulation of prostitution based on medical/scientific claims began in earnest in the mid-nineteenth century. In Russia, Italy, Great Britain and the United States, the state and its regulatory institutions began implementing conditions for the testing and treatment of prostitutes (Bernstein 1995; Walkowitz 1980; Best 1998; Brandt 1985; Hobson 1987; Pivar 2002; Rosen 1994). These state campaigns often arose from military concerns over the incidence of venereal disease in soldiers, the rise of morality-based sanitary campaigns, and the increasing legitimacy of medical knowledge, practice, and power. Yet social theorists like Walkowitz (1980) claim that the regulation of sexuality through prostitutes was part of a larger discourse that drew upon class-based and other xenophobic fears and promoted the protection of the upper classes from the unwashed, polluting masses (p. 4).

One of the first studies done on prostitution, often cited as a key source supporting the medical/scientific rationale for the state control of prostitutes, was Dr. Alexandre Jean Baptiste Parent-Duchatelet's work *De la prostitution dans la Ville de Paris* (1836). By applying scientific principles to the study of the phenomenon, such as archival research on prison, police and hospital records, interviews with prostitutes and government officials, and through observations, Parent-Duchatelet was able to compose an impressive demographic study of prostitution in Paris. While Parent-Duchatelet is credited with emphasizing the socio-environmental conditions that create prostitutes, his background with public health and a previous study of Parisian sewers is attributed with framing prostitutes as similar sites for study. In other words, Parent-Duchatelet's implicit association of prostitutes with sewers has had long standing implications for subsequent scientific/medical discourse (Bell 1994) that continued to associate prostitution with filthy and unclean spaces.

Another source for fueling the connection between prostitutes and the spread of disease was William Acton. His studies, based on the categories established by Parent-Duchatelet, paint the prostitute body on one level, as healthier than "normal" women's bodies, and on the other as the "spreader of poison." Acton's work is considered a combination of scientific study, social critique and moral proselytizing (Bell 1994:51). Yet Acton's studies—*Prostitution Considered in its Moral, Social, and Sanitary Aspects* (1857) and *Prostitution* (1879)—are the basis for the British Contagious Disease Acts of 1864, 1866, and 1869. These acts were instituted by the British military as a means to reduce the cases of venereal disease in its standing military. Instituted in garrison towns, working-class women could be accused of being prostitutes, held in a "lock hospital," examined for venereal disease and kept for treatment—both moral and medical—until fit for release. The Contagious Disease Acts were the first policies that formally associated prostitutes with the spread of disease and called for regulations to detain them (Bell 1994, Walkowitz 1980). This legislation also marks the beginning of policy that holds female bodies, not men, accountable for testing and treatment regimes.

Many studies examine the relationship between prostitution and disease. With the rise of the AIDS pandemic in the late twentieth century, feminist research, along with public history studies on disease, have examined the relationship of HIV/AIDS and gender. Bowleg (1992), Downe (1997), Jenness (1993), Sacks (1996), Schneider and Jenness (1997), Singer (1993) and Treichler (1999) all examine the unequal treatment of groups based on gender, sexuality, and behavior. Specifically, the discourse of the epidemic renders women as vessels for carrying the disease (prostitutes or mothers). Rather than seeing prostitutes as being *at risk* for AIDS and its complications, prostitutes are *blamed* and treated as intentional murderers or irresponsible people acting with reckless abandon.

The main sources of information for discussing gender inequality within the HIV/AIDS debate are feminist legal treatises and medical and public health studies. Feminist legal writings question the legitimacy of mandatory AIDS testing for female prostitutes from a civil rights position (Bowleg 1992; Snell 1994; Waters 1991; Werdel 1990). These studies address issues of consent, confidentiality, privacy, and differential treatment based on gendered sexual and reproductive norms. Often the first area that gendered and social policy is enacted and enforced is toward prostitutes.

Medical and public health studies (Centers for Disease Control 1987; Elfison et al. 1999; Gil et al. 1996; Rosenberg and Weiner 1988; Schoenbach et al. 1993; Ward, Day, and Weber 1999) tend to focus either on prostitutes' HIV seropositive rates or estimates of transmission to clients. Upon closer inspection, these studies tend to generate more questions than answers. For example, in studies of male clients, the correlation between sex with prostitutes and seropositivity does not necessarily equal causation when other risk factors may be present. Prostitute seropositivity studies generally show low positivity rates in prostitutes who consistently use safer sex methods, but indicate high positivity in prostitutes who use intravenous drugs and/or practice unsafe sex in their primary sexual relationships. Results from studies (Centers for Disease Control 1987; Elifson et al. 1999; Treichler 1999) show female prostitutes have rates of infection similar to women in the general population. Risks

are higher for women of color and those who have a history of drug use or previous exposure to sexually-transmitted infection (STI). Unfortunately, these medical and public health studies rarely have a direct or significant impact on policy makers. Instead, scientific discourse is seen as only one of many potential cultural and political influences—including regional norms, values, ideology, and interest group pressure (Mooney and Lee 1995)—that shape public policy. The long standing historical association of prostitutes with the spread of disease continues to influence the ideology and public perception of policy makers, even though recent scientific studies question the relationship between prostitutes and the spread of HIV/AIDS.

Chastity Belt or Money Belt: Demystifying the Economics of Prostitution

The regulation of sexuality from the late nineteenth century through the late twentieth century shifts not only in ideology and knowledge systems but also in the economic structure of society. "Late capitalism" or "late modernity" (Jameson 1991, Mandel 1975) refers to a conceptualization of capitalism that incorporates state intervention into the economy and the rise of the culture industry (Agger 1993:7). In "postmodern capitalism," commodity fetishism, or the tendency for relationships to be based more on currency exchange and less on intimacy has exponentially increased (Agger 1993:13). Therefore, the regulation of sexuality is impacted by the expanding commodification of sexuality as an experience to be sold, acquired, experienced and utilized. Sexuality and its regulation are intimately intertwined with the economy, a relationship that facilitates the dissemination of regulatory narratives and policies throughout the institutional structure of society, and the internalization of the values, political postures and normative assumptions that sustain them. The impact of the commodification and marketing of sexuality, especially within the tourist and leisure industry in Nevada, emerged as a major force in the development of the state's responses to the AIDS crisis.

The *Las Vegas Review Journal*'s front-page headline for October 24, 2003, read "Legalized Prostitution: Vegas Brothels Suggested." During a radio appearance shortly thereafter Las Vegas Mayor Oscar Goodman said there were "pragmatic reasons to back legalized prostitution": prostitution already exists, brothels provide "safer" regulated and revenue-generating sex, and brothels could even be used as a redevelopment tool for a shabby and faltering downtown (Neff 2003). Goodman explicitly recognizes the role of sexual commerce in his city and the state of Nevada, and relies on the rhetoric of what I call *making sin safer.* "Making sin safer" refers to the rationalizing discourse which readily markets the availability of activities such as gambling and prostitution that have been classified as illegal or morally questionable in other states. This discourse links the state's interests in public welfare and economy in Nevada.

The Las Vegas convention and tourism industry promotes "Sin City" through a series of television and print advertisements that stress the idea that "What happens in Vegas, stays in Vegas."(http://www.vegasfreedom.com/do/remote/index.jsp) The campaign suggests that visitors to Las Vegas can engage in behavior they normally would not at home and can do so without being stigmatized. Even if a tourist has no intention to indulge in such pursuits, its very existence "out there" on the street or behind the closed doors of a resort hotel room is alluring. Fantasy and titillation are as much a part of the tourist experience as actual adventures. The majority of the ads focus on women. One features a Caucasian woman in a business suit marrying a much younger Latino male at a wedding chapel. In another, a Caucasian woman in a limousine wearing an evening dress moans about the smell of leather seats and makes allusions to autoerotic pleasure (literally and figuratively) then emerges as a prim businesswoman. Yet another ad features an older Asian woman marking out a line of prose on a postcard, having rethought the wisdom of sharing her story with the family back home. Each of these is non-traditional in that they focus on a hypothetical feminine tourist experience implying sex.

Gambling and prostitution are legal industries that are heavily regulated in Nevada and are marketed as "safe," "clean" fun (although prostitution is not legal in Las Vegas or Reno, Nevada's major metropolitan areas). Within the corporate-controlled casino industry, this marketing strategy is especially evident. The proliferation of mega resorts—with 3000-plus hotel rooms and casinos featuring for-pay child-care areas, bowling alleys, skating rinks, movie theaters, bars, restaurants, showrooms, and convention services—demonstrates the legitimizing strategies of corporations with stakes in Las Vegas, a far cry from the strong-arm tactics that are associated with the legendary stewardship of organized crime.

Gottdiener, Collins, and Dickens (1999) posit that Las Vegas' exponential growth as a tourist destination was in large measure built on its association with accessible sexuality.

> Sex is formidably tied to the representation of the city in all its dimensions, from the old days of sleazy sidewalk hookers and lowlife men handing out literature pitching "escort" services to tourists on the streets, to the ultra-glamour and sophistication of topless revues and nude extravaganzas imported to Las Vegas showrooms from Europe. While some of the activity has faded over the years, especially since the mega-resorts in the 1990s, taxis still sport large signs advertising sexual enticements ... with a telephone number for strippers and escorts ... thus sex or at least the promise of it, remains a powerful signifier of the Las Vegas scene. (p. 79)

Not only is it a signifier for the city, but sexuality is part and parcel of the fundamental economic life of the city and its citizens. Both licit and illicit sexuality, from street corners to resort penthouses, are crucial contributors to Las Vegas' economic viability. Regulating sexuality is a delicate political affair that gives the appearance of "cleaning up the town" while simultaneously preserving a sinful image complementary to casino gambling. Representatives in Nevada are well aware of the structure of the local and state economy in crafting legislation for legal and non-legal prostitution. Health authorities, the state bureaucracy, and the brothel industry enacted administrative code that ensured the longevity of legal prostitution. Law enforcement and state legislators furthered criminal sanctions against

infected prostitutes, thereby reassuring tourists and residents alike that their carnal consumption was relatively risk-free.

Contradictions and Complexities in the Policy-Making Process

While there has been much written about the regulation of sexuality, it is important to examine the mechanisms by which these regulations come about. The policy making process is multifaceted, contradictory and complex and does not simplistically reflect hegemonic views of sexuality. The existence of both legal and non-legal prostitution leaves policymakers in precarious position, charged with developing an interventionist policy that would not disrupt one of the most critical and iconic economic features of Nevada.

While the brothel industry was given a chance to create its own system of voluntary self-regulation, owners and managers were unable to unite behind any particular plan. This failure prompted an immediate official response from the state. Policies controlling and regulating legal prostitution did not originate out of a groundswell of public concern as one might expect, but were instead initiated by state administrative and public health bureaucracies. The state's concern was fueled mainly by the threat of potential lawsuits and a sullied reputation if it failed to intervene. Ultimately, the brothel owners did support state regulation policies because they further legitimized the industry, reassured brothels' customer base, and improved the status of legal prostitution. The system was praised for its ability to monitor the disease status of prostitutes. In contrast, the policy was never criticized for the negative effects on prostitutes: loss of confidentiality, loss of job security, the economic burden of paying for their own testing, and a complete lack of assurance that customers would be HIV negative.

In addition to the underlying economic reasons behind Nevada's HIV testing policies, these regulations were in large measure the result of a media-fueled moral panic which ultimately enabled law enforcement to gain more power in regulating the most deviant of

bodies: non-licensed prostitutes. Selectively drawing on information from medical and scientific sources, policy makers were able to present initiatives that paralleled their moral presuppositions. There was no opposition to these policies from public health officials because it had been determined by legal opinion that enforcement of HIV testing toward non-legal prostitutes was the subject of criminal law. As the policy targeted only a marginalized population, civil libertarians voiced no opposition as well. The unique situation in Nevada led to a bifurcated policy response and maintained the status quo.

There's Gold in Those Hills: Nevada and Prostitution

HIV testing policy toward prostitutes in the state of Nevada can be seen to reflect not only how Nevada law has been created as a result of popular discourse and economic imperatives, but also as an embodiment of the different groups, values, and ideology of the citizenry of Nevada. In *The Sagebrush State*, Bowers (1996) discusses the influence of three events on the settlement of Nevada: the secession of large territories by Mexico to the United States in the Treaty of Guadalupe Hidalgo in 1848, the migration of the Mormons into Utah and Nevada, and the discovery of Gold in California. These events contributed to the state's economic growth and the development of conservative value clusters and ideologies among groups of Nevada residents.

Nevada's cultural legacy bears both the imprint of religious exiles who came to dominate certain regions of the West and independent-minded miners who initially sought riches in California and re-entered the state in the 1850s with discovery of the Comstock Lode. After the Treaty of Guadalupe Hidalgo, Nevada was no longer a foreign territory and settlers—largely Mormon missionaries—began to proselytize to the Native American Paiutes. Mining was the dominant economic force in the territory. Prospectors needed supply stations in the state as part of the overland route to the gold fields of the West Coast. Prostitution in Nevada emerged concurrently with the influx of miners.

Then, as now, sexuality and prostitution sustained the state's primary industry. Hausbeck and Brents (2000) cite three socio-political factors which contributed to the rise of the prostitution industry in Nevada: a migrant economy, a particular set of sexual values,[5] and a "cowboy," libertarian, anti-federal culture (p. 219). The migrant economy was the result of a male-only occupation that drew large numbers of single men to harsh living conditions that were characterized by periods of economic "boom and bust," not only for the individual miners but the settlements they occupied. This relative economic and social instability of the territory made settlement by families impractical. In these predominantly male communities, female prostitution flourished.

Sexual values toward prostitution in Nevada reflected essentialist attitudes about hetero-sexuality. It was assumed that men needed an outlet for their natural desires. The socio-sexual behavior of men was held to a different standard than the behavior of women. This double standard stratified women according to their "purity." Women were either good or bad based on their sexual and social behaviors. Prostitutes were deemed "fallen women," a class of women designated to serve the base needs of heterosexual men.

At the turn of the twentieth century, Nevada began to see the need for the regulation of sexuality in pragmatic terms under the influence of contemporary scientific and medical theories. These theories did not only apply to sexuality, but included scientific theories about the management of labor. The prevailing ideology of this time was that sexuality, especially prostitution, was an acceptable outlet for the sexual needs of Nevada's isolated male workers. Sexual release was seen as necessary for optimal productivity. Based on testing and regulation ideas from Europe, which had gained popularity in other parts of America (Brandt 1985), regulating prostitution through regular inspection and spatial containment was seen as more socially progressive and advanced than an informal policy of ignoring it. In other words, the control of biologically driven sexuality incorporated the latest scientific ideology and technology for a pragmatic, modern response to not only prostitution, but worker satisfaction and efficiency.

Later, with the rise of competing political movements such as feminism and socialism, regulatory policies were eroded in other parts of the United States. Why did this not happen in Nevada? An aspect of Nevada's traditional ideology is the tendency to approach potential social problems pragmatically, as in the case of casino gambling and liberal marriage and divorce laws. In addition, Nevada's geographic isolation may be a factor in preventing certain strains of social thought from changing as rapidly as in other areas.

Early feminists and social theorists (e.g., Butler 1871; Cady-Stanton 1848; Engels 1884; Goldman 1910; Grimke 1838; Mill 1870; Taylor 1851; Wollstonecraft 1792; Woodhull 1873) critiqued the sexual inequalities inherent in the social contract specifically in relation to private and public spheres. Later theorists like Pateman (1988) argue that sexual contracts in the private and public sphere reinforce male control and access to women's bodies.[6] This separation of social life into two distinct (and gendered) spheres allows examination of the institutionalization of sexuality in marriage and prostitution and of how state apparatuses maintain the boundaries between the different spheres (Bell 1994).

It is reasonable that the maintenance of gendered ideology about the sexual nature of men and women was used to maintain private/public sphere behavior and aid the social regulation of inhabitants as workers. Erosion of regulatory polices toward sexuality reflected larger social trends that shifted the view and evaluation of social practices from sin to science.

Nevada embraces a capitalistic regulatory approach to moral based issues. Not only does the state regulate illicit industries like gambling and prostitution, but places responsibility and culpability on the individual for any deviance. While still largely discussed in terms of sin, if the state's business leaders see an activity such as gambling or prostitution as good for business, then the state legislature tends to regulate it. Only when the activity is deemed a nuisance, impeding overall commerce does it become eligible for legislation making it illegal.

In 1971, based on bill proposed by Clark County (Las Vegas) legislators, the Nevada Legislature amended a statute regulating dance halls, escort services, and gambling games

and devices. The amended statute stated that prostitution was illegal in counties with populations of more than 200,000. Later this population limit was raised to 400,000-probably due to the tremendous growth many Nevada areas have experienced within the last 20 years. This revision was upheld by the Nevada Supreme Court in 1978. The Nevada Supreme Court ruled that this change "...tacitly allowed the sixteen counties not mentioned to license brothels" (Hausbeck and Brents 2000: 223, Kuo 2002: 81).

The laws structuring legal prostitution present a maze of municipal, county and state code. Currently, ten of Nevada's rural counties permit brothels. Five counties prohibit brothels by county law (Carson City, Douglas, Washoe, Lincoln, and Pershing). Brothel prostitution is prohibited in Clark County (Las Vegas) by state law. Eureka County has no written ordinance regarding brothel prostitution. Brothels are currently licensed (by the county) in the unincorporated areas of Churchill, Esmeralda, Lander, Lyon, Mineral, Nye, and Story counties. Elko, Humboldt, Pershing, and White Pine counties allow brothels in municipal areas: Elko, Wells, Winnemucca and Ely respectively, but not in the in the unincorporated areas. The municipalities are responsible for licensing their brothels. Currently there are 26 licensed brothels that employ about 300 prostitutes (Vogel, LVRJ 12/22/03 1B). The "boom and bust" conditions that encouraged prostitution in Nevada may have changed with the shift in economy from mining to tourism, but the current regulations on Nevada's thriving brothel industry and its workers are the cultural legacy of this era.

Work Rules for Working Girls

In responding to the AIDS crisis the state faced a dilemma. Prostitution is legal in some Nevada counties. Nevada could have gone the way of the rest of the United States and ended legalized prostitution, but it did not. Nevada chose to retain and strengthen its legal prostitution industry by tightening health regulations while also mandating HIV tests for anyone arrested on solicitation charges. This dissertation explores why and how Nevada responded to the AIDS crisis in seemingly contradictory ways.

Nevada officials developed a political response to the AIDS crisis that protected legal prostitution and further criminalized illegal prostitution in the state. However, they did so in a way that reflected two very different and complex tempers in policymaking. One (applicable to legal prostitution) arose out of the state's health bureaucracy and utilized prevention and health rhetoric. The other came from law enforcement addressed non-legal prostitution and emphasized punitive measures.

Beginning March 1986, the Nevada Administrative Code (NAC)[7] mandated HIV testing, along with existing sexually transmitted infection (STI) testing for syphilis (monthly) and gonorrhea and chlamydia (weekly) for prostitutes applying for employment at a licensed brothel. Prostitutes cannot be employed until either the state hygienic laboratory or a licensed medical laboratory has reported their tests as negative. These results are part of the work card requirement, which also include a "sheriff's card."[8] Work/health cards are required as conditions for employment in the gaming industry and other related service industry jobs.

In 1988, the Nevada State Board of Health revised the NAC to add a mandatory condom use policy. This policy states that latex prophylactics must be used when engaging in "sexual intercourse, oral-genital contact, or touching of the sexual organs or other intimate parts of a person" (NAC 441A.805). Currently, only "women" are employed at brothels. Nye County does define prostitution as male and female, but currently no self-identified "male" prostitutes are employed. This does not mean that transgender workers have not or are not currently employed in Nevada.

AB 550, passed in June of 1987, reinforced existing statutes that held prostitution outside licensed brothels illegal statewide,[9] and instituted mandatory HIV testing for individuals arrested on solicitation charges, earning Nevada the distinction of being the first US state to criminalize the status of HIV-positive prostitutes.[10] AB 550 made it a felony for any prostitute to continue to work knowing their HIV positive status (Nevada Statutes 1987:2027).

The bill faced many amendments. Originally, those convicted of being an intravenous drug user or those in possession of intravenous drugs and paraphernalia also were to be tested for HIV. This was later dropped. In addition, the original bill targeted prostitutes not customers for testing. This was amended in June 1987 to include any person soliciting or engaging in prostitution.

AB 550 not only reflects a gendered stigma of prostitutes, it was born of the fear that prostitutes were the conduit by which AIDS was jumping from homosexual or other "deviant" populations to the heterosexual, "normal" population. Contemporary scientific and medical reports speculated on the relationship of HIV/AIDS transmission and prostitutes, but the data was not conclusive. While prostitutes may have been considered a "high risk" group due to the nature of their occupation within the state of Nevada, the CDC had not officially categorized prostitutes as this status. Nevertheless, Nevada chose to respond to the AIDS crisis by mandating testing and criminalizing HIV status for prostitutes.

Methodology, Goals, Purposes and Structure of the Study

The purpose of this case study is to explore the contradictions and complexities of HIV testing policy toward prostitutes in Nevada specifically around the axes of gendered sexuality, morality, and economy. Historically, regulation of prostitution was (and remains) part of a larger discourse about the control and containment of sexuality. In late modernity, economic interests have come to overshadow moral concerns as the organizing logic of regulation, resulting in different forms of criminalization and tolerance of prostitution and other forms of sex work.

My primary research question is why Nevada, unlike the rest of the country, chose to respond to the AIDS crisis in the 1980s and 1990s by 1) keeping legalized prostitution and imposing health testing and condom use and 2) becoming one of the first states to criminalize prostitutes who are HIV-positive. Other states experimented with measures to

regulate prostitution as an expression of sexuality. These experiments were quickly abandoned in favor of criminalization as the more politically expedient option. Nevada chose a dual approach and implemented legal regulation as well as criminalization.

Throughout my research, I have kept specific questions in mind that have helped me uncover answers to the larger question, including: What effect do normative values toward sexuality and gender have on policy-making regarding prostitution? What role does scientific evidence play in the policy-making process of this case? What other information influences legislators' policy decisions? How do economic concerns shape AIDS policy, particularly when the local economy depends on the marketing of the tourist's sensory experiences? Do testing policies toward prostitution differ from past regulatory and disease regulations in the state, nationally, or both?

A moral panic about AIDS was threatening the stability of the state which prompted policy response. Policy not only appeased the public's apprehension about the AIDS epidemic and demonstrated that the state was actively responding to its concerns, but it protected policy maker's careers and the state's dominant industry: tourism and gambling. The reason that a testing policy toward prostitutes was the dominant policy response to AIDS was that it drew on existing attitudes and an underlying culture of sexism, normative sexuality, and an accepted stigmatization of prostitutes that allowed both policies to be accepted by the public, law enforcement, legislators, and prostitutes alike. Whether or not prostitutes (legal or illegal) were put at disadvantage was insignificant. Prostitutes are not viewed as legitimate workers, nor individuals worth protection. Customers, who contribute to the state's tourism and leisure economy, are valued. In short, the means of the policy was a moral panic about AIDS in the general public and a gendered, hetero-normative policy response that fit with long-standing associations of prostitutes and disease transmission. The ends of the policy were the protection of the state's economy threatened by an epidemic. Ultimately, it is clear to me that Nevada's policies for legal and illegal prostitution are not contradictory. They serve the same goal of assuaging the public's fears while protecting the

state's economic interests and furthering the interests of legislators, industry, and law enforcement.

Methodologically, I identified interview subjects and documents required to review and analyze the complex set of policies developed for prostitution and HIV/AIDS testing, demonstrating their role in the regulation of sexuality, the economic concerns that affect the policy made, and the influences on the diverse set of policy-makers involved in the process. To this end, I focused on: 1) the primary legislation, its key proponents, and interest groups who developed Assembly Bill 550 and Nevada Administrative Code (NAC), 2) preceding public health policies which may have influenced the primary legislation and 3) the conceptual themes of gendered sexuality, the economy, and the policy making process that emerged during analysis.

Chapter two begins with a review of the literature, on gender, sexuality and prostitution and existing health and social policy on HIV/AIDS. I then review policymaking and economic theory related to the politics of prostitution and the tourism industry. Data collection and methodology will be detailed in the third chapter. The fourth chapter gives a chronology of the policymaking process regarding HIV screening and legal prostitution and the contradictions and conflict surrounding the formulation of this policy. In Chapter five, I examine the history, process and idiosyncracies involved in creating similar policies regarding non-legal prostitution. The final chapter discusses the larger theoretical and social implications of my research findings.

NOTES

[1] Prostitute will be the term adopted in this study to refer to individuals who exchange sexual services for a fee. The term "sex worker" is the preferred term of many "sex positive" feminists. "Sex worker" is more inclusive of the variety of occupations that are under the rubric of "sex industry" such as erotic dance, pornography and adult film, fetish work, and phone and internet sex. Sex worker as a term arose to challenge essentialist conceptions of prostitutes as an innate characteristic versus an occupational status. Most importantly, "prostitute" is the term used almost exclusively in the legal code and scientific/medical discourse that became the data/evidence for the policy examined in this case study. HIV testing policies were exclusively targeted toward prostitutes in the state of Nevada. Workers in other sectors of the sex industry were not subjected to disease testing mandates.

[2] "AIDS" as a term had been introduced in July 1982 as a more inclusive term and description than "GRID Gay Related Infectious Disease." Almost five years later in 1986, HIV (Human Immunodeficiency Virus) as a replacement for the "AIDS virus." The choice of this term was deliberate. According to Treichler, the choice of HIV was credited to its promise of unification of the scientific establishment and to promote the idea of a single etiology or agent hypothesis (p. 30). Eventually, the diagnosis and thus identity of AIDS is assigned when a person has a CD4, or white blood count, below 200 and or an opportunistic infection. It was also around this time in the public's mind that one could be infected with a virus (HIV) and not have a diagnosis of AIDS. What is important about a discussion of the naming process for HIV/AIDS is that while HIV was the preferred term for the virus, AIDS was used interchangeably. At the time, the time span and eventually diagnosis of HIV to AIDs was very short. Also when AIDS as a term was introduced, it was associated with certain death and the "gay plague."

[3] I will use "late modernity" to mean the last half of the 20th century where science and technology have come to dominate and subsume all other systems of knowledge. While I recognize that other structures are active and impact the embodied experience, "modernity" is meant to capture the effects of these forces as they work in discourse. Best and Kellner (1991) review the variety of definitions ascribed to modernity. For some theorists, like Marx and Weber, modernity is the time period beginning in the Middle Ages with the end of feudalism. Others cite philosophical movements that shifted knowledge and understanding from religion to reason. In the wake of this ontological change, social movements began calling for self-determination and rule moving away from monarchies to democracies. Besides political and intellectual upheavals, modernity is characterized by artistic movements and in the production and increasing dependency on consumer products, communication and mass media, mass transportation and technology.

[4] Although Bullough and Bullough state that fears about syphilis increased demand for the medical inspection of prostitutes, there is no mention of where the association of prostitution and the spread of venereal disease came from. Was it from medical/scientific studies of the time, popular beliefs, military and police powers, or the infusion of morality from religious ideology that fueled this regulatory policy?

[5] The concept "particular set of sexual values" discussed by Hausbeck and Brents needs to be explored. Are the values in themselves unique or do they correspond with the political and economic context of the situation? I sense that the sexual values are not unique to Nevada or the time period. Essentialist ideas about the nature of men's and women's sexuality (a double standard) exist along with orientation around heterosexual exchange. Non-traditional sexual forms or values do not seem to be present, such as polygamous family forms, sexual autonomy of women, and open forms of alternative sexualities.

[6] While Pateman portrays the sexual contract as male control over female bodies, one could question the validity of this argument for same-sex prostitution. I would contend that for the most part, prostitution is constructed in feminine terms. Regarding Pateman's view of social contract theory, patriarchy is the initial system from which the social contract emerged. In terms of status and power, the male claim to rights in the public sphere to make contracts is different than the rights women can claim.

[7] The NAC is authorized under Nevada Statutes as the minimum requirements for regulation within the various state agencies, boards, commissions, departments, and divisions, authorized by the state to fulfill authorized or mandated obligations. (NRS 233B. 020) Regulations are defined as any agency rule, standard, directive, or statement applicability which interprets law or policy, or describes the organization, procedure, or practice requirements of any agency (NRS 223B.038). Under NRS 441A.120, the State Board of Health is the entity entrusted with adopting the regulations, which regulate the control of communicable diseases in the state in educational, medical, and correctional institutions. The regulations enacted by the State Board of Health must specify which diseases are known to be communicable, the communicable diseases known to be sexually transmittable, and procedures for reporting and investigating suspected communicable disease cases, including the time period in which action should be taken, and the procedures for testing, treating, isolating and quarantining any individual who has or is suspected of having a communicable disease.

[8] A sheriff's work card requires a background check and allows tracking of test results in the case of prostitutes.

[9] Prior to the passage of AB 550, all previous legal descriptions of prostitution in Nevada clearly characterized prostitution as feminine occupation. While a revision in 1979 acknowledged that males could be prostitutes, it focused on the specific sex acts that could be exchanged for money and thus, continued this process of sexuality in terms of gender and the body. Previous to that amendment, the language was even more clearly gendered. Prostitutes were not only female but of an "unchaste" character. This implies a gendered sin and morality-based definition as the basis for Nevada's law. One can question the degree to which the sin and morality based aspects of this statute were continued in further revisions including AB 550.

[10] There is some confusion over which state (Florida or Nevada) had the first laws penalizing HIV positive prostitutes for solicitation.

CHAPTER II

LITERATURE REVIEW

This case study explores the contradictions and complexities of HIV testing policy and prostitution in Nevada, focusing on the axes of gendered sexuality, morality and economy. In the first chapter, I outlined relevant historical and theoretical contexts from the literature surrounding the regulation of sexuality and prostitution. In this chapter, I will examine in detail the scholarship which shaped and directed my study.

I begin by exploring the concepts of gender and sexuality: how they relate to prostitution and why they are presented as correlates. Sexuality and gender as indicators of status inform my discussion of the regulation of sexuality within the system of social stratification. The consequences of sexuality- and gender-based stratification are reflected in public health rhetoric that associates sexually transmitted disease with prostitutes. This rhetoric is part of a larger social process that legitimizes the incorporation of sin and morality discourse into scientific and medical explanations providing the normative rationale for policy.

Medical and public health policy, discourses associated with truth and knowledge, are imbued with the power to define institutions and social relations. These discourses comprise and employ a complex set of assumptions about gender, sexuality, and disease. These assumptions, in turn, justify and maintain regulatory regimes and disciplinary mechanisms which have traditionally been aimed at the feminine prostitute body. After discussing legal and social responses to prostitution, I will discuss how medically supported arguments about disease transmission and prostitutes justify policy. I will then examine theories about the influence of moral panics. In studies about the regulation of sexuality, fears about prostitu-

tion are often part of larger "sex panics" (Rubin 1993) that utilize public hysteria about sexuality to introduce public policy. I conclude the section on policy by examining influences on policymakers, such as health authorities and special interest groups like prostitutes and sex industry owners.

I will then review Marxist theory as it has been applied to prostitution and sexual tourism, both internationally and in Nevada. The literature review ends with an examination of the connection between prostitution and Nevada's economic structure, including the tourism industry's reliance on the sex industry, and the local ideology that internalizes prostitution as a natural part of the economy.

Gender, Sexuality and "The World's Oldest Profession"

Modern nineteenth-century prostitution was generally associated with the lower classes. Prostitution was one of the few options many women had for supporting themselves and their families. Prostitutes were, as the classic Victorian bromide goes, "the unskilled daughters of the unskilled classes" (Walkowitz 1980:15). Prostitution was often the best career option for women with little to no formal education. Other labor options (such as domestic work, laundering, dress and hat-making and street vending) were low paying and physically demanding.

Prostitution, or the exchange of sex for money, services, or material goods, has traditionally been understood as gendered as well. Typically, females exchange bodily services for payment by males. While there are significant numbers of gay, lesbian, bisexual, and transgendered prostitutes—and many instances where commercial sexual activities are negotiated between same-sex individuals—prostitution infers a stratification system in which one party (either through their dominant gender, economic, ethnic/racial, or power status) is able to secure the sexual services of another party (Zatz 1997; Lerner 1986).

Social scientists theorize gender and sexuality as stratification systems that produce differential treatment for various groups and individuals based on ascribed and achieved

statuses. In this section, I examine these two systems of order and meaning in the context of prostitution in Nevada. The literature demonstrates how normative (and often negative) assumptions about gender and sexuality shape HIV testing policies toward prostitutes, and how these assumptions are reinforced by health policies. Gender and sexuality are difficult to separate conceptually in analyses of prostitution. "Prostitution is both a practice in which gender and sexuality play important structuring roles and one that cannot simply be reduced to gender or sexuality" (Zatz 1997: 279). The gendered and sexualized assumptions of prostitution will be examined in relation to social policy. The static dichotomous categories of man and woman, heterosexual and homosexual, and "normal" and "other" employed in health and medical policy discourse are problematized by alternative views of the workings of both gender and sexuality as systems distributing power, prestige and capital *particularly* in the area of prostitution.

When the Other Woman is a Woman "Other"

Gender stratification refers to a social or organizational system that privileges and rewards individuals according to a hierarchy based on personal traits and social positions associated with one's biological sex. A guiding assumption in western feminist theory is that women, as a class, have been universally ascribed a secondary status in patriarchal societies. Subordination of women has existed in every type of social and economic arrangement and in societies that differ widely in complexity. Yet, the treatment of women and their relative power in society varies greatly from culture to culture and over different time periods. (Ortner 1996). Ortner believes evidence for women's oppression can be found in cultural ideology that explicitly devalues women's roles, tasks, products and environments against men's similar activities and spheres; symbolic devices such as cultural metaphors that devalue women's lives and behaviors; and social-structural arrangements that deny women access to formal and informal spheres of power (p. 23).

For many feminists, prostitution has been a conceptual lens used to illuminate gender stratification in society. Gender stratification is apparent in prostitution through criminalization and control policies that target female workers over male customers and biological and scientific studies that portray female prostitutes as deviant, pathological, and unnatural and paint male clients as normal (Bell 1994). Monto (2000) and Alexander (1987) discuss the difference in arrests for female prostitutes versus male customers. While some state statutes have been updated with gender-inclusive language, female prostitutes are still the vast majority arrested on solicitation charges. It has been argued that the high arrest rates simply reflect the social reality that prostitution is a female-dominated occupation in Euro-American societies. (Zatz 1997: 279). According to this argument, arrests for prostitution are proportionate to the gender that dominates the field. Yet, this viewpoint neglects the predominant definition of solicitation in the United States. Solicitation, as a crime, is a verbal agreement to engage in a sex act for a certain price between two parties. Therefore, the crime of solicitation applies to both the prostitute and the customer. Yet, customers are rarely arrested on solicitation charges (Chancer 1993). In their review of state criminal statues, Closen, Bobinski, Hermann, Hernandez, Schultz, and Strader (1994) found that only Colorado, Michigan, and Kentucky explicitly mentioned and required clients to be tested for HIV when arrested on solicitation charges.

Historical trends visible in nineteenth century medical discourse that constructed syphilitic prostitute bodies as different from other women's bodies in that they "created venereal disease within themselves" (Spongeberg 1997:166). The prostitute body, according to Spongeberg, was constructed as "deficient" in studies by physicians, psychologists, and criminologists like Tarnowski, Parent-Duchatelet, Lombroso, and Ferrero. Scientific and criminological studies of incarcerated prostitutes claimed that prostitute women were born with certain attributes, both mental and physical, that predisposed them to deviance. Yet women, in and of themselves, were considered inherently diseased in comparison to the norm: men (pp. 166-167).

Gender stratification also occurs *within* gender. Prostitutes are often labeled "bad girls" or "whores" to distinguish their sexual practices or social identities from "good girls," who are asexual or have sex (which they may not even want) only within marriage. The labels "prostitute" and "whore" stigmatize women as *unchaste*. While any woman can be a whore, not all women are prostitutes precisely because of the double-edged definition of chastity. To be unchaste is to indulge in "unlawful or immoral sexual intercourse;" but also describes women "lacking in purity, virginity, decency of speech, restraint, and simplicity; defiled (i.e. polluted, corrupted)" (Pheterson 1996:65).

If womanhood is based, in part, on being pure, undefiled and restrained, women's subordinate status is maintained by the knowledge of what happens to other women who do not conform to the model of chastity. Women who are labeled as whores risk social sanction for bearing this stigma, including interpersonal discrimination, violence, and state regulation.

Yet "good girls" are cognizant that men regularly engage in relationships (sexual and otherwise) with "bad girls." Women who conform to norms of gender and sexuality are threatened by women who do not; "good girls" name other women "whores" to shore up the power, stability, and status accorded them as chaste and "pure" participants in the gender stratification system. In a patriarchal system, the ability to stigmatize some women as "whores" fortifies those social structures that oppress all women. Basically, women never win in the dichotomized political economy of gender (Chancer 1993).

Prostitutes—as well as other women (and some men) whose sexual and social behaviors do not conform to patriarchal norms—are particularly vulnerable to stigmatization. The "bad girl" label is often applied to women who rebel against the "compulsory heterosexuality" (Rich 1993) embedded in patriarchal structure. Compulsory heterosexuality is a condition in which women have been convinced through male power that marriage and sexual attraction toward men is inevitable (Rich 1993).[1] "Prostitute" or "whore" always describes the lowly "other," the sexually unchaste or socially rebellious woman or man. The prostitute is the archetypical gender stigma because it is used as a device to keep women subordinate to

men who conform to what Connell (1995) has identified as the "hegemonic masculinity" of the West: male, white, Anglo-Saxon, Protestant and heterosexual. Men whose behaviors conflict with their gender status or violate compulsory heterosexuality, are regulated by feminization. When males prostitute themselves, they are often "feminized" or transformed through discourse into *lesser men* as a way to justify their subordination (emphasis mine; Fechner 1994; MacKinnon 1989; Spongeberg 1997; Zatz 1997).

Gender stratification helps explain why female prostitutes are targeted for control and containment: female prostitutes are oppressed due to their ascribed secondary status in the gender order. In a society hierarchically ordered by gender, attributes that may be positively rewarded or privileged for one gender are punished in another, like autonomy, sexuality, and ability to earn income. In addition, social stratification for female prostitutes is maintained through inter-gender ideology that seeks to reward femininity based on relationships with males, such as marriage and family obligations. In addition, female prostitutes are ascribed a lower gender status based on discourse that positions the female body as diseased, weak, and abnormal.

Sex, Society and the Wages of Passion

Sexuality is also a stratified system. As stated by Rubin (1989) "the realm of sexuality has its own internal politics, inequalities, and modes of oppression. As with other aspects of human behavior, the concrete institutional forms of sexuality at any given time and place are products of human activity. The forms of sexuality are imbued with conflicts of interest and political maneuvering both deliberate and accidental" (p. 267). Gender stratification privileges and rewards individuals according to a socially constructed hierarchy based on traits and positions associated with one's biological sex. Sexual stratification privileges and rewards individuals and groups according to a hierarchy based on one's biological attributes and socially constructed sexual behavior and identity. Recently, social theorists (Foucault 1978, 1985; Rubin 1989; Weeks 1981) have challenged traditional analyses of sexuality. These

theorists contend that biological and scientific explanations for sexuality are, in themselves, rhetorical and ideological means to maintain sexual stratification systems and necessitate the regulation of sexuality. Foucault explains "...sexuality must not be thought of as a kind of natural given which power tries to hold in check, or as an obscure domain which knowledge tries to gradually uncover. It is the name that can be given to a historical construct" (1978: 105).

Yet sexuality is much more than a socially created situation for these theorists. It is a construct that has been used to establish and sustain unequal power relations. Sexual acts have a tradition in Western culture of being ranked along a hierarchy. Those individual behaviors ranking high in the hierarchy, like marriage, reproduction, and heterosexual sex result in rewards for individuals, such as "...certified mental health, respectability, legality, social and physical mobility, institutional support and material benefits" (Rubin 1993: 12). Individuals whose behaviors are located on lower tiers of the sexually-stratified hierarchy—transsexuals, sex workers, fetishists and sadomasochists, for instance—tend to experience punitive sanctions based on religious ideology and medical definitions with normative and proscriptive power to define a "morally-correct" sexuality.

Typically, four major social institutions regulate sexual relations among genders: obligatory heterosexuality, marriage, reproduction and prostitution (Pheterson 1996: 14). As a social institution, prostitution operates on several assumptions about sexuality and gender that facilitate regulation and maintenance of social hierarchies. For example, prostitution occurs outside the bounds of the heterosexual marriage contract. Deemed the "employment contract" by Pateman (1988), sexual services are negotiated for a fee or exchange of commodities or security directly, rather than as part of a legal contract that subsumes sexual activity between the parties. The disconnection of sex from procreative expectations is another aspect of prostitution that marks it as a deviant social institution. Prostitution's manifest purpose is to provide sexual opportunities or "release" in the pursuit of pleasure rather than in the course of fulfilling some obligation or duty to family, religion or society.[2]

Children are not the desired outcome of sex on the market, which is a direct challenge to norms of compulsory heterosexuality. Zatz (1997) problematizes the sexual identity of prostitutes and even the sex/gender presentation of those who contract for commercialized sex. He notes that prostitutes' commercial activities are not necessarily in concert with their personal sexual identities and behaviors.

In contrast, the married man with children who pays for his sexual pleasures away from home is hardly a faithful acolyte to the patriarchal catechism of heterosexuality—he's breaking the rules. Still, his transgression does not negate his sexual or social identity, and in fact tends to reinforce his masculinity. For prostitutes, the transgressive nature of their occupation always marks them with a deviant identity.

Queer Fusion: Gender, Sexuality and Policy

While previous sections examined gender and sexual stratification as separate and distinct oppressions, current discourse questions the bifurcation of these concepts. This position is especially seen in literature that attempts to fuse feminist and queer theory (Bornstein 1994; Butler 1999; Erni 1998; McKay 1999) or argues that gender and sexuality are complementary if not interchangeable concepts. For example, In *Gender Trouble: Feminism and the Subversion of Identity*, Butler (1999) questions the influence of non-normative sexual practices on fairly static categories of gender. Fausto-Sterling (1985, 2000) problematizes the traditional concepts of sex and gender (two biological sexes equaling two genders) by demonstrating the occurrence of five or more sexes throughout time, and across cultures through the incidence of hermaphrodites and intersexed individuals. Lorber (1994) also questions the very notion of static sex/gender at all, arguing that one's experience of gender as a social institution is often incongruent with one's embodied sense of gender. Bornstein (1994) distinguishes gender and sex as a difference between system and function. Differences among sexualities are often framed in biological or essentialist terms, or as socially constructed statuses. Yet no matter what form sexual arrangements take (heterosexual, gay male,

lesbian, etc.) these forms are all based on the gender of the partners. This attraction to a partner of a particular gender is not necessarily based on genital preference but gendered appearance and performance.

At the beginning of the AIDS epidemic, biomedical and social morality discourse focused on gay men, the population in which AIDS was first noticed and was the most virulent. Female prostitutes and other promiscuous women had not come to the fore of the crisis (Treichler 1999). Once women and prostitutes began to become infected, they were prioritized for intervention, despite the continuing health threat to homosexuals. "The quantitative burden of this epidemic continues to be borne by gay men," writes Treichler (1999:48) "and the very communities who labored throughout the eighties to disarticulate AIDS from gay male sexuality are striving to re-gay AIDS so that resources will not be withdrawn where they are as needed as ever." Gay men's health organizations struggled with medical authorities and decision-makers to retain their "at-risk" status as the threat of infection to women increased, probably because HIV infection among women was perceived as a danger to heterosexual men. Clearly, the convergence of gender and sexuality is not always beneficial to identity politics (Treichler 1999).

For the already marginalized population of gay men, the outlook was bleak. Being "gay" was increasingly associated with "being diseased," which lent another dark dimension to institutionalized homophobia and provided an excuse to ignore or redirect aid, prevention resources and public sympathy toward other groups affected by AIDS and HIV. Prostitution, as a perceived vector of disease, was a perfect scapegoat: by focusing public uneasiness about HIV on prostitutes, politicians could (1) avoid acknowledging the devastating impact of AIDS on homosexual men, (2) transfer attention from gay men to women, who posed a more immediate threat to heterosexual men, and (3) contextualize public discourse and policy responses to the HIV crisis within the established structures of "compulsory heterosexuality" that by and large defined men, women and the limits of acceptable sexual behavior.

The logic behind the regulation of prostitution is the same logic that maintains the normalcy of heterosexuality. Once it became clear that female prostitutes engaging in heterosexual sex were also at risk for contracting AIDS, the focus of policy efforts switched to mitigating the perceived problem of AIDS infection among prostitutes—women who were viewed as purveyors of disease as well as pleasure. While gay men certainly challenge heteronormative notions of masculinity, they were so effectively marginalized that AIDS was seen as a solution to the "gay" problem rather than an issue of public health. Women prostitutes, on the other hand, continued to provide services and sexual benefits to heterosexual men. A policy response regulating rather than ignoring these women was inevitable.

Patton (1988) and Gorna (1996) frame the experience of AIDS as "queer" in the theoretical sense. Regardless of the exposure route, infected persons are queer because infection is a mark of perversion. She (1999) believes that at heart, sex work is queer. McKay believes that sex workers perform not only sexual services but also a gendered identity for clients. Both workers and clients respond to the gender identity that each is performing for a sexual exchange. Feminist theory, which has traditionally subscribed to a gender and sexual stratification model, has been primarily oriented toward male and female relationships within a heteronormative perspective.

Queer theory shares several common themes with feminist theory. Both evolved in response to marginalization. "Just as the term 'queer' has been used to label deviant sexual behavior, the social sexual identity of the prostitute or the whore has been used to control women and their behavior" (McKay 1999:52). Like most iterations of feminist theory, queer theory challenges traditional stereotypes and perspectives by questioning notions of fixed identity. This orientation is particularly relevant to examining prostitution. Prostitutes and other groups—such as homosexuals—that have been at risk for acquiring HIV/AIDS include those whose political and cultural identities are attached to their sexuality, but also involve those who are "abnormal" by society's standards, such as "junkies, the whores, the

refugees, the hemophiliacs" (Gorna 1996:7). AIDS is queered because of the traditional lack of sympathy for and stigmatization of its victims.

While gender and sexuality do not always exist harmoniously in public discourse, Erni (1999) insists on theorizing sex and gender together because this approach has the potential to reframe the HIV/AIDS epidemic. "Over the past sixteen years in the US, frustrations have been escalating in the care-giving, social service, and activist communities over the serious incongruence between people's concrete and varied experiences in the epidemic and the dominant social and scientific practices operating on narrow and deadly cultural assumptions about sexual and gendered realities" (p. 3). Separate definitions about gender and sexuality are problematic for care-giving, social service and activism, and often translate into muddled, unclear, or ineffective social and health policies. For example, mandating HIV testing for prostitutes as a "risk group" defined solely in terms of sexuality neglects the complexity of gendered interactions embedded in the prostitution contract. The result? Sexuality might be regulated, but only through enforcement of gender norms.

Collapsing the artificial categories of gender and sexuality undermines the legitimacy of scientific and medical discourses that perpetuate prostitutes' status as deviant and other. As long as gender and sexuality are unified conceptually, medical discourses drawing on "natural" or essentialist assumptions may be openly and successfully challenged. Generally, retaining the connection between gender and sexuality empowers critics to question the propriety, applicability and legitimacy of scientific studies about prostitution.

The literature indicates prostitutes are subjected to regulatory strategies driven by normative values about both gender and sexuality, often expressed as aversion to perversion. Prostitution, like other "queer practices," is a lightning rod drawing the wrath of organizations and social actors against certain "other" women and men. Group processes like stigmatization and mental and social distancing diminish sympathy, so prostitutes—mostly women—become easy targets for policy intervention whose congenial face masks moral condemnation for daring to challenge norms of heterosexuality and gender.

Defining Sexuality to Regulate Sex

Social theorists have begun to explore the regulation of sexuality throughout history and its relation to contemporary regulatory policies like AIDS. The late twentieth century is often characterized as a period of deep-rooted and unresolved tensions about sexuality (Hawkes 1996). Balancing danger and pleasure, temptation and constraint, and rationality and abandon was the *raison d'etre* for the often unspoken code of the managed sexuality of the post-Victorian period. Recent feminist theoretical work has examined how the state, as the site for negotiating power, has oriented itself to gender relations. This discourse implies state intervention through law to regulate either sexuality (marriage, divorce, child custody and welfare provision) or sexual and body autonomy (reproductive rights, rape, and prostitution) (Ballard 1993; McKinnon 1989; Weeks 1997).

It was not until the rise of sexual identity politics in the 1970s that sexuality became the subject of intense public and intellectual inquiry, and began to be understood as a socially constructed concept. Foucault (1978) and others, including Weeks (1981) and D'Emilo and Freedman (1988) have shifted the focus of social theory to ways in which public discourse about sexuality regulates bodies based in part on individuals' sexual identities (Ballard 1993). Understanding sexuality as a socially constructed concept challenged traditional discourse equating sexuality with a naturally occurring, instinctual driven phenomenon – an animal-like state that humans have little to no control over. Both the second wave of the women's movement and the gay liberation movement provided the ideal conditions for social theorists and activists to question the conditions from which they were seeking liberation.

Many theorists (Foucault 1978, 1988; Gagnon and Simon 1973; Weeks 1981) have explored the ways in which sexuality is influenced or constructed by cultural practice. They examine how it is internalized by humans interacting with social forces like institutions, ideology, and power structures. Foucault's exploration of sexuality in particular is part of a larger philosophical project to understand the knowledge systems implicit in modern discourse about sex and practices of pleasure. Foucault's work revolves around the steady formation and almost universal acceptance of science and its methodological approach as

the dominant source and path to knowledge, the transformation of individuals into subjects to be administered, and the internalization of state power and moral control by subordinate bodies.

I have established that regulation of sexuality is inseparable from the administration of moral codes. Foucault saw rules and dictates of behaviors as part of a complex interplay of formal and informal elements of social life. While the formal elements might be explicit—values, normative expressions, customs or traditions—implicit rules may cancel them out, even surpass their power to direct behavior. Together, the system of formal and informal elements constitutes a "moral code" that may take one of two forms of expression in individual behavior: "ethics-oriented morality" or "code-oriented morality." Ethics-oriented morality is based on the Greco-Roman ideal of *askesis,* basically "self-discipline," and directs individuals to learn to govern themselves (notably by controlling their passions), versus code-based morality or *nomoi.* Nomoi is a respect of law and the conditions of its application (1985: 30-31). Each moral form is used to justify regulation of sex and sexuality, and depending on historical period and social context, both may be deployed simultaneously. Foucault's moral construct operates to monitor and manipulate discourses on sexuality at both the individual and group level. The rise of modern social conditions such as rationality and technology; changes in religious orientations, economic opportunities, and family structures; and an increasingly individualistic discourse of the social self all demand an equally modern construct of sexuality and equally problematic strategies for control.

Often behaviors like knowing a HIV status and continuing to put others at risk are seen as demonstrating the absence of askesis or self-sanctioning, which results in code-based morality or, more precisely, legal regulation. Historically, deviants and marginalized populations have always been seen as lacking the characteristics essential to self-government. Women and minority groups stereotypically lack rationality, or self-control, or are somehow unable to bridle their passions—for such groups, code-based morality is the only option for the powerful elites. Elite notions of morality and self-control are gendered in Western

patriarchal societies as masculine. Because prostitutes are conceptualized as feminine, they are cast as the objects of code-based morality rather than subjects of ethics-based morality.

Foucault and the Tools of Governance

Foucault conceptualizes power as a series of abstractions that pervade the entire social body. Power is not an institution or a structure, nor is it a particular strength or ability that endows us; instead it is a name "that one attributes to a complex strategical situation in a particular society . . . Power is everywhere; not because it embraces everything, but because it comes from everywhere" (p. 93). Power according to Foucault operates through language and discourse[3] to structure social institutions and relations; it is not about crude prohibition, brute force, or negativity. Power operates and is legitimized through concepts like truth and knowledge and the systems of meaning attached to them (1980:424). Discourse about sexuality, then, is really about the spread and diffusion of power. Foucault demonstrates that discourse can simultaneously be an instrument of power and a subversive tool against it. In the case of prostitution, the seemingly chaotic and risky sex trade in Nevada is ordered by the politics of panic.

Panic Theories: Sex, AIDS and Morality Politics

Theories of moral panics attempt to explain how social policy develops during a state of excitement over perceived transgressions of moral boundaries. The term "moral panics" was coined by Cohen (1972) to characterize the reactions of policymakers, the general public, the police and the media to a specific social issue. In particular, the media, in Cohen's classic study of a riot in a seaside town, created a "horror story practically out of whole cloth. The seriousness of events were exaggerated and distorted" (p. 155). According to Schneider and Jenness (1997), moral panics can be defined as "a widespread feeling on the part of the public or some relevant public that something is terribly wrong in society because of the moral failure of a specific group of individuals" (1997:473) and that something must be

done to control this problem. Based on the work of Goode and Ben-Yehuda (1994a, 1994b), Thompson (1998) succinctly describes the intrinsic pattern of moral panics: someone or something is defined as a threat, the threat is portrayed in an easily recognizable form by the media, there is a exponential rise in public concern, and eventually the panic recedes and/or results in public or social policy. The influence of the media and political actors in contributing to a climate that produces moral panics is important when thinking about HIV /AIDS and social policy. Rubin (1989,1993) and Schneider and Jenness (1997) contend that the biological and medical elements of the AIDS epidemic have effectively been translated into a moral panic. The difference between contemporary and past moral panics is that rather than focusing on one group of people as the cause of a problem, contemporary moral panics question the status of the very institutions or social relations that traditionally are thought to provide stability (Thompson 1998:2).

A key aspect of moral panic theory is its association with morality. Goode and Ben-Yehuda believe that when examining the groups involved in a moral panic it is important to discuss the issue of motive. Do policy actors, special interest groups, the media, and citizens become involved in a moral panic because they deeply and genuinely share a common worldview, ideology, or morality about an issue or situation, or do these policy players have ulterior motives, such as economic gain as a result of involvement? The question of motive and morality are important questions, like gender and sexuality, they might not be as separate as one would like. Many policymakers participate in moral panic mentality not only because it fits their worldview and their morality, but as politicians, it fits their constituent's perceptions as well. One could question if a lack of participation on a moral panic piece of legislation might be detrimental to the policymakers involved.

In addition, these theorists believe that moral panics are more likely to emerge from those in middle to lower levels of "the power and status hierarchy" (Goode and Ben-Yehuda 1994a:19). Groups that may be vested within these positions include "professional associations, police departments, the media, religious groups, educational organizations"(p. 19).

These types of interest groups differ from what Goode and Ben-Yehuda label "established lobbies" or "established pressure groups" by having different access to formal policymakers. Established lobbies "employ a paid professional staff who represent their interest, or the interests of their clients."(Goode and Ben-Yehuda 1994b:117) This perspective is important for examining the influence of middle level actors and organizations on social policy. It proposes that diverse groups that are not always associated as prime power brokers may have a role in policy formulation, the causes of panics, and may act as moral entrepreneurs who create crusades.[4] Moral panics emerging from the marriage of AIDS and prostitution in the media question what is considered normal, moral and natural in social relations involving the family (Thompson1998:72).

To Schneider and Jenness, the AIDS epidemic has inspired the reform of existing public policy along with new legislation. The authors argue that the public policy responses are structured by gender and sexuality and have expanded social control mechanisms and denied civil liberties to those groups deemed the cause or threat (1997:472). For Schneider and Jenness, one group in particular that has been the target of legislation with AIDS is female sex workers. They argue that stereotypes about women, especially African American, pregnant, and prostitute women, have influenced legislation supporting "forced quarantining, reporting, screening, and prosecution of HIV positive female sex workers" (1997:475). The same sentiments are echoed by Bowleg (1992), although her approach is from a legalistic framework versus a moral panic perspective.

It is estimated that as early as 1984, the possibility that prostitutes could spread HIV into the "normal" heterosexual public was being investigated by medical authorities such as the Centers for Disease Control (Schneider and Jenness, 1997:475). By 1988, legislation was being proposed and passed in Georgia, Florida, Utah, and Nevada that required the routine testing of arrested prostitutes. In conjunction with this legislation, judges, district attorneys, and other policy institutors began supporting criminal charges for prostitutes who tested HIV positive. Criminal policies targeting HIV positive prostitutes reflect the moral, political,

and economic interests of the policymakers proposing this legislation. Law enforcement officials seek to control and contain dangerous populations through increasing their police powers. The findings of Backstrom and Robins (1995/1996) indicate public health officials reflect their orientations toward prevention and treatment. Less than forty percent of legislative health chairs and chief state health officers supported proposals of legislation that would criminalize continued high risk behaviors of people who test HIV positive. Schneider and Jenness' comments about the role of the criminal justice community and public health policy and Backstrom and Robins' assertions about the role and influence of health committee chairs calls for further investigation into the direction and power of the relationship between public health laws for protecting the public good and acting as a means of control.

Physical Bodies, Social Bodies and Sexuality

Sexuality and its control are not only located at the site of the individual body and its properties, but related to the social body as well. Sexuality and its regulation were once supported through ideology infused with moral arguments based on ideas about sin and the body. As the basis for knowledge and truth shifted in modernity from religion to science, sexuality's regulation was legitimated by scientific and medical discourse.

"The often contradictory sets of ideas that surround sex and sexuality in the sexualized world we inhabit reflect a confidence in modern scientific thought that has eradicated old irrational ideas of dark fear or original sin, replacing it with an ordered and orderly set of ideas and practices in which 'norms' are not defined in terms of a universal doctrine or religious beliefs" (Hawkes 1996:2). This shift from sin-based exhortations to scientific rationales for regulating sexuality is an "ordered and orderly set of ideas and practices" (Hawkes 1996) that Foucault (1978) names "bio-power," a process of creating docile bodies through scientific discourse that began in the seventeenth century.

Bio-power occurs on two interlocking levels. The first, which Foucault conceptualizes as "the disciplines," refers to the mechanization of the human body. This is done to exact

desired attributes in a rationalized manner. The second, termed "regulatory controls" seeks to expand this mechanization to the population as a whole. In other words, the "the disciplines" seek to create a malleable body and "regulatory controls" maintain its health and operation. Thus, individual bodies and the body of the population became subjugated and reconceived as machines as part of the development of capitalism (p. 139). With the increased need for elements in the mode of production (human bodies, machines, and raw materials) these elements needed to be controlled, predictable, and available.

> This bio-power was without question an indispensable element in the development of capitalism; the latter would not have been possible without the controlled insertion of bodies into the machinery of production and the adjustment of the phenomena of population to economic processes. (Foucault 1978:140-141)

Both the human body and the species body need to be conditioned and sustained for participation in the economic system. This occurs through a variety of social institutions (the military, education, family, religion). The techniques used in one institution are utilized and reinforced in another – thus dispersing control throughout the social and individual body. While these institutions regulate the moral and ideological components of our society, the end result is subservience and obedience to capitalisms' goals.

Scientific justifications became political techniques that were dispersed and utilized both at the structural (institutional) and individual level. In fact, law and policy once derived from ideas of truth based on religion and the soul became incorporated and utilized by a "continuum of apparatuses" (Foucault 1978:144). One of the results was a paradigmatic shift in how the world was known and regulated. The metaphysical discourses of religion gave way to the mega-rational discourses of science, and science replaced religion as the dominant source of institutional knowledge upon which people relied for a unifying sense of certainty. Science and medicine became the basis for truth and knowledge.

Smart (1992) utilizes Foucault's ideas to explain how laws that regulate women's sexuality reflect the processes of normalization. She examines British legal discourse that regulated women's sexuality and reproduction, finding that scientific and medical authorities were instrumental in redefining issues such as infant death into murder, abortion, the accessibility of birth control, and baby farming and infanticide. For Smart, the ultimate goal of scientifically supported, morality-based law is that it strengthened the process that defined women's bodies as unruly and needing intervention for docility.

Morality and sin-based policies were competing with a biomedical model of disease. In this model, a causative agent is identified as the source of disease, tests are developed to identify the source of contagion, and appropriate treatment through a physician or a clinic is recommended. Besides identifying the source of disease as a bacterial or viral agent, issues of blame and immorality are diminished. Yet, even some of the most committed advocates of the biomedical model were uneasy about the "decoupling of venereal disease from sin and promiscuity." The proponents of this perspective asked "how would sexual morality be controlled if not by the fear of the disease? Would rampant promiscuity defeat the best efforts of medical treatment?" (Fee 1998: 335).

The primary research question of this study is why Nevada responded to the HIV/AIDS crisis by criminalizing the HIV-positive status of prostitutes while imposing further testing requirements and mandatory prophylaxis (condom use) on women working in legalized prostitution. If the consensus of medical experts is that AIDS and HIV presented differently than more well-known sexually-transmitted diseases and "traditional" epidemics in terms of gender and infection, the question of why Nevada policymakers adopted a traditional strategy and targeted prostitutes as the population requiring regulation begs explanation. Did normative values about sex, sexuality and gender affect policymaking for prostitution by inhibiting or discouraging non-traditional responses to the AIDS crisis? To answer such questions, I will examine the similarities and differences between HIV testing policies toward prostitutes and past regulatory or disease policies to discern the bases of legislators'

decisions, with particular emphasis on local economics. Sexuality and sexual commerce are integrated into Nevada's tourist-based economy, thus the nature, contours and content of the economy are especially important in shaping AIDS policy. The explanation for the traditional policy response to the AIDS crisis might lie in the emergence of a moral panic, one consequence of which would be to protect the economic interests of the state at the expense of the "working girls."

Politics and Prostitution: Traditional Regulation, Classification and Reaction

The phenomenon of prostitution is often viewed as a social problem to which public policy must respond, since sexual services are exchanged outside of sanctioned relationships like marriage, and often outside the purview of state regulation. Yet the legal, social, and political response to the exchange of sexual services for compensation manifests itself in a variety of ways. Typically social theorists classify prostitution regulations according to four public policy responses: legalization, abolitionist policies, criminalization, and decriminalization (Barry 1995; Bingham 1998; Brents and Hausbeck 2001; Farley and Kelly 2000; Irving 1998-99; Kuo 2002; Reynolds 1986; and Shrange 1994). Nevada is one of the few states in which several policies, legalization, abolitionism, and criminalization exist simultaneously. This section will explore the varying assumptions and manifestations of public policy toward prostitution.

Before starting, it is important to examine what is meant by public policy. According to Reynolds (1986), public policy is composed of the written law, enforcement of the law by criminal justice entities and law enforcement officers, and the attitudes of community members toward the laws and their enforcement. (1986:35). Each of these factors has an impact on the manifestation in a particular area and in turn reflects the social and cultural character of the social environment in which is operates. The following section will briefly discuss the characteristics of the different social policy responses to prostitution and the

formal and informal elements used by the state and its actors to control it. The next section will describe how public health discourse, based on medical and scientific authority, associates prostitution with sexually transmitted diseases as part of public policy.

Legalization-Regulation

Legalization, which is also known as regulation, permits prostitution when it complies with specified laws, city and municipal codes and ordinances, and statutes (Kao 2002: 66). Legalized prostitution is often heralded as the rational, liberal response to prostitution because not only does it acknowledge it as an endemic practice, but it seeks to regulate and control it through surveillance, registration, and taxation. In other words, legalization and regulation policies have many benefits. In the United States, prostitution is only legal in Nevada's licensed brothels. Yet other businesses where prostitution may occur, such as escort services and massage parlors are often licensed by the state. While these businesses are not licensed to exchange sex for money, authorities often tacitly understand that prostitution occurs as part of other for-fee service provisions. "Licensing massage or escort services is merely a way to control the activities somewhat, even though the masseuses and escorts are still liable for charges of prostitution if a complaint is lodged" (Reynolds 1986: 42). Unfortunately, Reynolds does not mention that business owners also risk criminal charges or losing a business license if prostitution is found to be occurring as part of business practices. Legalization is favored as a policy response to prostitution in that it allows for the surveillance and monitoring of prostitutes, assists in instituting health practices and standards, is accessible for taxation purposes, and requires little effort on the part of criminal justice entities and health authorities for enforcement. Licensing also tends to be fairly inexpensive (Reynolds 1986).

Historically, legalization/regulation policies are some of the first interventionist strategies utilized for the regulation of sexuality and gain legitimacy by proposing to control disease, violence, theft and petty crime, assaults, sexual trafficking, and other social problems (Brents and Hausbeck 2001, Kuo 2002). Often the secondary social benefits of legalization/

regulation policy—violence, theft, assaults—are as important in controlling and regulating the public's safety as the health rationale. As indicated, legalization polices have many positive attributes for dealing with the control of prostitution that fit modern ideas about accountability, surveillance, enforcement, and control. Yet, legalization also presents contradictions and complexities that make this policy form problematic.

One problem that is still an aspect of legalization is that of exploitive third parties. Ideally, legalization also eliminates the involvement of pimps and organized crime in prostitution, although the efficacy of this response has been challenged (Barry 1995: 228). Legalization also dictates who can be eligible to obtain a work card. Prostitutes who either have a poor health status or prior criminal record cannot work legally. Because of the regulation system, a number of illegal prostitutes will never be able to work legally, thus competing with those available to work for licensed brothels.

Work cards often involve background checks for criminal records and sexually transmitted disease status. Not only is this health information available to state actors, but it can potentially label or stigmatize someone who works in the field. While other occupations require licenses that mandate health and background checks, these fields do not carry the same stigma as prostitution (Reynolds 1986). Kuo (2002) and Brents and Hausbeck (2001) highlight the surveillance of prostitutes through legalization policies as problematic in terms of personal autonomy and its dependence on a subordinate role. Especially in the realm of Nevada's licensed brothels, prostitutes' mobility is limited due to formal and informal rules that structure the conditions of working and interaction with the community. Some of the dictates that impact prostitutes working in legalized brothels include: working conditions, including shift times, living on premises, time off and on, and personal time and access to the community for errands; police regulations, such as the registration of prostitutes' vehicles and prohibiting prostitutes' families from living in the community; and health conditions. In addition, while many workers may be legally considered independent contractors for tax purposes, they are treated as employees within the confines of the brothel. In addi-

tion, licenses are granted to brothels, not individual prostitutes. Therefore if a prostitute wants to work at another brothel, she has to reapply for a work card. If prostitutes were licensed (like other professional workers) they could practice their trade anywhere. Legalization limits prostitutes to specific work locations.

Proponents of abolition maintain that laws against prostitution should be eliminated and statutes against third-party involvement in prostitution should be strengthened (Barry 1979,1995; Brents and Hausbeck 2001; Hobson 1987). Instead of going after prostitutes, law enforcement should focus its efforts on those who benefit from or encourage the exploitation of women through prostitution, including panderers or "pimps." During the late nineteenth century, feminists and social purity activists in the United States and Great Britain disagreed with regulations that targeted and stigmatized female prostitutes, rather than the male customers who benefited from the system (Barry 1995; Best 1998; Bell 1994, Brandt 1985; Hobson 1987; Jeffreys 1997; Pivar 2002; Rosen 1994; Walkowitz 1980). Barry (1995) contends that abolitionist advocates rejected state supported legalization policies because customers and owners, rather than prostitutes, were seen as the object of protection. Instead, abolitionists felt that the state should not legitimate prostitution at all. (p. 236). Currently, in the United States, almost all social policy that regulates sexuality through prostitution has some element of abolitionism in it (Brents and Hausbeck 2001). It is ironic that in Nevada, brothel owners are seen as legitimate business owners to be protected, yet other third-party operators, like pimps and escort service owners, are subject to criminal sanctions for their role in non-legal prostitution. Most states not only criminalize solicitation between customers and prostitutes, but criminalize those who live off the earnings of prostitutes (pimps) or who facilitate prostitutes' entry into the field (panderers).[5] A positive aspect of abolitionist policies is that prostitutes are not penalized. The negative impact is that prostitutes are labeled as victims. This reduces their voice and their ability to choose prostitution as a vocation.

Criminalization: Laissez-Faire and the Control Model

Criminalization, or prohibition, is the process by which legal statutes define a social condition as illegal. Prohibitionists claim to be motivated by humanitarian or moralistic concerns for the prostitute and the client. Functionalist ideas – like the idea that a reduction in visible prostitution will reduce other criminal activity in residential or business areas – underlie criminalization policies (Kuo 2002). Prostitution is eliminated or decreased through punitive legal and social sanctions placed on the individuals or groups associated with the problem.

Reynolds (1986) classifies criminalization policies toward prostitution as either subscribing to a "laissez-fair" model or a "control" model. In a "laissez-fair" policy model, prostitution may be illegal under state or local statutes or ordinances, but law enforcement personnel and agencies do not suppress prostitution markets (p. 37). Three reasons given by Reynolds for non-enforcement of official criminal laws and statutes against prostitution include official or unofficial pressure from courts not to enforce statutes, anti-enforcement sentiment from the community, and direct or indirect monies for law enforcement to look the other way. Reynolds contends that these policies occur either in cities that have overburdened police forces or in geographic locations in which the economy is dependent on adult tourism and conventions. This policy of limited criminal justice involvement changes when either the prostitution activity exceeds its informal limits or when prostitution associated crime begins to negatively impact residents and the image of the tourist destination. A laissez-faire model seems to be intricately involved with the economy of a community.

From prostitutes' standpoint, a positive aspect of a "laissez-faire" policy toward prostitution is that police tend to focus on prostitution-related crime, such as theft and assault, rather than prostitution itself. It can also give prostitutes relative freedom in working conditions, setting market price for services, and the ability to engage in practices, such as safer sex and voluntary testing, that are good for business. A problem with this model is that

control over these areas is often shifted to third parties, such as pimps or owners of quasi-legal sex industry businesses.

The control model, as directed toward overt non-legal prostitution like streetwalking, actively encourages law enforcement efforts to arrest and investigate prostitutes. The control model typically emerges in communities characterized by a high level of homogeneity among citizens, especially in terms of social class. Citizens in such communities agree about the need for and definition of public order. Control models often have two consequences. Either prostitution is shifted to another less visible location, or it becomes an underground industry. When prostitution goes underground, it does not present an open challenge to public order, so law enforcement officials may switch to the laissez-faire model. Prostitution is allowed to continue for those who maintain a low profile and generate no complaints. However, prostitution may become a target for control again due to the efforts of ambitious politicians, religious leaders or other community activists.

Most areas in the United States employ some version of the control and laissez-faire models in their criminalization policies toward prostitution. Criminalization mandates tend to direct punitive action toward prostitutes, not their clients. (Brents and Hausbeck 2001) Also, both models of criminalization are more concerned with community interests and the economy, and less concerned with the rights of workers. Nevada's two largest cities, Las Vegas and Reno, are examples of communities that employ both criminalization models. Because both locations are dependent on convention and adult tourism for their economies, prostitution is tolerated as long as it complements gambling and other sensory experiential activities. Escort services are allowed to operate under a laissez-faire model, while streetwalkers are heavily controlled by a constant threat of arrest. Therefore, it is the economic concerns of Nevada's counties and municipalities and their industries that influence the model of criminalization used to regulate prostitutes.

Controlling Risk: Prostitution and Disease

Typically, the two major policy responses to prostitution and disease are regulation (legalization) or prohibition (criminalization)(Alexander 1996; Brandt 1985; Brents and Hausbeck 2001; Chapkis 1997). Regulation policy is aimed at controlling risk. Risk can be defined as a material object, situation or force that poses a danger to people or something of value (Gotsin 2000:93). Therefore, a risk to prostitutes would be acquiring a sexually transmitted disease. A risk to the general public would be the transmission of an STD from a prostitute to a customer. Risk can be reduced for both prostitute and customer through the adoption of mandatory condom use policies. Typically three justifications are given necessitating public health intervention. These include a risk to oneself, a risk to others, and protection of incompetent individuals.

Typically prostitution regulation policies assume that prostitutes are either a risk to others, such as their customers or their customers' partners, or incompetent individuals (prostitutes are seen as deviant others who need care). These assumptions are both gendered and sexualized. Not only is one party of the prostitution relationship responsible for health outcomes, but regulation policies can be enacted based on the inferiority or incompetence of prostitutes due to their gendered sexuality. For example, Nahmias (1989) theorizes the statistical risk an HIV positive female prostitute poses of infecting customers, their partners, and children based only on estimates of the potential number of clients a prostitute could have sexual relations with, not the statistical average. Secondly, while Nahmias briefly mentions the applicability of his model to both genders, he focuses on female prostitutes. Another issue with Nahmias's design is that his model does not factor actual percentages of prostitutes with AIDS in the United States, but bases projections on epidemiological research about rates of heterosexual transmission of HIV among African prostitutes (Pheterson 1996).

In theory, when public health regulations are being proposed, four factors influence the decision: the nature of the risk, the duration of the risk, the probability of harm, and the

severity of harm. (Gotsin 2002:95-96). Each of the risk components should be supported by scientific evidence. Ideally, the state evaluates regulation policy through a "means/ends" test. This evaluative tool measures the four factors involved in formulating policy and determines its effectiveness. The purpose of evaluation is to see if the benefits that are gained by a society outweigh the personal burdens and costs of the regulatory policy. Control measures that are associated with the regulation of prostitutes and disease include mandatory STD testing, licensing and registration measures with medical and police entities, and zoning regulations for containing the sex trade.[6] These measures are officially established and sanctioned by the state and the various institutions that support it.

Prohibition or criminalization policies place punitive sanctions on those groups or individuals that are associated with a social problem. Therefore, if prostitutes are the vectors of disease, the cure is to render them invisible – either physically or socially – via incarceration or stigmatization. These policy responses demonstrate that there is a standard and established public policy model when dealing with prostitutes.

Historical Trends: Regulating Prostitution, Preventing Disease

Regulation of prostitutes for disease prevention has a long history in both Europe and the United States. According to Bullough and Bullough (1987), Bernard Mandeville, an English doctor, proposed public brothels as means to reduce the spread of sexually transmitted diseases to "innocent spouses and children" as early as 1724 (p. 182). This same sentiment is expressed in 1770 by Nicolas Edme Restif de la Bretonne, who proposed mandatory medical inspections of public prostitutes (p. 183). One of the first systems of regulation for prostitutes began in France in 1796 with a registry of prostitutes. The mission of the registry was later expanded to include examination of prostitutes by physicians for STDs. When STDs were discovered, they were reported by physicians to the state. Eventually, by 1802, a dispensary was established for physical exams. These measures ceased due to lack of state

funding. What made these procedures unique is that they were not codified into statutory law. Rather, they were administrative regulations that were sporadically enforced.

Berlin had similar regulatory procedures in that testing and inspection regimes were not formal laws. Germany's regulations differed from France's. Formal criminal sanctions were threatened if a prostitute transmitted an STD to a client. The prostitute could be incarcerated for three years, and she also had to pay for the client's medical expenses. In addition, the brothel keeper could be fined. A significant difference between Germany and France was that in Germany, male clients could face penalties for infecting prostitutes with an STD. During the mid-Nineteenth century, most European cities had some form of regulatory practice in place for prostitution. Unfortunately, medical knowledge and procedures compromised physicians' effectiveness, since they did not practice aseptic techniques. Medical practitioners probably spread STDs to prostitutes through examinations that were originally intended to help them diagnose and treat infections.

Brandt (1985) and Bullough and Bullough (1987) posit that American ventures into prostitution regulation were highly influenced by European practices. One of the earlier advocates for licensing , weekly inspections, and health certificates for prostitutes was Dr. W. W. Sanger (Bingham 1998). Writing in 1858, Sanger stated that while prostitution has historically proved resistant to suppression, it could be managed and regulated. While initial attempts at regulation, such as zoning and lock hospitals for treatment and quarantine, were initiated during the Civil War, mainstream support for regulation did not gain momentum until the late part of the Nineteenth Century (Brandt 1985; Bullough and Bullough 1987; Hobson 1987; Lowry 1994). Many American cities like New York, Chicago, Cincinnati, and San Francisco passed ordinances for licensing and regulating prostitutes, yet only St. Louis was moderately successful (Bingham 1998).[7] Due to these failures, many American cities invoked existing statutes with police power clauses to segregate prostitutes into contained areas (red light districts), and continue mandatory health examinations. An example of this de facto regulation system was San Francisco. In 1911, The San Francisco Municipal Clinic

was the site for bi-weekly testing of prostitutes. Under the auspices of the Board of Health, if a prostitute tested negative, she would be issued a health card to practice her trade. If positive, a license was denied until treatment took place (Hobson 1987). In many ways, this policy is similar to the one now in place for legal brothel prostitutes in Nevada.

Currently, many countries around the world require STD and general health checks as well as licenses for sex workers. For example, in 1987, West Germany required general health monitoring and registration for prostitutes through its health office. Sex workers were tested for all STDs, except for syphilis, every week. Syphilis tests were required every three months. If a sex worker failed to take the required regime of tests voluntarily, she could have been taken forcibly by the police to the health office (Pheterson 1989).

The most recent social policy response to toward prostitution is decriminalization. Decriminalization policy evolved from the prostitutes' rights movement, which shifted the status of prostitutes from one of embodied label and stigma to one of workers (Brents and Hausbeck 2001). Drawing on Marxist and feminist arguments about fair labor conditions and practices, decriminalization would allow prostitutes the same business opportunities as other independent contractors (p. 309).

Decriminalization removes laws that prohibit prostitution (Bingham 1998). Irving (1998/ 1999) expands this definition of decriminalization and situates it as part of the larger social sexual context. Advocates of decriminalization challenge traditional private and public sphere debates about sexual relationships and believe that commercial sexual activity should not be legislated any differently than any other type of business activity or private sexual activity. Rather than regulating the sexual exchange of prostitution through criminal statutes, decriminalization would relegate the governance of commercial sexual activity to professional associations and civil statutes. Decriminalization tends to be policy approach favored by feminists. There are several reasons decriminalization tends to be the most empowering for prostitutes. Positive attributes for decriminalization include the reduction of criminal sanctions against prostitutes; more involvement of prostitutes in co-operating with law

enforcement about crime and other safety issues; more freedom in choosing the conditions of their labor environments; the facilitation of state supported social services for prostitutes; access to basic work related programs and employee rights currently denied to prostitutes, such as insurance, social security and retirement, unemployment and grievance procedures; educational campaigns that encourage safe health practices rather than mandate them; and the reduction of stigma from institutionalized or codified labels. (Irving 1998/1999; Kuo 2002: 136). Shrage (1994) discusses some pitfalls of decriminalization. In other industries that have been decriminalized and have little to no government regulation, there has been a growth of "large scale, nongovernmental, profit-oriented enterprises" that are as exploitative and manipulative of workers as legalized and criminalized forms of prostitution (p. 83).

Legalization Policies, Disease Control and Nevada

Legalization/regulatory policies have been a part of Nevada's history from its inception, beginning with the mining boom around 1859. The initial type of prostitution was "crib" prostitution, followed by more permanent brothels in the 1870s. During the progressive era (early to mid twentieth century) laws across the nation sought to criminalize prostitution. While Nevada made prostitution illegal in 1923, Reno and Las Vegas followed other American cities by maintaining regulated prostitution under existing county and municipal codes. According to Rocha (1975) "prostitutes' fingerprints were checked by the FBI for criminal records and received weekly medical inspections for gonorrhea and monthly for syphilis" (p. 11). This de facto regulatory practice formally ended in 1941 with passage of the May Act. Responding to long-standing associations of prostitutes with STDs in soldiers, the US government shut down the existing "red light" districts, "Block 16" in Las Vegas and "The Stockade" in Reno. These two cities had major military installations. Brothel prostitution continued in rural counties after the war, yet formal regulations for the STD testing of prostitutes did not occur until the passage of a 1971 state statute. This statute allowed brothel prostitution to be legalized on a county-by-county basis. Subsequently, county and

city code mandated the testing regime for prostitutes seeking employment with a legal brothel. Usually this consisted of monthly tests for syphilis and weekly tests for gonorrhea and chlamydia. Eventually, these requirements were legislated into the Nevada Administrative Code.[8]

Criminalization, or prohibition, became the predominant policy in Nevada around the time of the first and second World Wars. Echoing the rhetoric of British Contagious Disease Acts, the prospect of a high morbidity rate for soldiers infected by prostitutes shifted policy from regulation to criminalization. Brandt (1985) explains that at the beginning of World War I, Progressive Era and moral hygiene movements became incorporated into the US War Department. It was during this time that a subtle shift in policy occurred. Policy went from regulatory to prohibitive. Government officials became concerned with the blight of prostitutes who would be displaced when red light districts and brothels were closed. As brothels shut down, prostitutes began to set up shop in differing locations. There was an assumption that these women had sexually transmitted infections, and a fear that short-term jail sentences would return these "vectors of disease" to the community untreated. Therefore, harsher penalties were called for: "prevention led way to containment and punishment. Quarantine, detention, and internment became the new themes of the attack on prostitution" (Brandt 1985: 85).

Again echoing the language of the Contagious Disease Acts, state legislatures and local and state boards of health began instituting regulations which empowered agents of control to test and detain individuals suspected of having a sexually transmitted disease. In addition, they extended existing powers to curtail the activity and mobility of prostitutes. While this type of political language often mentions other categories of sexual deviance, such as adultery and various types of lewd and lascivious conduct, prostitutes were singled out as the primary targets for compulsory examination, treatment, and detainment practices. By 1918—some seven decades before HIV-infection entered public discourse—thirty-two states had

passed mandatory STD testing laws for prostitutes that were supported by the United States Department of Justice (Brandt 1985).

Criminalization, Prostitution, STDs and Nevada

Nevada's history of legalized prostitution is peppered with prohibitive policies. Brents and Hausbeck (2001) characterize Nevada's health policy toward prostitution:

> In practice, most enforcement is uneven and selective and serves to confine illegal activities to or displace them from particular areas. Informal mandates and enforcement patterns de facto serve many of the same functions as zoning and registration, attempting to render prostitution invisible and at the same time criminalizing the women who practice it. (p. 309)

While Nevada did establish legal prostitution in the 1970s, criminalization of prostitution has a spottily-enforced record in the state. Prostitution often exists in a de facto or laissez-faire legal sense. According to former Clark County Health District Officer Dr. Otto Ravenholt, escort or outcall entertainment workers were required by Las Vegas city ordinances to have semi-annual exams for sexually transmitted diseases and to obtain health cards documenting their sexual health (see also Langbell 1973 and Seppa Arroyo 2003). One could question why health cards and disease testing would be necessary if escort services were not considered legal agencies for prostitution. It was this rationale that led to the discontinuation of health cards.

Initially AIDS manifested itself in the United States within the gay male population. Yet, corresponding to the historical view of prostitutes as "vectors of disease," it did not take long for prostitutes to be identified as the conduit by which AIDS could reach the hetero-sexual population. Campbell (1999) contends that prostitutes are considered at risk for HIV and other STDs for a variety of reasons. Possible reasons include: sex with multiple partners whose disease status is unknown, problems negotiating condom usage with customers, a history of drug use (injectable and/or non-injectable), a lack of prophylaxis with primary

partners, substance-abusing primary partners, and a lack of career or economic opportunities. Yet the focus is not on the risk to prostitutes' health, but on their potential to transmit infection to other populations (Treichler 1999). Campbell (1999) contends that most of the early studies linking HIV and prostitution focused on either the rates of HIV infection among prostitutes, or surveillance data from men who had prostitutes as partners. Alexander feared as early as 1987 that prostitutes would be scapegoats for AIDS and HIV. In her examination of scientific and medical studies, and statistics of HIV and AIDS infections, Alexander (1987) contends that there would be more cases of AIDS among heterosexual males if prostitutes were truly a major risk group for spreading HIV.

The social and health policies that affected prostitutes in the last part of the twentieth century echoed those that had been instituted to control sexually transmitted diseases in prior centuries. While calls for quarantine were discussed in the early part of the AIDS epidemic, policy responses linking HIV and prostitution reflect the major strategic orientations toward the politics of prostitution. Criminalization or regulation policies reemerged as the dominant responses to prostitution.

Mandatory HIV testing for legal prostitutes was one of many state level policy responses to the AIDS/HIV epidemic. Lipson (1997) observes that state- rather than federal-level interventions dominated the first twenty years of public policy response to HIV/AIDS. "Nearly eighty percent of the states formed an AIDS task force, commission, or other advisory group to review state policies and recommend changes to the governor or the legislature, long before the federal government organized such a commission" (Lipson 1997:186). After states had instituted policy initiatives, evaluation processes asked for accountability. Recommendations addressed to state governments and legislatures tended to be classified into one of five categories: research on prevention and treatment, comprehending the prevalence (percentage of the population affected by a condition) and incidence (the number of times an event occurs during a time period) of AIDS/HIV in the population,

finding those who have been exposed to HIV/AIDS, policies to prevent the spread of HIV/AIDS, and care and treatment of those infected (Robins and Backstrom 1997) .

Policy responses that were proposed and/or instituted at the state level were frequently controversial. The issues that states had to resolve in AIDS/HIV policy included the process of establishing screening programs; deciding whether testing should be voluntary, mandatory, and/or directed toward specific groups in the population; developing surveillance programs that maintained individuals' right to privacy while protecting the public's health, assuring legal protections for those infected or affected by AIDS/HIV (housing, employment, insurance, and medical care); allotting a budget for care, prevention, and education; and coordinating medical and social service care for infected individuals. Almost every state passed legislation supporting prevention education efforts directed toward the general public, health professionals, and those described as engaging in high risk behaviors. One policy that faced almost universal defeat was premarital testing (Lipson 1997).

Nevada tended to follow national trends in enacting policy regarding blood screening, surveillance, voluntary testing initiatives, prenatal screening, and prisoner testing. According to Reich (2001) and Ravenholt (2002), Clark County was relatively progressive in its efforts to coordinate care for infected persons. Nevada, like the rest of the country, did not institute quarantine procedures, unless one considers criminal statutes for intentional transmission.

Ziegler (1988) details the manner in which Nevada's state AIDS programs were funded by federal grants and legislated appropriations and the resulting policy and programs in *AIDS and Nevada: Second Annual Report.* Besides educational programs aimed at prevention for state workers and individuals in rural areas; the state AIDS program worked with the Nevada Department of Prisons to educate guards and prisoners about HIV. They also worked with HIV positive inmates who were being released. Ziegler's report also described the rise of voluntary testing sites in Nevada for surveillance, social service and counseling services for infected individuals through Clark and Washoe County Health Districts, and the

provision of medical care for AIDS/HIV patients through hospices and hospitals like the University Medical Center in Las Vegas.

Historical reactions to prostitution, especially regarding disease, have tended to follow common patterns. Looking back to these models, I will examine the degree to which Nevada's AIDS policies continue or diverge from traditional practices. These questions are further complicated by the fact that Nevada permits legal prostitution. I will address the nature of the state's response regarding legal and non-legal prostitution in separate chapters of my study.

Influences on the Policy Process

Health Officials and Legislators

Backstrom and Robins' (1995/1996) defining study, "State AIDS Policymaking: Perspectives of Legislative Health Committees" offers a template of factors that influence HIV policies and legislation. Specifically, they reveal the strong influence of biomedical/public health interest groups on AIDS policymaking. By surveying the chairs of ninety-nine state legislative health committees through the mail in the spring and fall of 1989, Backstrom and Robins gain an understanding of legislators' views on AIDS and the factors and information sources that influenced their legislative decisions.[9] Backstrom and Robins' questions assessed authorities' perceptions of the seriousness of the problem in their state, the effectiveness of local and national programs in combating AIDS, the potential budgetary constraints on policymaking, and whether the legislators opposed or supported certain polices. They found that among health committee chairs, the primary influence on policy matters was information from the state departments of health and the Centers for Disease Control. These committee chairs wielded considerable power with legislators by acting as the primary information source about AIDS issues.

Backstrom and Robins' descriptive study provides little information in terms of specific policies or opinions regarding prostitutes and HIV. This raises questions about whether their findings are applicable to this policy issue. For instance, health committee chairs tended to support policy initiatives that encouraged "cooperation and inclusion" of at-risk groups in the policy process versus more punitive control and containment measures. Yet Backstrom and Robins' evidence of this claim is shaky. When state legislative chairs were questioned about mandatory testing policies toward accident victims and prisoners, as well as criminalization of high-risk behavior, more than a third of those surveyed favored punitive programs. The percentage of state health committee chairs favoring compulsory HIV testing for accident victims was 39.5%. Forty-one percent favored compulsory testing of prisoners, and 36.5% favored criminalizing high-risk behavior for HIV positive persons. This is in sharp contrast with state health officers who only agreed with legislator's support of mandatory testing for prisoners. State health officers disagreed with legislators about their support for mandatory testing of accident victims (7.7%) and prisoners (19.4%). State health officers and state health committee chairs agreed on punitive sanctions against those who knew their status—36.5%—and continued high-risk behavior—36.8% (see Backstrom and Robins 1995/1996: 240).

The study only surveyed the chairs of the health committees, not individual legislators. There is a question, then, about who proposes and endorses health policy in the senates and assemblies of state legislatures. For example, in Nevada, individual legislators propose bills. While these initiatives are reviewed in committee, there has been little to no analysis of what influences individual legislators.

This study raised questions about the impact of legislators' political orientation (liberal or conservative) on the arguments that influenced them. Backstrom and Robins hypothesize that while conservative arguments tend to be more persuasive than liberal ones, this differed in regards to AIDS policies. Liberal positions on AIDS policies tended to match the recommendations and opinions of state health officers. The liberal perspective was closer to public

health perspective and was seen as the most practical approach (1995/1996). Strategies that were classified as liberal by Backstrom and Robins included: arguing the effectiveness of liberal measures, emphasizing human suffering, minimizing AIDS as a single policy issue in electoral politics, stressing community values like helping others, and supporting for civil liberties. Conservative strategies included: stressing the need to protect innocent people, dramatizing the threat of AIDS to the general public, having a public position on protecting the public, encouraging partisan cohesion among conservatives, emphasizing the minority status of those with AIDS, and arguing for AIDS as an issue in elections.

While Backstrom and Robins may argue the liberal position was in agreement with the recommendations of public health advisors, the statistics of the study indicate the strategies favored by the legislators were actually conservative. Over three fourths of those surveyed thought that pointing out the need to protect innocent victims and dramatizing the threat of AIDS to the general public were good strategies. Nearly half (43.8%) of legislators felt they should make a stand to protect the general public, and almost forty percent (39.1%) felt a good strategy included emphasizing the "other" status of those infected with AIDS (p. 247).

Symanski (1974) reveals other influences which impact the formal and informal development and enactment of public policy in Nevada, specifically prostitution. His study draws upon information from various Nevada county ordinances and codes, the Nevada Revised Statutes, and secondary sources. Symanski posits the location of brothels and the activity spaces of prostitutes cannot be understood apart from both formal and informal regulations. Besides the formal laws and statutes that exist at the state, county or local levels, prostitutes and their managers respond to written and unwritten rules of questionable legal validity formulated by city counsels and law enforcement.

One rationale for formal laws and statutes regulation prostitution in Nevada is the association of prostitution with venereal disease. Symanski mentions that "both Reno and Las Vegas have problems with streetwalkers and call girls, who are not registered or examined for venereal disease as they would be elsewhere in the state...all local evidence seems to

suggest that 'independents' are usually responsible for the spread of venereal disease" (1974: 361). He contends one of the reasons Nevada residents are generally in favor of legalized prostitution is that "parents sometimes state that prostitution keeps their sons...from getting venereal disease" (p. 376). Symanski asserts that townspeople generally approve of brothels because it is believed that the frequent medical exams keep down incidents of venereal disease.

In summary, Symanski indicates that regulating prostitutes through disease testing has a long history in Nevada. The literature also indicates that past policies have a tradition of perpetuating gendered sexual stratification. Testing policies toward prostitutes perpetuate stratification since prostitutes, not male clients, are required to be tested. The clients were "sons" and heirs to the patriarchal privilege of sexual indulgence. The prostitute—a woman—is still framed as a sexualized other.

Backstrom and Robins found that persons with AIDS, their families, and organized gay groups were not highly influential to legislators for policy-making decisions. However, Campbell (1991) contends prostitutes have influenced health policy within their workplace. The prostitutes of one brothel in Nevada pressured the owner to mandate an all condom policy in their workplace as early as 1985, almost two years before a mandatory condom policy was codified by the state board of health for all licensed brothels in Nevada. Unfortunately, the influence of prostitutes on the adoption of this policy for the brothel association or on the board of health was not discussed. In Campbell's study the brothel association was not cited as an influential lobbing organization with either the individual brothels or with the board of health.

Another group that may influence policymakers are individual brothel owners and the brothel association. Literature on the brothel industry and its influence on policymakers is limited (Hausbeck and Brents 2000). Other forms of business that benefit from space that regulates sexuality are bathhouses. Alexander (1996) finds that bathhouses and brothels can be seen as social spaces with a long symbolic history as sites of contagion. During periods

of moral panic, these sites are often the first targeted for social policy intervention either in the form of closure or regulation.

Unified efforts between sex industry owners in the face of regulations have been documented by Blocher (1996) in *Sex Club Owners: the ~~Fuck~~ ~~Suck~~ Buck Stops Here.* As early as 1985, sex club owners united in response to the threat of closure due to the AIDS epidemic. The sex clubs that remained open collaborated and cooperated with public health officials in drafting safer sex guidelines that satisfied public health concerns about AIDS/HIV. While the resulting guidelines forbade most types of sexual activity, and made no distinction between sex acts with or without condoms or other protection, for the most part, the clubs were allowed to operate relatively autonomously and without surveillance. The assumption was that the industry would police itself. After a moral panic ensued from a media report, the city was forced to institute and enforce a formal policy due to non-cooperation.

Nevada's brothel industry organized in 1984, largely under the initiative of Joe Conforte, former owner of the Mustang Ranch. The purpose of the Nevada Brothel Association was to provide a lobby for owners' collective interests and to influence Nevada's state legislators. It is significant that the Nevada Brothel Association (NBA) formed during the early days of the AIDS pandemic. The NBA,under the direction of wedding chapel owner George Flint, gives the impression that it is a unified organization. However, the association represents the needs of the largest and most influential brothels. The Nevada Brothel Association also facilitates information and recommendations for action when the industry is threatened by state legislation and mandates. (Hausbeck and Brents 2000: 233-234).

This policy formulation literature points to a number of questions I will address in subsequent chapters. What was the role of science and health information in formulating AIDS policy in Nevada? What was the power of health officials to influence regulation and policy? More specifically, what was the nature of the policies preferred by health authorities in terms of their inclusiveness and punitive effect? What was the impact, if any, of the population to be regulated by Nevada's AIDS policy–prostitutes and brothels? I will also

explore the degree to which the overall political climate or orientation of policymakers was important in creating policy. I also analyze the success of the regulations in allaying public and institutional fear. Overall, these aspects of the policy process will be examined as expressing the characteristics of a "moral panic" as defined earlier.

Economics and Prostitution

Many studies neglect the economic realities of prostitution. Prostitution is a lucrative business that provides revenue for owners and workers, as well as the peripheral industries that support the sex industry. These include local businesses that supply brothels with goods and services, salons and spas, beauty supply stores, clothing and shoe stores, and fitness clubs. Prostitution has also been promoted by banking and investment interests in developed nations as a source of revenue for less developed countries. In Nevada, tourism, leisure, and gaming service industries have replaced mining as the primary resource of the state. The sex industry in Nevada is part and parcel of tourism, leisure, and gaming. Commitment to the health of the industry has been internalized by state actors, citizens, and businesses as an important aspect of Nevada's tourism and gaming industry.

The Marxist lens offers a useful way to examine the relationship between prostitution and the state in Nevada. According to McQuarie and McGuire (1994), Marxist theorists believe that the state is "class biased and is the institutionalized form of capitalist power" (p. 129). Marxist theories may help explain why the state of Nevada enacted policies that sought to protect the brothel industry in the face of the HIV pandemic by criminalizing non-legal HIV positive prostitutes. Nevada enacted laws and testing policies toward prostitutes to protect the economy. When the economy is actively protected by state actors, policy (like HIV testing for prostitutes) may be justified as necessary through medicine and science, but in actuality helps to maintain the tourism and leisure industry of Nevada.

An understanding of how the economy is accepted and promoted by a culture and its citizens is important in discussing how prostitution is justified in that culture. Legal prostitu-

tion is accepted because it adds tax dollars and revenue to the budgets of many county governments in Nevada, but also to business concerns that profit from incoming visitors to the area. It is also regulated by the state and justified by public health concerns. Lastly, it meets gendered ideology that has women satisfying the sexual needs of male customers. Biological explanations for the uncontrollable sexuality of males are accepted as part of the justification for prostitution and its sexual services.

Marx illuminated the classist nature of the state and how it is an institutionalized form, but is often criticized for failing to explain the process by which individuals and groups accept the authority of the elite. Gramsci amplified the Marxist concept of hegemony introduced in *The German Ideology*. He explains hegemony as a complex ideological system (Carnoy 1984), "the entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its dominance, but manages to win the active consent of those over whom it rules" (Gramsci 1971:244). The overarching norms and values which formally constitute hegemony are considered part of political culture or the superstructure (see also Althusser 1971, Berberoglu 2001).[10] Gramsci's ideas about the acceptance of a class-biased state by those who are oppressed by it provide a framework for understanding how the overwhelming dominance of socio-sexual norms and economic values among political decision-makers in Nevada justify and nurture the discourse of sexual regulation.

Instrumentalists, also often referred to as "elite theorists"[11] (C. Wright Mills 1956; Miliband 1969; Lauman and Pappi 1973; Domhoff 1998), believe that the state is constrained by the interests of elite members of the capitalist class who demonstrate considerable personal influence on state policymakers due to their positions within the government and media. The state, therefore, is the instrument for the domination of society by the capitalist class. Yet instrumentalists question the automatic assumption that the "ruling class" controls the state. In other words, class power does not necessarily mean state power. (Carnoy 1984: 51).[12]

Instrumentalist theories may explain why the state enacts contradictory policies toward prostitution. On one level, individual brothels may not always conform to the practices of other brothels due to competition. Yet, if the practices of individual brothels and its workers place either the brothel industry or the tourism and leisure industry at risk, which the sex industry is an important, yet often discredited part, the state will seek to protect the interests of capitalism over the individual interests of certain capitalists.

Structural Marxists such as Poulantzas (1973), Althusser (1971), and Godelier (1970) posit that the state should be understood more in terms of the functional role that it plays in the capitalist mode of production, rather than simply an instrument of the capitalist class. In the structuralist[13] view, the state must have a certain degree of autonomy in order to maintain the dominance of the capitalist class as a whole, particularly when capitalists themselves come into conflict (Poulantzas 1973). In this functional role, the bureaucratic state does not wield much independent power, but serves as a power center to perform three important functions: to promote the political organization of the dominant capitalist class, to aid in the political disorganization of the working class, and to organize the political support of the middle class (McQuarie and McGuire 1994: 136).

What makes the state unique and important is its ability to organize and mediate social relations and market conditions. Marxist theory helps to explain the often contradictory and conflicting nature of HIV testing policies in Nevada toward prostitutes. The state and its actors seek to protect capitalism through the enactment of policy. When the tourism and leisure industry —including the brothel industry—is threatened by the loss of customers and revenues, it often reacts by organizing owners and other interested groups to adhere to regulations and policy.

State managers serve the rationalization process and the state by balancing the interactions of the bourgeoisie and the proletariat. These managers are not the drones of capitalists, but they often serve their interests. Some theorists believe this occurs because state managers are dependent on some level of economic activity (Carnoy1984: 218). Not only do

capitalists influence the economy, but the public supports administrations and social relations that are lucrative. When economic conditions deteriorate, for instance in class struggle, state managers often intervene. When this happens, the state's role (and the role of state managers) expands into economic regulation and meeting basic social needs (employment, education, nutrition). In the case of an emerging health crisis like HIV/AIDS, Nevada's response to a economic threat was to enact testing policy toward prostitutes. While officially these policies were said to be passed to protect the public's health and safety, state managers knew that the state's economic health could be threatened as well.

Prostitution and the Sex and Tourism Industry

The international sex and tourism industry has proved to be an important site for understanding the relationship between the economy and prostitution. This literature specifically draws upon Marxist and feminist theory to describe the rise and development of the international sex industry. Truong (1990) analyzes tourism and prostitution as mutually dependent. Not only should the international sex industry be examined in relation "...to the internal structure of the tourism industry and to the vested interests of a financial nature" but the tourism industry, like prostitution, is to be understood as one of the few options available to women in economies with huge international debt, meager industrialization, warfare, immigration of male relatives, and changes from an agrarian-based rural existence to urbanization. The following section will examine how feminists view the international sex industry and the economy and how Nevada's circumstances both echo and differ from the global context.

Enloe (1989), Mies (1986), Sturdevant and Stoltzfus (1992), and Truong (1990) were among the first researchers to explore the political economy of tourism in regard to prostitution. Examining the growth of sex industries in Southeast Asia from "R and R" (rest and recreation) ports for United States military personnel during the Korean and Vietnamese conflicts, to international sexual playgrounds for men in industrialized countries, Truong believes that the marketing of tourism and leisure rests on three characteristics that promote

and support the rise of a playground culture "...in which sand, sun, sea, sex, and servility are the main elements" (p. 125). The characteristics that affect the organization of production and the mobilization of labor for the tourist economy include the promotion of tourism as an experiential commodity, the symbiotic relationship between tourism and advertising, and unpredictable elements in social relations and the economy.

Tourism as an experiential commodity can be understood as the focus or emphasis that is placed on the personal attention given to tourists. In other words, to produce an experiential commodity, workers must provide emotional and physical labor to satisfy the perceived needs of a tourist. This is commonly known as service industry labor. Additionally, this form of labor is ultimately a form of cultural domination, which homogenizes a "native" or exotic culture to the needs of a tourist. Prostitution is a form of service industry labor, which is sold as an experiential commodity for tourists. It is either directly consumed in an exchange relationship between a client and a worker, or it serves as part of the *mis en scene* of being in an exotic location.

Sexual tourism has a long history in the United States and the world. For example, Turner (2002) describes the bourgeois practice of sexual tourism in nineteenth century New York. Known as "slumming," policemen led visitors on tours of brothels, opium dens, and mixed-race couple tenements for a view of another world (p.24). While citizens of the same country often enjoyed this experience, the difference between class, race, and gender of the sexual sightseers and participants were a world apart.

The symbiotic relationship between tourism and advertising refers to the idea that tourism relies on the idealized fantasy of experience transposed on a geographic location. Advertising is based on attaining a state (physical, emotional, or psychological) that one does not currently posses, but should. The tourist can attain this metaphysical state due to his or her presence in a particular locale.

The unpredictable elements in social relations and the economy explore the connection between other tourism based industries, such as multinational resorts, hotels, airlines, and

other tourist destinations. The rise and monopolistic nature of tertiary industries (like hotels, casinos, and airlines) tend to exclude independent businesses and force nation states to cater to the interests of monopolies.

Mies's (1986) analysis shows the complex gendered interdependence of less industrialized economies, gendered labor, the rise of transnational corporations, and the international sex industry in *Patriarchy and Accumulation on a World Scale*. Specifically, she emphasizes the reasons why women in less industrialized countries' are considered essential in their countries economic development. Conceptualized as "housewifization", Mies believes that less developed countries are ripe for development based largely on gender norms. Women are highly promoted as workers to transnational banking interests for a number of reasons. Women can be classified as housewives. This classification allows industry to pay women less than males since they are not part of the recognized labor market. Secondly, women are often isolated, which makes it more difficult for them to organize. Lastly, the state often acts as a "pimp." It simultaneously encourages women's labor for nation and family and promotes this labor to foreign investors (p. 116).

Another important aspect of the international sex industry, besides its association with the US military, is the role of transnational financial institutions in promoting the growth of sex tourism in less developed countries. Kempadoo (1998) and Bishop and Robinson (1998) examine the role of organizations like the World Bank, International Monetary Fund, US AID, and the World Trade Organization in tying the payback of development money with the institutionalization of sex industries. In essence, western interests that demanded payment from the backs, mouths, vaginas, anuses, and hands of women and children dominated less developed countries economies. Transnational financial corporations seem to less of an impact on Nevada's sex industry. Nevada's sex industry is neither as developed nor as dependent on outside investment.

Enloe (1989) discusses the impact of the AIDS epidemic on the tourist industry and the government's response. In 1987, the Thai government began to see a dramatic drop in sex

tourism. While Enloe does not specifically mention that fear of HIV was the root of the problem for the tourists, the state initiated testing measures toward women working in bars, brothels, and massage parlors. Of those infected by AIDS, most of the 25 cases reported in 1987 were injectable drug users or homosexual men. Yet the state's response of mandatory testing and golf course construction was geared at attracting foreign visitors.

Yet what seems to be missing from these analyses is an application of the manner that sexual tourism is marketed within developed countries and how marketing explicitly links sexuality with the tourist economy. Nevada has marketed its association with illicit sexuality through media ads ("What happens in Vegas, stays in Vegas"), reality cable TV shows (HBO's "Cathouse," which chronicles the lives of prostitutes working at the Moonlight Bunny Ranch in northern Nevada), billboards, taxi-top ads, and general reputation. While prostitution may be illegal in the city, Las Vegas would not be able to survive without its association with prostitution. The "anything goes" atmosphere of the state allows tourists to engage in behavior they normally would eschew.

It is difficult to estimate the revenue generated by prostitution in the United States and Nevada. Freedman (2002) estimates that in the United States, a quarter million prostitutes serve a million and a half customers each week with revenues ranging between seven and nine million dollars (p.143). Unfortunately, the source for this information is not available. Because prostitution is largely illegal throughout the country, revenue information is not available through traditional means like the Internal Revenue Service, and state and local taxation bureaus.

Female prostitution is still one of the few relatively well-paid jobs that require low skill levels and are labor intensive. This is particularly rare in female dominated occupations. Edlund and Korn (2002) find that even those in a lower stratum of prostitution have far superior earning potential than those in professions with comparable skill requirements (p. 182). Nevada is still one of the few states in the country that stable jobs in the service sector and tourism industry for individuals with little education and few skills. Much like prostitu-

tion, many of these jobs are held by female workers: maids, cocktail waitresses, cashiers, and hostesses.

There is little doubt that economics influence policymaking. In this study, I will explore the mechanisms by which financial considerations are infused into the policy formulation process. Particularly, my research will examine the economic "winners" and "losers" of Nevada's AIDS policy. The policymaking process also points to a set of interrelated and competing economic interests–brothels, prostitutes, tourism, local businesses and clients. Of specific interest is the state's marketing strategy: using the allure of sexuality to bring in tourist money. Thus, the regulation of sexuality is intertwined with the Nevada's economic structure.

Conclusion

My case study is primarily focused on the discourse which surrounded Nevada's response to the AIDS crisis during the mid-1980s. The literature is characterized by recurrent themes of interplay between sexuality, gender, economics, and the policy process. By examining public documents, reading newspaper accounts, and interviewing policymakers, the complexities and conflicts of that interplay began to emerge. Nevada's policies prescribed a normative sexuality, reinforced sexual stereotypes, and preserved male privilege, e.g., the disparate impact testing policies have on female prostitutes as compared to their male clients. The discourse of health and science rationalizes and legitimizes state regulation of sexuality, thereby obscuring its moralistic content. Nevada's complete dependence on a tourist industry founded on sensual experience means policies must allow for the continuation of prostitution in both legal and non-legal forms. Ultimately, the atmosphere of fear regarding AIDS would press state authorities to act in order to avert possible economic collapse. By enacting state policies, like AB 550 and NAC, state authorities exploited the moral panic over prostitution to pass policy that protected the economy.

NOTES

[1] Rich describes the characteristics of male power as including the power of men to deny women's sexuality, to force sex upon them, to command or exploit their labor, to control their product, to control or rob women of their children, to confine them physically or prevent freedom of movement, to use women's bodies, minds, and labor as objects of exchange, to limit their human potential, and to withhold societal knowledge. For a more detailed discussion of Rich's conceptualization of male power, see her essay "Compulsory Heterosexuality and Lesbian Existence" (1993).

[2] Procreation as the only acceptable result or reason for sexuality has not always been a universal norm. This, like other aspects of sexuality was a method to regulate sexuality for control purposes. Katz (1990) believes that sexuality and "natural desire," during the early part of the nineteenth century, was for procreation and the production of properly gendered men and women. One can also question the principle of pleasure. Typically feminists have seen prostitution as one-sided, providing pleasure only for the customer or client. Yet, this analysis seems too simplistic. Feminists have recently been investigating pleasure derived from work, the receipt of money or in-kind gifts, emotional relationships, or even sexual satisfaction. For more information see Lever and Dolnick (2000).

[3] Discourse for Foucault is the system of rules which frame and delimit the statements we make—the unstated rules that enable us to make groups of statements that have meaning, and set up or establish the environment for the formation of statements (Phelan 1990:422). *Episteme* refers to a particular type of *apparatus* which serves as a site of legitimation for different types of discourse, such as medical, religious, and scientific. Apparatuses are systems for managing different types of knowledge. These apparatuses can include ". . . linguistic formations such as law and regulations, scientific and philosophical pronouncements, and non-discursive elements such as architectural designs and economies" (1990:423).

[4] Thompson's use of "moral entrepreneur" is directly related to Howard Becker and his explanations of behavior and individuals as deviant and criminal. According to Thompson, moral entrepreneurs try to rouse public opinion and dissent by leading social movements and organizations into pressuring governing authorities to legislate social control through morals regulation. (1998:12).

[5] A problem with abolitionist policies is that in many criminal statues, the role of the third party in a prostitute's life is always perceived as exploitative. Anyone who lives off the earnings of a prostitute is subject to these laws. Therefore, partners or adult children of prostitutes may be subject to prosecution. This can make personal relationships dangerous for prostitutes.

[6] Mandatory testing requirements, from a scientific/health standpoint, establish whether an individual is infected at the time of testing. One problem is that HIV testing does not indicate whether an individual is in a "window period" or has been exposed to the virus. However through licensing and registration requirements, an HIV-positive individual can be notified of the result. In addition, the various institutions (medical, criminal justice, health/ the state) involved with the requirements are also aware of the individual's status. They can also provide a baseline indication of the approximate time that an individual is exposed to infection. Zoning keeps the "problem" to one area, which makes tracking the trajectory of infection easier. While I do not necessarily agree with mandatory testing for prostitutes, I do understand the rationale for testing generally in the interest of disease prevention. My problem with current policies is that only prostitutes, *not clients*, are tested and tracked. Now, too, a prostitute who tests positive while working within the legal parameters would probably

not have much protection in terms of workers' compensation, nor viable legal recourse for discriminatory employer practices. Since the main purpose of the policy is to protect the state and the employers, testing policies justify employment termination rather than worker benefits for on-the-job exposure.

[7] While St. Louis passed an ordinance in 1870 which included provisions for medical inspection and mandatory treatment at a hospital for infected individuals, this ordinance was nullified by the state legislature in 1874. After this, informal regulation existed to a degree (Bullough and Bullough 1987:223). For a more comprehensive examination of this situation see Best, 1998.

[8] For an excellent source of information on prostitution in Nevada see Symanski 1974.

[9] The questions and opinions asked in the questionnaire had elements that touched on HIV and prostitution such as criminalizing continued high-risk behaviors by persons testing positive for HIV, and compulsory testing of prisoners. It also asked committee chairs about problem areas in legislating AIDS such as difficulties in compromising ideological stances involved with HIV/AIDS and assisting unpopular groups at risk for HIV/AIDS. But the article was never directly centered on HIV and prostitution.

[10] It can be questioned whether Gramsci viewed the state as a mechanism, or an instrument (like other superstructure elements such as art, religion, and family) promoting hegemony. I believe that Gramsci's concept of the state is complex. Through its various ideological and economic regulatory (base) activities, the state is the bourgeois's instrument for spreading hegemony. As a concept, the state helps to perpetuate the very ideas that create it.

[11] Theorists who either classify themselves or are classified as "elite" are not necessarily entirely influenced by Marx. Nash (2000) contends that theorists like Domhoff (1998), C. Wright Mills, Michels (1962) and Schumpeter (1943) draw on Weber's ideas of power and democracy. For Michels, "power in the hands of an elite" is a natural outcome of complex organizations. C. Wright Mills' analysis goes beyond Miliband. Mills sees the unity of elites only in terms of their economic class position and social backgrounds. Mills believes shared interests are reflective of historical context (Nash 2000:14).

[12] The label "instrumentalist" is to be used with caution in relation to theorists like Miliband (Carnoy 1984:104). It is a misnomer to state that Miliband saw the state as a "direct" instrument of the ruling class.

[13] Structuralism as an intellectual movement reached its zenith in France in the 1960s with the works of Levi-Strauss (anthropology), Lacan (psychology), and Saussure (language). Structuralism claims to find permanent structures underlying social activity. Therefore theorists who work under this theory believe that there is universal, unchanging order. Marxists who work under this perspective, like Althusser, fused Marxist thought on the relations of production with structuralism's de-emphasis on individual subjects or actors. In other words, rather than focusing on individual agents in history, structuralists examine how class members carry out "pre-determined" roles in society. The focus for structuralist analysis is the overall function of a system and finding its static features (Carnoy 1984).

CHAPTER III

METHODS

Historically, regulation of prostitution is part of a larger discourse about the control and containment of sexuality. Some states experimented with measures to control sexuality as expressed through prostitution; these experiments quickly ended, and they opted solely for criminalization. Nevada chose a dual approach and implemented legal regulation as well. To contribute to the broad understanding of regulation of sexuality in the contemporary United States, I conducted a case study of Nevada's seemingly contradictory HIV/AIDS policy regarding prostitution. I needed to first explore the ways these policies reflect and reproduce particular hegemonic norms of sexuality—specifically, gender inequality, heterosexist orientation, and stereotypes of prostitutes. Since norms of sexuality and gender are essential components of stratification systems, I examined how they are incorporated into and manipulated by economic dynamics and political influences on policy development. Within these contexts, I analyzed the contradictions and conflicts in the policy-making process with an eye on interpreting the contours of resultant policies and enforcement mechanisms.

This study analyzes three key dimensions of prostitution and HIV/AIDS testing policy in Nevada:

1. The primary legislation, its key proponents, and the interest groups who developed Assembly Bill 550 and the sections of the Nevada Administrative Code (NAC) dealing with prostitution;
2. Preceding public health policies which may have influenced the primary legislation; and

3. The conceptual themes of gendered sexuality, the economy, and the policymaking process that emerged during my analysis.

Methodologically, I identified the interview subjects and documents required to address these issues. Specifically, I reviewed and analyzed the complex set of policies developed for prostitution and HIV/AIDS testing, thereby demonstrating their role in the regulation of sexuality, the economic concerns that affect the policies made, and the influences of the diverse set of policy-makers involved in the process. In addition to materials from interviews, I examined a number of documents including legal statutes and codes, health department records, state legislature proceedings, newspaper articles and personal notes from policymakers.

Case Study

A case study is the most logical approach to this type of research because it allows the researcher to take into account the complex nature of the policy process. Hamel (1993) defines case studies as exploring the impact of a singular event by utilizing a variety of methodological tools to uncover the processes surrounding the event. Stake (2001) identifies three general types of case studies. The *intrinsic case study* is mainly concerned with understanding of *one particular* case. The researcher is not interested in theory building or representativeness, but simply the uniqueness or ordinariness of the phenomenon. *Instrumental case studies* aim to provide insight into an issue or to replicate a generalization. These studies tend to focus less on the individual case, and more on understanding "...something else" (p. 437), a social problem or phenomenon associated with the case. *Collective case studies* can be considered instrumental case studies applied to several cases. Collective case studies may simultaneously examine a number of cases in order to investigate a societal phenomenon, population or general situation. My study is an instrumental case study because its goal is to explain the evolution and development of a complex of policies, and aims to generate a theoretical explanation for the conceptualization and maintenance of these policies.

Nevada is an appropriate focus for such a study in light of its status as the first state to initiate an expansive policy of testing prostitutes for HIV. As the only state with both legal and non-legal prostitution, Nevada provides a unique opportunity for researchers to examine two of the customary regulatory strategies regarding prostitution–criminalization and legalization—as well as the tensions created by such a bifurcated approach. These traditional policies are driven by the attitudes of either law enforcement (criminalization) or public health (legalization). Finally, Nevada unselfconsciously promotes its primary industries, tourism and gaming, by drawing a deliberate association in its marketing campaigns between the tourist experience and the mischievous sensuality embodied by the prostitute.

Compared to other case studies (Best 1998; Gibson 1986; Rosen 1982; Walkowitz 1980) which explored prostitution policies broadly in specific historical, national or local contexts, this study is unique in that it examines the opinions and values of policymakers directly through interviews, rather than drawing solely upon existing historical evidence. Also, many of the historical case studies relied on conclusions about past cultural conditions to develop theories that could explain current HIV testing policies involving prostitutes. This study locates the issues in a contemporary context—slightly over fifteen years after the policies were implemented.

The case study is the most appropriate methodological approach for understanding HIV testing policies toward prostitutes in the state of Nevada. While other methodological approaches, like ethnography and analysis of the opinions of policymakers from questionnaires, could have been employed in exploring the policy process, these other approaches limit the types of data collected and the context of the study. For example, while the data derived from Backstrom and Robins' (1995/1996) survey asking legislative chairs about AIDS policy provided the opinions of the legislators, it was limited in its exploratory scope. The study raised more questions than it answered about the motivating discourse that influenced policymakers, the context of their information, and their actual policy-making behavior.

Case study research usually includes a description of the nature of the case, a discussion of historical background and influential events, descriptions of the physical or temporal setting, explanations of structural and ideological contexts, comparisons to other cases examining similar or related phenomena, and careful parsing of information from sources in the field. This case study charts the rise of public policy toward a particular population. In the process, I capture the uniqueness and particular attributes of the case in question–HIV testing policies for prostitutes in Nevada—as well as identify generalizable patterns in representation, structural responses, and policy development that might be applied to the study of other policies and state actions.

Policy: Process and Analysis

I looked to theories of policy analysis to help fine-tune the perimeters and direct my case study. Notably, Rist (2000) believes that there are a number of clustered questions that are highly relevant to the process of policy formation. The first cluster of questions about policy implementation addresses the ability of policymakers to clearly define and understand the situation for which a response is desired. Rist's second question cluster centers on previous responses to the present condition or similar problems. The last cluster of questions deals with the intended and unintended consequences of prior attempts to address the policy problem in other historical or geographic contexts. At issue are the various policy tools and decision-making strategies available to policymakers, usually a compendium of "tried" (if not necessarily "true") policies that have been implemented in other jurisdictions and which may be selected for implementation in the current case. (Rist 2000).

Similarly, Nakamura and Smallwood (1980) contend that in general the principal policymakers are the legitimate or formal policymakers. This group consists of officials, legislators, and high-level administrative appointees who must follow prescribed, rationalized rules. Yet, these policymakers emerge from and represent highly diverse populations: electoral, administrative, and bureaucratic. Each of these populations contributes potential policy

influences. Policy can be conceived as "a set of instructions from policymakers to policy implementers that spell out both goals and the means for achieving those goals." (Rist 2001:1004). Specifically, policy analysis is not only the study of the manner in which policies are instituted, but also of the impact or effects of policy once implemented. (Majchrzak 1984: 13).

Thus, recognizing the complexity of the policy process, I developed a structure to frame my case study. Tailoring Rist's focus on policymakers' definitional understanding to my case yielded questions such as the following:

- In the case of prostitution and AIDS, how does the threat of HIV infection reframe the policy debates over regulation of legal sex workers?
- Do sex workers contribute significantly to the spread of sexually transmitted diseases like AIDS?
- How does discourse about prostitutes as vectors of disease negatively affect Nevada's tourist economy?

Similarly, looking back to previous policy responses and evaluating their applicability and/or success:

- What legislation or regulations were instituted in the past to control or contain sexually transmitted diseases? How successful were these policies socially, politically, ideologically, and/or economically?
- How was success measured?
- How receptive were sex workers, the sex industry, and the larger tourism and gaming industry to the initiatives? Did these groups support or resist the interventions?
- What was known about previous policy initiatives?
- How were other states dealing with the problem of HIV/AIDS through prostitution, and how were those solutions similar to or different from proposals currently on the table? How do the responses of other jurisdictions and govern-

> ing bodies delimit the options available to policymakers now? How successful were these other initiatives in addressing the problem? Did they work or not work? Will they work here?

As I began my research, I saw that policy, at least in Nevada, seems to flow not only from the top down—i.e., from legislators and state bureaucracies and other actors— but also along a variety of vectors across a range of lower-level interest groups and actors. While the legislators, as legitimate policymakers, may propose bills in the legislature, in the end the interaction between various state managers and stakeholders (i.e., Health Division, Board of Health, LVMPD, etc.) significantly influences proposed policy initiatives and amendments.

In order to contextualize and illuminate the processes by which Nevada's comprehensive policies toward HIV testing among sex workers has developed, this research examines the policymakers involved, previous policies toward non-legal and legal prostitutes, public health law, and the long-standing rationale for controlling specific gendered bodies as part of prevailing ideology that connects prostitution with the spread of disease, the presence of bio-power, and the impact of Nevada's economy. Guba and Lincoln (1994) argue "generalizations can occur when the mix of social, political, cultural, economic, ethnic, and gender circumstances and values is similar across settings" (p. 114). The state as a construct and purveyor of discourse is manifest through social institutions such as government and law, the medical establishment, the economy, community standards, existing public policy and law enforcement. Nevada's HIV testing policies do not represent a singular or insular response to the AIDS epidemic in the workforce in general, but comprise different policy manifestations directed towards a specific risk population: prostitutes.

Selecting a Theory-driven Method

My study seeks to go beyond understanding what HIV testing policies mean to prostitutes themselves, as an ethnography would. I attempt to reveal how previous laws, policies and attitudes have changed the context and content of political and social discussions about

the relationship between HIV and prostitution. According to Neuman, "critical social science defines social science as a critical process of inquiry that goes beyond surface illusions to uncover the real structures in the material world in order to help people change conditions and build a better world for themselves" (1994:67). Critical research is not only geared toward capturing patterns and meanings in social interaction and institutional relations, but aims to examine social phenomena in terms of their historical origins and contradictory features. The purpose of this study is to examine the discursive practices of state actors, other policymakers, and the constituents served and governed by the policy complex surrounding HIV and the marketing of pleasure.[1]

While initially guided and informed by theoretical concepts culled from existing literature, my analysis is not rigidly bound by pre-existing categories. Notably, the work of figures like Sacks (1996), Foucault (1978, 1988), and Downe (1997) suggested a number of themes: the regulation of sexuality, hegemonic sexuality, gender stratification and economic structure. These in turn, pointed to more specific tropes surrounding prostitution and disease such as: polluter versus victim, essentialized sexual identities, social and moral responsibility, regulation of the prostitute body, male privilege, the roles of provider and client, the importance of protecting the tourist economy from the negative impact of disease, and the relative unimportance of protecting the individual prostitute. These themes continued to evolve as I examined the available and relevant data: documents and interviews.

Qualitative discourse analysis allows me to describe the deeper meanings inscribed in textual representations while being aware that these are constructed according to subjective meanings. According to Creswell (1994) "in a qualitative methodology, inductive logic prevails. Categories emerge from informants, rather than *a priori* by the researcher. This emergence provides rich "context bound" information leading to patterns or theories that help explain a phenomenon" (p. 7). While additional themes did arise out of documents and interviews and existing ideas came to be reshaped, my case study began with a framework based on a long history of scholarship devoted to gender, sexuality, disease and economy.

My analysis of the problems associated with HIV testing, public health policy, and prostitution proceeds from theoretical assumptions native to research on women's lives and experiences, particularly feminist and Marxist studies of prostitution and disease testing. However, the processes of data collection and interpretation in this study led ultimately to a methodological commitment to grounded theory. Grounded theory is defined by Strauss and Corbin (1990) as "inductively derived from the study of the phenomenon it represents... [D]ata collection, analysis, and theory stand in reciprocal relationship with each other. One does not begin with a theory, then prove it. Rather one begins with an area of study and what is relevant to that area is allowed to emerge" (p. 23). In the end, the major themes contributing to a richer understanding of the complexities of public policies targeting women and prostitutes in Nevada emerged as a result of a grounded theoretical approach to data analysis.

My sources for the case study included interviews with policymakers, government reports, departmental memos, state statutes, and personal notes and documents. I also examined public records such as police statistics, internal health department protocols and procedures governing testing, transcripts from legislative testimony, and newspaper and other media accounts. I supplemented this material with academic texts studying the bureaucratic structure of the state of Nevada. Thus, my work required a close textual reading and analysis of public discourse surrounding prostitutes in Nevada.

As Nevada has both legal and non-legal prostitution, I made note of distinctions and contradictions within the research material as it referred to each form of prostitution and the development of AIDS policy. Furthermore, I noted the influence of private and federal agencies and outside researchers attracted by Nevada's bifurcated policy towards prostitution. I attempted to create an accurate time-line for the development of the state's testing policy. I identified the primary policymakers and the institutions capable of enacting policy. Additionally, I looked at the structure of state health and law enforcement agencies and the larger bureaucratic culture of Nevada, for example the public health hierarchy. I looked for

patterns in the communications between the various state agencies and other policymakers. I evaluated the authority, influence and importance of individual policymakers and entities, e.g., their standing in the legislature. I examined the evidence and the authorities policymakers appealed to in formulating initiatives and sought to understand the relative weight policymakers attributed to these materials. I also devoted some time to becoming familiar with the language of the policy process.

Economic factors quickly emerged as I examined the policy process. Nevada's economy is openly and notoriously dependent on the gaming and tourist industries, and so, the perception of prospective tourists would be critical to the state's fiscal wellbeing. I examined the involvement of Nevada's gaming industry in the policy process. Particularly, I looked for evidence of the state's use of sexuality as a marketing device for attracting tourist dollars. Likewise, I searched for evidence of the influence of other economic players, notably brothel managers and owners, and the sex workers themselves, in constructing policy initiatives. Additionally, I examined the possible economic impact of policy proposals, particularly on the legal brothel industry, state agencies entrusted with overseeing the public's health and safety, and the larger tourism and gaming industries.

A close reading of the data exposed the interrelated themes of gender and sexuality. I looked to see if the language of official documents and policymakers assumed a specific gendered and/or sexual identity when referring to prostitutes, clients and their partners, spouses or families. I examined what pronouns were used, and compared the discourse to expose any difference in usage. Similarly, I sought to identify discourse which ascribed an essential moral character to individuals – blameworthy or innocent. Likewise, language which distinctly "othered" the moral, gender and sexual identity of policy targets, would be significant in discerning institutional and policymakers' biases. I looked at the research design of materials used to support policy for signs of gender or sexual assumptions, for example in their sampling or selection of test subjects. Examining the policies for any disproportionate effect on one gender, sexuality, class or race would demonstrate institutionalized forms of

prejudice and discrimination. This would be of particular importance when looking at arrest records, for example. Finally, I sought examples of contradictions within policy implementation which further exposed gendered and sexual assumptions, especially given the dual systems of prostitution in Nevada–legal and non-legal.

Any discussion of the regulation of sexuality invokes the work of Michel Foucault. Foucault defined "bio-politics" as the attempt "to rationalize the problems presented to governmental practice by the phenomena characteristic of a group of living human beings constituted as a population: health, sanitation, birthrate, longevity, race..."(Foucault 1997: 73). The living, embodied human experience becomes the subject of study, surveillance and regulation. Looking for evidence of the bio-political, I sought out language, rules or other elements within the policy and the formation process which defined and classified lived experience in terms of a normative and hierarchical system. For example, I looked at the language of the law to see if sexuality was constructed in binary terms or if the regulation of sexuality retained the same form: law focused on transgression and punishment. Paralleling his analysis of the asylum from his work *Madness and Civilization,* which explores the way in which juridico-medical discourse came to identify and legitimize a normative regime, I looked to the use of medical studies and research–both historical and contemporary–in the creation of Nevada's policy. Likewise, I examined the relation and use of punitive mechanisms internalized within the implemented initiatives. Ultimately, I asked whether Nevada's HIV policy was constructed and then presented so that it "could not but be taken in the way it was" (Foucault 1988:104). Were Nevada's HIV testing policies intended not only to protect Nevada's economic interests, but also to punish prostitutes for being sexualized "others who defied heteronormative expectations of gendered sexuality?

Finally, I recognized that the rhetoric of disease and infection circulating around AIDS fit well with the concept of a "moral panic" (Cohen 1972). Thus, I examined the policy discourse in Nevada for evidence of the five criteria developed by Goode and Ben-Yehuda (1994). Drawing upon their work, Thompson (1998) succinctly describes the intrinsic pattern

of moral panics: someone or something is defined as a threat, the threat is portrayed in an easily recognizable form by the media, there is a exponential rise in public concern, and eventually the panic recedes and/or results in public or social policy. I looked for exaggerated or unsubstantiated causal links between AIDS and prostitution that were justified by scientific studies, and I examined the actual findings of those studies. Since media reports are often early indicators of a moral panic mentality, I sought out news stories and popular accounts which either illustrated or fanned the public's fear.

My analysis sought to uncover how the discourses surrounding policy, prostitution, and HIV/AIDS disease "exhibit certain patterns...but that [the patterns] are more inclusively described as attempts to produce and reiterate notions of normative and deviant sexuality" (Sacks 1996:70). Additionally, I have attempted to illuminate important themes running through the texts that reveal the structure of power—as well as explain the behavior of the powerful—in the regulation of gender, sexuality and the economy in Nevada.

Data Sources: Documents and Interviews

It is one thing to have a sanitized institutional record of events or an account based on an outsider's observation (such as a newspaper reporter). But in order to find out what the policymaker was thinking about the policy, and the various social factors influencing the context of the policy, it is important to seek deep information and knowledge. Denzin and Lincoln (1994) insist that "no single method can grasp the subtle variations in ongoing human experience, a wide range of interconnected methods should be used" (p. 12). To understand a specific policy and the social context impacting and constructing policy initiatives, it is imperative to interview policymakers and those affected by the policy as well as analyze important texts and documents.

Documents

Historical comparative research strategies fit well with policy research and case studies in particular. Documents provide a timeline and tangible record of proposals and discussions.

Dated memorandum and minutes from meetings and legislative proceedings enabled me to construct a chronological framework to organize and situate the key players and the evolution of the policy. Information in documents guided my interviews by providing context which would shape questions particular to the interview subject. It also fills gaps in interviews with information that cannot be obtained due to attrition. As much of the policy discussion and initiatives began more than fifteen years ago, many informants have moved, changed jobs or occupations, or even died. Historical comparative research recognizes that the past must be reconstructed from available evidence, and "it recognizes that a researcher's reading of historical and or comparative evidence is influenced by an awareness of the past and by living in the present" (Neuman 1994:375). But because evidence is not usually uniformly or absolutely collected or saved, "historical evidence in particular depends on the survival of data from the past, usually in the form of documents. The researcher is limited to what has not been destroyed and what leaves a trace, record, or other evidence behind" (p. 377).

The primary sources for this study included a variety of state documents, media reports, papers for publication and/or presentation at conferences, and personal notes from files. The state documents ranged from the Nevada Revised Statutes, Nevada Administrative Code, Statutes of Nevada, Assembly Judiciary Minutes, Nevada State Board of Health Minutes, reports from the Health Division including *AIDS in Nevada: Policy and Recommendation* (1987) and *AIDS in Nevada: Second Annual Report* (1988). Other state documents such as state Attorney General opinions and internal memorandums between health division personnel were obtained through extensive and broad-based searches at the Nevada State Archives. This process was hampered by several factors. Not only were many of the collections under-cataloged, but while the state may require state agencies to archive its documents, the resources and personnel available to complete this state initiative are lacking. Researchers cannot systematically sample the collection. Instead I had to physically search through all the materials that seemed relevant to this study. For example, for this case study, I searched

through archival material from the health division, the governor's office, and the Attorney General's office. Besides sources from official sources, such as state government document collections in public libraries and the state archives, I was able to obtain material from the personal files of several of my interview subjects. Among the materials I was able to examine included newspaper clippings saved by Rick Reich and John DuBois, which included stories from the local, regional, and national press. Reich's files included conference papers and non-published accounts, and former Assemblyman DuBois had extensive notes from legislative hearings and testimony along with notes regarding those favoring legislation.

As tenacious as I was in my search for relevant materials, there were some sources that were simply unobtainable. Because of gaps in the state archive collection, minutes from committee meetings, important internal communication about the policy, and even dialogue between government agencies and key players in the policy process from private industry were unavailable. For example, many sources (both interview subjects and legislative minutes) referred to an episode of the CBS news program *Sixty Minutes* as influential in framing the problem of prostitution and HIV. Both my individual attempts at obtaining a copy of this episode, and searches initiated by UNLV Library personnel were unsuccessful. In order to construct the story of Nevada's regulatory response to AIDS-infection via prostitution, it was necessary to supplement my document analysis with interviews.

Interviews

Interviews with policymakers were based on names generated from library research and exploratory discussions with gatekeepers. Library sources included legislative documents naming state actors involved in developing policy, such as initial incarnations of AB550 (which proposed HIV testing for non-legal prostitutes), two state publications which documented the work of the Nevada AIDS task force for the Nevada State Board of Health, newspaper articles, and minutes from state Board of Health meetings. These sources often listed the actors involved in formulating and implementing the policy, along with their affiliations and length of involvement. Contacting potential interviewees was often difficult

due to attrition—retirement, relocation, and death. Sometimes I used official resources to obtain interview contact information, such as utilizing the Legislative Counsel Bureau as an intermediary for contacting former state legislators. But more often than not, informal processes were employed to locate former policymakers who were no longer in those positions, such as referrals from other interview subjects and gatekeepers and general internet searches through search engines (such as Google). I also contacted the webmistress of PENnet (an online prostitution education resource) to arrange an e-mail discussion with one of their contributors. Throughout the research process, names of policymakers, contact information (email, phone numbers, addresses, and fax numbers), their roles in the policy process, and their referral source were considered key informational components. In addition to the names and contact information of key actors encountered in text sources, my respondent list expanded as my initial interview contacts added names of other contacts involved in the process.

Sixteen formal, semi-structured interviews[2] were conducted: nine face-to-face and seven via telephone. The first interview was conducted on the 19th of December 2001 and subsequent interviews were arranged at participants' convenience over the next several months. Prior to each interview, the respondent was given human subjects informed consent information and release forms, either in person or via fax.[3] Of those interviewed, six were or had been members of the Nevada AIDS Advisory Task Force, three were former state health administrators, two were also members of the Clark County Health District, two were former brothel prostitutes and one was the primary sponsor and creator of Assembly Bill 550. Two vice officers for the Las Vegas Metropolitan Police Department were also interviewed. All interviews were taped and later transcribed for analysis. Prior to the beginning of the research project, a generic interview schedule was developed as part of the human subjects approval process.[4]

During the interview, respondents were asked questions regarding the role and function of state bureaucracies, the development of Nevada's HIV/AIDS testing policies, and spe-

cific questions about their perspectives and roles in the policymaking process. Demographic information, professional and political resumes, any medical background and other issues were also addressed. Questions were progressively tailored to each respondent based on information from other interviews, documents with which the respondent was involved or within which he or she is mentioned (state documents, newspaper articles, etc.), or from comments or questions raised by other respondents or contacts.[5]

Three additional informants were willing to discuss the history and development of Nevada HIV testing policies, but these individuals wanted to talk at the moment of contact, which disallowed a formal and tailored interview. As a result, the discussions with these contacts—former Governor Richard Bryan, George Flint of the Nevada Brothel Association, and Russ Reade, manager of Nye County's Chicken Ranch—are less formal, but no less informative.

I have also drawn on informal conversations and discussions with others working in law enforcement, public health, policy development, or academia. Throughout the course of this study, I talked with police officers, employees at the Clark County Health District, librarians, the state archivist, and colleagues studying the sex industry in an effort to bring out more nuanced and detailed descriptions of the policymaking process as well as the effects of the policy on the economic and social landscape in Nevada. These discussions frequently challenged my perspective on major issues, such as politics within the health division, the micro-processes of policymaking in the state of Nevada, attitudes towards HIV/AIDS in Nevada in the early 1980s, and beliefs about prostitution in the state. The formal interviews often incorporated information and questions that arose from these discussions.

There were several interviews that would have enriched the story of policy development in Nevada, which never materialized due to issues of attrition and geographic distance. Because of time conflicts, I was unable to interview the ACLU director who questioned AB 550 during committee proceedings. However, this was mitigated by access to the director's testimony on the legislation. Rather than voice categorical opposition to the bill, this testi-

mony revealed more concern about implementation and structural aspects of the policy than a protest based on perceived civil liberties violations. Another important policymaker, the Clark County District Attorney, who testified about the importance of AB550 before the Assembly Judiciary Committee, passed away several years before I initiated this project. While a personal interview with the former DA may have further illuminated law enforcement's reasons for support of the legislation, his opinion was nonetheless represented by his colleagues and successors. Others important state officials, such as the health administrator who helped facilitate the beginnings of policy discussions about HIV testing in the brothels and the Board of Health member who recommended tested simply could not be located during the time of data collection. All of these interviews might have explained the policymakers' personal rationale for their role in the process, adding to the institutional discourse of bureaucratic communication gleaned from official records, such as committee minutes, internal memos, and requests for information from other state actors and agencies. However, the policy discussions they helped initiate were inherent in the discourse of their successors and other state health personnel who contextualized the situation through their experience on the job.

Assessing the Story

Often my affiliation with University of Nevada, Las Vegas, the discipline of sociology, and/or the Clark County Health District assisted me in establishing rapport with my respondents. These experiences allowed me to converse with a variety of different gatekeepers and respondents. Because a major aspect of the interview process is establishing rapport with respondents, "a researcher might share her background to build trust and encourage the informant to open up....she encourages and guides a process of mutual discovery" (Neuman 1994:358).

Throughout the interview process and in informal discussions, I tried to take the role of a student or befuddled researcher trying to understand the context, events, and people

present at the time AB550 was passed.[6] In some instances, I felt I had to "prove myself" to informants who questioned either my competence, motives or political/moral temperament. Respondents and key informants assessed my performance and used this assessment as a criterion for continuing the interview or discussion. In one instance, during the course of the interview, I was asked about my political and moral positions on teenage prostitution and the role of pimps in the industry. I felt this was a way for my informant to use his skills as a police officer to gain an understanding of my political and intellectual sympathies. I am sure he was listening for clues to confirm or deny a label of raging liberal, radical feminist, or out-of-touch academic. After my answer, the officer concluded that I was more conservative than he initially thought. I think that disclosure was important in this instance and others in that it helped establish rapport. I gave my informants some personal knowledge, much like the information they offered to me in their interview.

Answering the Questions

Nevada's regulatory response to prostitution may be considered unique in the United States, but it utilizes and replicates historically implemented measures regulating gendered sexuality. AIDS presented Nevada with a new disease variation that questioned the applicability of traditional public health responses in an economy dominated by the tourist and convention industry. The questions that this case study raised from the literature directed the collection of data from existing documents and interviews with policymakers. The subsequent chapters will answer these questions in relation to testing policies toward legal and non-legal prostitutes. Based on existing studies about the regulation of prostitutes and disease, I hypothesized that in the case of prostitution and AIDS, the threat of HIV infection was used as the primary justification for increasing the regulation of sex workers. I also assumed that HIV testing mandates toward prostitutes were not so much about the evaluation and integration of scientific facts into policy, as it was about normative or morality-based interpretations of prostitution. These normative interpretations of prostitution

maintain and perpetuate traditional beliefs and attitudes about gender and sexuality. The perpetuation of these beliefs and attitudes enable traditional policy responses that further Nevada's economic interests. Finally, I hypothesized that existing policy responses are the models for creating new policies.

What emerged from my analysis was the identification of a particular social process that helps to explain Nevada's dualistic prostitution policy. The development of HIV policy in Nevada towards prostitutes–whether legal or non-legal–repeated traditional tropes about sexuality, gender, disease and prostitution. While policymakers voiced concern about public safety and health, their initiatives were formulated against the backdrop of an economy dependent on the continuous flow of tourists. Thus, policymakers responded in a manner consistent with the existence of a moral panic. AIDS was a medical, moral and economic threat. Through the use of authoritative scientific and medical discourse, policymakers created a regulatory system employing customary mechanisms of containment and control in order to at once perpetuate gender and sexual stereotypes and protect the economy that depends upon them.

NOTES

[1] When referring to the state, I tend to conceptualize it similarly to Brush's (2003) interpretation of Althusser and his concept "apparatus of rule" (p. 6). Under this definition, the state is composed of institutions, capabilities and ideologies. Institutions include legislative entities, military, prisons, schools and other educational organizations, and social service providers. Capabilities describe the power that has been given to the state to formulate and enforce law and policy. Ideologies are the ideas and discourse produced through institutions, which discuss how politics and power operates. Ideologies support and justify capabilities (Brush 2003:6-7).

[2] According to Fontana and Frey (2000) there are a variety of interview forms and manifestations. Interviews can be conducted face to face, individually, and verbally or be in-group settings, and obtain information through the mail, telephone, or electronically (p. 645). In addition, interviews tend to be either structured, semi structured, or unstructured. Structured interviews are fairly rigid and consist of pre-established question and response sets. In addition, there is usually little room for variation, except when open-ended questions are asked. Coding schemes are developed prior to the project and are deductive. The interview also controls the pace, tone, and style of the interaction between the respondent and the researcher. Structured interviews tend to adhere to ideas of value neutrality or objectivity. (p. 649). Unstructured interviews consist of open-ended ethnographic questions, oral history, creative interviewing, postmodern interviewing, and gendered interviews. The goal of unstructured interviews reflects the paradigmatic assumptions of the methodology one is using. Structured interviews "...aims at capturing precise data of a codable nature in order to explain behavior within pre-established categories, whereas (unstructured) attempts to understand the complex behavior of members of a society without imposing any a priori categorization that may limit the field of inquiry" (p. 653). Some characteristics of unstructured interviews include: unclear beginning and ending of interviews, the order and wording of questions are tailored to specific people and situations, interest in responses and asking for further elaboration of answers from the researcher, a conversational rather than formal tone to the interview, jokes, asides, stories, diversions, and anecdotes, and personal comments are recorded and included and considered potentially important for insight, open ended questions followed by probes, decentering (to a degree) of power within the interview such as in the pace and tone, notation of the social context of the interview and its setting, and an adjustment by the researcher to the interviewees language norms. (Neuman 1994: 359).

[3] UNLV Human subject research protocol was approved for this project along with an extension and revision (see OPRS #115s0401-009, University of Nevada, Las Vegas). On the revised form (the first version was modified to address the concerns of one respondent who wanted to be referred to by legal name), subjects consented to the interview, along with giving permission to be taped and the manner in which they wanted to be identified (legal name or alias). Because six of the interviews were done by phone, information was faxed to the respondent and consent forms were faxed back. Only two respondents have not given the forms back : Larry Matheis and Joe Jarvis. Besides tape recording the proceedings of the interview for transcription, hand written notes were taken during the course of the interview.

[4] Human subject protocol approval was sought for this project because there are several potential areas for risk in this study. In particular, this study deals with issues of HIV/AIDS and prostitution. Both prostitution and HIV/AIDS carry social stigma with them. In addition, both issues present concerns for individuals in terms of physical risk, emotional trauma, economic sanctions, and legal risk. For example, while an informant who worked in

the brothel industry may consider himself or herself to be simply a worker, jobs within the sex industry tend to leave an essentializing identity on the worker that does not leave after retirement from that industry. Therefore many workers may downplay their association with a former or current occupation. Also, some informants who came from law enforcement were unable to disclose identity due to the nature of their job. Informants may wish to minimize their association with such issues because the intersection of these issues is only one aspect of their occupations or activities. For instance, medical practitioners dealt with prostitution and HIV/AIDS as an epidemiological and health concern. While they still may have been influenced by discourse about these confounding factors is the goal of this research

[5] Quite a number of gatekeepers and other sources were helpful in directing focus or attention. These included Lt. Olsen from LVMPD (friend of Dr. Stavros Anthony and his secretary Terry), Allen Lichtenstein, Dr. Richard Siegal (UNR Political Science professor and state ACLU contact for ACLU representative at time of AB 550).

[6] According to Johnson (2001), in-depth or deep interviews "usually concern very personal matters, such as an individual's self, lived experience, values and decisions, occupational ideology, cultural knowledge, or perspective " (p. 104). Yet in order to acquire this level of information, the interviewer must be aware that their own intellectual and ethical predispositions may influence the level of understanding. Therefore, the goal in interviewing is to "achieve the same deep level of knowledge and understanding as the members or participants" involved (p. 106). Johnson suggests several ways that this can be achieved. They include adopting the role of the student in research situations, checking one's own understandings if a member of the group to be studied, uncovering the hidden aspects of a social reality through examining assumed commonplace perceptions, deconstructing what we are "hearing" when conducting an interview, and achieving clarity on the research questions of the study (pp. 106-107).

CHAPTER IV

LEGAL PROSTITUTION POLICY

This chapter will examine the development of Nevada's HIV testing policy for legal prostitutes. As I will show, Nevada's HIV testing policies for licensed brothel workers developed to satisfy public health concern about an emerging moral panic: AIDS/HIV while protecting the state's economic interests. While unique in the nation for retaining legalized prostitution instead of eliminating it, Nevada continued a long-standing tradition of using public health policy to regulate sexuality. Specifically, disease testing for prostitutes has always been part of Nevada's containment policy as opposed to disease prevention strategies like mandating condoms. As I will show, the policy reflects hegemonic conceptions of gender inequality, the dominance of heterosexuality, as well as relying on a rationalized scientific medical discourse.[1] I argue that the commodification of sexuality has an important effect on Nevada's HIV testing policy toward legal prostitution. When policymakers considered possible responses, brothel closure was never suggested; instead, the response—a testing policy—indicates that the state wanted to protect this industry. Prostitution within legal brothels, because of its positive economic impact on the state's other industries—gaming and tourism—was legitimized as clean, sanitized, and safe. These policies not only reflect the economic interests of brothel owners but demonstrated the state's concern about the impact of an AIDS epidemic on Nevada's economy generally.

This chapter will also examine the mechanisms by which this policy was instituted. Personnel representing a variety of state agencies, such as the state health division, the State Board of Health, and the Attorney General, as well as the Nevada Brothel Association,

developed Nevada's testing regime. Yet in a strong sense, this policy would never have been mandated without the lack of adherence to a voluntary testing program initiated by the brothel industry. State managers and policymakers had no choice but to mandate policy in order to avert a building moral panic not only about the possible transmission from prostitutes to the general public, but the threat to Nevada's sin-based economy. A lack of response could not only impact the public's sense of well being, but the very positions of state managers.

History of the AIDS Pandemic in Nevada

The threat of the AIDS epidemic in Nevada did not emerge until the realization that heterosexual men were at risk for this deadly disease. The state of Nevada, like the rest of the nation, was aware of a condition compromising immune systems of homosexual men as early 1981. Two years later, AIDS hit the state when two homosexual men died in Las Vegas due to AIDS related pneumonia. While the spread of HIV among gay men drew some media attention, it did not spur a policy response (Nevada Newspaper Index: *Las Vegas Review Journal* 1/83-12/90 and *Las Vegas Sun* 1/83-10/90).

In 1984, a number of health care professionals, social workers, prison officials, and social activists began reporting to health officials and the media that HIV was starting to make the jump from homosexual to heterosexual populations. AIDS was being seen in men who had had sex with men, intravenous drug users, hemophiliacs, and recipients of blood transfusions and most importantly, their partners and children. It was in this context that Nevada officials first began to be concerned about the spread of HIV. It is important to mention that while the number of AIDS cases in Nevada was small compared to states like California, New York, Florida, Texas and New Jersey, it was nevertheless high in proportion to the population (Ziegler 1988: 4, Jarvis Interview). Dr. Joe Jarvis (state health officer from 1987-1989) recalled,

> JARVIS: very quick, very soon after the dramatic rise in HIV infection and AIDS on the coast in California came a similar rise in Nevada. Therefore by the time I became the state health officer in 1987 [it] was several years after the identification of the epidemic worldwide and particularly in the United States. Nevada was one of the states in the top tier of incidence for HIV and AIDS but it was gay men and IV drug users [who were infected].

The epidemiological data supports Dr. Jarvis' assessment of the impact of AIDS on Nevada. In 1983, Nevada reported six cases of AIDS (morbidity) and six AIDS related deaths. The following year, these numbers increased by one (seven cases and seven deaths), but then by 1985, the number of AIDS cases had increased to twelve, with thirteen deaths. The incidence and deaths related to AIDS in Nevada had nearly doubled in this brief period (Matheis 1987: 6).[2]

Public health officials began to address the epidemic in early 1985 (Nevada Newspaper Index: *Las Vegas Review Journal* 1/83-12/90 and *Las Vegas Sun* 1/83-10/90). However, while the first documented cases of AIDS mortality in Las Vegas were attributed to gay male relationships, the state's policies were aimed at curbing the spread in the general population; they included screening of the local blood supply and educational campaigns and testing programs for "at risk" populations. Also in early 1985 the state began discussing ways of regulating legal prostitution as a means to specifically protect heterosexuals as well. In contrast, cities like New York and San Francisco recognized AIDS as male homosexual disease, and bathhouses had been closed in Northern California as early as 1984.[3] While Nevada had bathhouses, the symbolic space associated with sexuality in Nevada was the brothel. It appears that Nevada's early statewide concern by public health entities was largely a response to fear of its effect on the state's legalized prostitution industry and its heterosexual patrons.

Mis en Scene: A Chronology of Policy

Nevada has a long history of protecting the public's health through disease testing mandates aimed at prostitutes. Regulating and controlling prostitute bodies through testing rather than protecting prostitutes and customers from transmission through condoms was Nevada's tradition. It was the state's highest ranking medical official, Dr. Richard C. Bentinck, who initiated policy discussions on appropriate responses to the developing AIDS crisis. Citing scientific data, the state official's stated aim was to protect the general public from prostitutes carrying HIV The focus of the early conversations echoed associations between prostitutes and the spread of disease based on medical studies since the mid-1800s, connections which harbored deeply rooted assumptions regarding gender (Walkowitz 1980). Historically, Nevada statutes had codified these presumptions and given the health division the power to regulate health in the brothels. Public health's authority over HIV policy was simply a logical extension of their decades old mandate. Prostitutes working in licensed brothels were considered manageable by public health entities, unlike non-legal prostitutes who would be the subject of criminal measures. While focusing on prostitutes, state authorities also looked to other expressions of sexualities – expectant mothers, couples applying for marriage licenses – as possible targets of testing. These discussions illustrate the state's role in regulating sexuality and deciding whose bodies needed management.

On May 8, 1985 Bentinck initiated discussion by sending a memo to state health administrator Catherine Lowe printed on Department of Human Resources letterhead. Acting in his role as the Nevada State Health Division's lead medical official, it was Bentinck's job to inform the state health division of existing health problems in the state, and emerging areas of concern. Whereas Bentinick was a medical professional, Catherine Lowe, the Health Administrator and memo's recipient, was a political appointee with a background in public administration, i.e., a bureaucrat.[4] She was charged with maintaining the day-to-day operations of this division and acting as a liaison between the executive and legislative branch.

Ultimately, real authority resided in Lowe's political office as health officer's report to the state health administrator.[5]

The memorandum outlined Bentinck's concerns about the AIDS epidemic in Nevada which I will discuss below. However, before getting to specific policy ideas, Bentinck spent some time asserting the health division's authority in monitoring HIV rates among prostitutes. Bentinck reminds the Health division's administrator of the mission of the state health division to protect the public's health. Nevada statutes 439.130, 439.170 and 439.150 establish the position and duty of the State Health Officer, the health division and the State Board of Health to "...investigate all matters related to the health of the people....take measures as may be necessary to prevent the spread of sickness and disease, and make and enforce reasonable regulations to define and control dangerous communicable diseases and to protect the public health generally..." (Bentinck 1985:3-4).

Memo Content: Recommendations for Prostitution

In Bentinck's memo he outlined ten different policy recommendations ranging from educating the State Board of Health about AIDS and reviewing their statutory responsibilities to testing pregnant women. Of the ten recommendations, three of these recommendations were related to prostitution and revolved around the themes of regular testing, research, and removal. They included immediate use of ELISA tests for prostitutes, the development of a study with U.C. Davis, and exclusion of any positive prostitutes from working in the brothel industry.[6] Bentinck's recommendations should be recognized as the mechanisms of identification and control or classification and isolation.(Bentinck 1985: 6)Yet embedded within Bentinck's recommendations were illustrations of the major themes of this case study: gendered sexuality—as seen in language and in the populations targeted for policy interventions, indications of a moral panic mentality, stereotypes of prostitutes as dirty and diseased, and reliance on scientific and bureaucratic authority for legitimacy. I will analyze these recommendations closely below.

Recognizing the uniqueness of Nevada's legalized brothel industry, Bentinck points to connections between prostitutes and AIDS/HIV by listing a series of "facts" that he considers relevant and reaffirms the health division's responsibility in this specific area.[7] While brothels are licensed at the county level, local regulations must conform to state standards aimed at stemming the spread of contagious disease including pre-employment medical exams, reporting of test results and "contact tracing."[8]

Themes in the Bentinck Memo

Scientifically Defined "Dirty Whores"

There are several assumptions implicit and explicit in Bentinck's manifesto that reveal how sexuality and gender-based stratification are reflected in public health discourse. Bentinck's memo demonstrates how state managers respond to a moral panic mentality by crafting policy recommendations that rely on existing attitudes and a culture of sexism, normative sexuality, and an accepted stigmatization of prostitutes to appeal to popular sentiment rather than sound scientific evidence.

One assumption is that prostitutes are seen as a vector of disease for HIV/AIDS. This maintains stereotypes of prostitutes as dirty, disease-ridden threats to the public health whose bodies must be regulated and controlled. Another idea implicit in Bentinck's memorandum is the assertion of medical/scientific expertise in labeling prostitutes as the source of contagion. Bentinck emphatically states "prostitution is considered *medically* (my emphasis) as a high-risk occupation for infection by and transmittal of venereal disease. Specifically, prostitutes are considered a high-risk group—an easily recognizable threat— for acquisition and transmission of HTLV III virus." (1985:5) Yet this statement is never supported by any scientific data. By using the term "medically," Bentinck claims scientific authority from his status as a doctor and that as the state health advisor. This status adds legitimacy to his defined duty to label a situation as warranting action through this particular state agency. At no point in his recommendations does Bentinck reference scientific studies or provide

general evidence that link prostitutes with the spread of sexually transmitted disease including HIV/AIDS. Bentinck never references the sources that inform his statements. His conclusions about HIV/AIDS are presented as truth claims without corroborating references from recognized public health organizations and studies. Bentinck fails to explicitly make the case that prostitutes are the vector between the four initially identified risk groups in the United States and the heterosexual population.[9] Yet Bentinck's statements do indicate that public officials are responding to a moral panic mentality and seeking to institutionalize a state response.

Sexualizing the Feminine Body

Utilizing the authority of science, Bentinck establishes a claim for a testing regime of prostitutes. While Bentinck is careful in using gender non-specific language in his memo, the only testing policies he recommends are related to gendered sexuality-specifically women's bodies that are standard tropes demonstrating heterosexuality: the mother (neonatal), the bride (premarital) and the whore (prostitution). The absence of males working in Nevada's brothels as prostitutes stems from the idea that prostitution is a feminine occupation, and thus, the effect of targeting the prostitute for regulation is to create a gendered system of control.[10]

As noted, other groups were deemed as posing a threat to innocent victims and thus necessitating testing. Besides prostitutes, Bentinck suggests initiating neonatal and premarital testing in his memorandum as well. These policies are all similar in that the testing and notification procedures assume a one-way transmission route of HIV from the prostitute to the client. Neonatal testing directly links the transmission of HIV from mother to fetus, without questioning the role of "the father" in the transmission process. Premarital testing, while not overtly gender specific in design, implicitly assumes male promiscuity as the source of infection for women. While the neonatal is specifically addressed to pregnant women, not the fathers, there are no gender-specific testing protocols outlined for premarital testing. Prostitution, neonatal and premarital testing are ripe with gendered assumptions. The brief

discussion of testing for mothers and pre-marital couples (like what had been done during the era of syphilis testing) indicates testing is not only aimed at particular gender-women, but heterosexual concerns are also an area of concern. But as much as the heterosexual population is the object of protection for this policymaker, screening efforts are directed for one target population— prostitutes—rather for the populace *sui generis*.

Test the Blood, Test the Prostitute

Bentinck recommends addressing the perceived threat from HIV infected prostitutes through a program of screening using the ELISA test (1985: 6, point 3). Importantly the ELISA test was originally developed to screen the nation's blood supply thereby protecting innocent blood recipients. Public health officials saw a parallel between the risk posed to "innocent victims" through a tainted blood supply and that represented by prostitutes. The testing policy for prostitutes would be defended as a way to prevent transmission not only to clients but their spouses, partners and children. This intervention on behalf of the heterosexual partners of brothel patrons does nothing to question the patron's role and his assertion of male sexual privilege. The threat and responsibility falls completely upon the prostitute as they always have in Nevada.

Bentinck and a Moral Panic Mentality

Dr. Bentinck's use of scientific authority and gendered sexuality tropes reflects both his scientific/medical training and his membership in sexist, heteronormative society. Dr. Bentinck, as the state health officer, was responding to a "moral panic." During a moral panic "the behavior of some of the members of society is thought to be so problematic to others, the evil they do, or thought to do, is felt to be so wounding to the substance and fabric of the body social, that serious steps must be taken to control the behavior, punish the perpetrators, and repair the damage" (Goode and Ben-Yehuda 1994a: 31). Moral panics characterize the reactions of policymakers, the general public, and the media to a particular social issue (Thompson 1998). Moral panics are typically recognized through five criteria: a

heightened sense of concern about the status or behavior of a particular group that has serious implications for the rest of society; an increased level of hostility toward the group and its members for engaging in its egregious behavior; a degree of group consensus that the threat is real, serious, and attributable to the targeted group; a level of concern that that is out of proportion to the threat; and a tendency to erupt suddenly and lie latent, although moral panics can sometimes be institutionalized into policy (Goode and Ben-Yehuda 1994a).

Notably, the health officer admonishes the health administrator not to underestimate the "...devastating public health potential for this epidemic," thereby announcing a heightened concern about the status or behavior of a particular group, (prostitutes with HIV), that has implications for general public (Bentinck 1985:6). The hostility common to moral panics is masked because this is bureaucratic response and couched in medical discourse. Bentinck is building consensus around the perception that the threat of prostitutes as HIV spreaders is real and immediate. Personnel and agencies have a responsibility to "...act in catastrophic situations" and must be informed and prepared (Bentinck 1985:6). Yet at no point in Bentinck's call for action in the face of "this increasingly frightening and explosive situation" does he provide statistical information on the scope and incidence of AIDS/HIV in Nevada. The threat of AIDS/HIV in Nevada is never clearly defined in proportion to his recommendations for state response. The period between the first AIDS related deaths and this policy is only two years. While the fear was merely latent when affecting the homosexual population, policy response erupts after heterosexuals feel threatened by the disease. The plea of the health officer to the health administrator about a potential moral panic indicates a shift in his persuasion techniques from scientific/medical based argument to one more affiliated with politics-one grounded in morality.

Bentinck's memorandum is more than just the simple recommendations of the health officer to his supervisor. The memo's manifest and latent content exemplifies the effect normative values toward sexuality and gender have on policymaking regarding prostitution and the role scientific evidence plays in the making of this particular policy for state health

authorities. In the following section, the themes of gendered sexuality, a moral panic as a catalyst for public policy, and scientific and bureaucratic authority are repeated as justification for policy recommendations in the testing and regulation of legal prostitution. Specifically, Bentinck's recommendations for brothel prostitute testing are seen as an opportunity to initiate an involuntarily testing program by the Board of Health.

From Memo to Board Action

Soon after receiving Bentinck's memo, Lowe placed the issue of AIDS policy onto the agenda of a July 1985 meeting of the Nevada State Board of Health, the state's formal health policy-making body. Her quick response to the content of the recommendations indicates recognition of a growing health problem that may necessitate the use of health authority. The discussion in this session of the State Board of Health included a background briefing on the AIDS crisis, limitations of antibody testing, and dispersal of federal funds for the testing of the state's blood supply. These factors prompted board member Dr. William Bentley to propose a pilot program consisting of a one-time involuntary screening of prostitutes (Lowe, Board of Health Minutes, July 8, 1985, p. 8). It is significant that one of the first responses to the AIDS crisis was a one-time involuntary testing program for legal prostitutes. Infected prostitutes were seen as a larger threat to the general public than an infected blood supply. Therefore, the gendered sexual trope of prostitutes as a dangerous group needing regulation was sustained.

According to an article from the *Las Vegas Review Journal*, the scientific discourse motivating Dr. Bentley came out of a June 21, 1985 article in the *Journal of the American Medical Association* (JAMA) linking the spread of HIV/AIDS from the homosexual population to the heterosexual population.[11] There is little question that JAMA is a valid and reliable source of information that is widely read, disseminated and accepted by medical and allied health professionals. Dr. Bentley was convinced that AIDS and HIV would shift from its initial trajectory from at-risk populations such as gay men, IV drug users and hemophiliacs to the

heterosexual male population through prostitution (LVRJ 7/9/85: 4B).[12] While research regarding the risk that prostitutes posed in transmitting HIV at this point was admittedly lacking, the potential for transmission to the heterosexual population through prostitution and just one article from JAMA, was enough for the Board of Health to begin entertaining policy discussion in order to respond to a burgeoning moral panic.

Themes in Board of Health Meeting

Scientific Justification

The JAMA article and the Board of Health's discussion underscore the significance of scientific discourse and its gendered assumptions in the regulation of sexuality. It was through the prostitute that homosexuals and other deviant populations like intravenous drug users would contaminate heterosexuals. Prostitute and homosexual manifestations are viewed more radically different than heterosexuals. A way to scientifically "other" prostitutes and homosexuals is to infuse notions about deviant sexuality with disease etiology—even the virus differs according to socially constructed sexuality.

The state Board of Health designated the Nevada State Medical Association (NSMA) as the qualified organization to review the scientific and medical information about AIDS/HIV. The Board of Health thought the NSMA, through committee discussion, would propose sound policy recommendations. Yet it could be questioned why this entity was chosen to draft recommendations to the state Board of Health. One answer is that medicine and science are the dominant knowledge sources for assessing the AIDS epidemic, and moreover, its member healthcare practitioners are a very powerful political lobbying source. Without the Nevada State Medical Association's participation, the public and its healers might not buy in or accept policy recommendations as easily despite the real or perceived threat to public health.

The Power to Test

Almost simultaneously to the Board of Health decision, Lowe consulted the director of Human Resources regarding the need and legality of involuntary testing of licensed prostitutes. Specifically her questions regard whether Nevada Statutes require prostitutes to be tested for HIV because they are considered possible infectious carriers of the disease and if the state has the ability to remove a working prostitute from a brothel if diagnosed with a confirmed positive HIV test. Lowe's concern over testing and possible removal of HIV infected prostitutes is one of jurisdiction. When local counties have been given the power to regulate brothels through licensing, and brothels have the freedom to hire and fire workers, she is asking if the state have the power to supersede local governmental and independent business arrangements. Lowe is clearly looking for a confirmation of her authority to pursue AIDS-related policy regarding prostitutes and the general choice of policy had already been decided despite the fact that scientific data was still uncertain.

Lowe was less concerned over the ramifications of testing prison inmates, as they are not entitled to full civil rights under U.S. law, so prisoners could be monitored and regulated in ways that the average citizen would not allow.[13] This realization aside, the fact that inmates and prostitutes were originally classified together in policymakers' thinking is telling: These are marginal segments of the population, and so they are deemed proper subjects of regulation and control.

In the mid-1980s, confronted with a new and potentially threatening new disease, Nevada's health officials scrambled to develop a meaningful policy response to alleviate rising public fears. With little scientific data available, they focused on groups routinely characterized as carriers of disease–most significantly prostitutes Thus, their early policy discussions echoed traditional moral sentiments and looked to control sexuality. In particular the focus of policy was not about gaining knowledge through research or disease prevention but maintaining control in the face of a moral panic. Through the application of involuntary

medical procedures designated for one population, policymakers would be able to quell the general public's fears.

AIDS-Related Recommendations from the Nevada State Medical Association

In order to formulate an appropriate response the Nevada State Board of Health specially recommended utilizing the resources of the Nevada State Medical Association (NSMA) when developing AIDS/HIV policy. As a non-governmental organization representing medical experts, this association contributed a non-institutional, possibly moderating voice to a policy that had the potential to be based on normative ideas about gender and sexuality rather than scientific knowledge. NSMA's rational perspective challenged the dominant perspective of Nevada's health authorities who considered prostitutes a "high risk" group without support from the nation's leading health authority—the Centers for Disease Control (CDC). While the rationale for choosing the NSMA for policy recommendations was never clearly articulated by the State Board of Health, one might speculate that this association was chosen due expertise, resources, and independent status. While the NSMA's proposal would ultimately fail due to a lack of funding from the state legislature, this organization succeeded in giving the policymaking process legitimacy through its adherence to scientific rationality. The moral panic which facilitated Nevada's HIV testing policy could have possibly been circumvented through more extensive studies.

The NSMA accepted the mandate of the state Board of Health and in June of 1985 began to evaluate current medical findings and recommend policy (Bowers 1985). Unlike the health administration, the NSMA is a private entity not one created by the statutes of Nevada. As the state's branch of the American Medical Association, the membership is composed of practicing, student, retired and visiting physicians.[14] The NSMA represents the interests of its members with local, state and federal legislatures and informs its constituents of emerging issues that could affect their professional practice such as emerging health

concerns, pending legislation, and market conditions.[15] In other words, the NSMA has a vested professional interest in recommending public health policy for AIDS. This explains why the State Board of Health chose this organization to work with the State Health Division in crafting policy recommendations.

From the onset of the discussion about AIDS and prostitution, the state health division and the State Board of Health defined prostitutes as "high risk" and that policy was needed to regulate this population. Yet the Nevada State Medical Association did not hold these assumptions. Rather, it approached the subject of AIDS policy more conservatively. Not only did it question assigning prostitutes to a high-risk category, but also it adhered to a more theoretical public health approach, which weighed the rights of individuals with protecting the general population's health. The NSMA felt that AIDS policy in Nevada should be based not only on sound scientific evidence, but also on the economic impact of policy, or lack there of, on the state's economy. The NSMA's AIDS/HIV testing recommendations for prostitutes are noteworthy for their rationality. In the face of fear and policies based on traditional linkages between prostitutes and disease, the NSMA requested more conclusive evidence on the incidence of AIDS/HIV among brothel prostitutes before recommending policy. In addition, the NSMA recommended a pilot study to gather evidence supporting the need for this policy initiative. During the course of the pilot study, prostitutes who do test positive are not to face negative sanctions. Ultimately the NSMA adhered to a policy model that reflects scientific principles, like no harm to subjects and accurate information, in order to produce a sound policy.

In August 1985, the Nevada State Medical Association met to discuss AIDS. The NSMA recognized an implied occupation risk to prostitutes for acquiring HIV/AIDS. An occupational risk implies heightened exposure to the virus due to employment conditions that put them in contact with body fluids, e.g. doctors, dentists, nurses, first responders, sanitation and bio-hazard workers. But the organization did not define prostitutes as a "high risk" population.[16] High-risk groups, which include I.V. drug users, hemophiliacs, and

homosexuals either by choice or inherent medical conditions, have dramatically higher rates of infection.

NSMA members were conflicted in their role formulating policy about AIDS. The Nevada Medical Association questioned the degree of urgency in policy formation for AIDS, as well as the legitimacy of policy that was not based on significant data. They feared a strong potential for liability and losing credibility. Failure to establish policy could have a detrimental impact on public health and tourism as well. The State Medical Association was also troubled by a belief that the State Board of Health lacked of information on prostitution as an occupation and its impact on the epidemiology of AIDS. The NSMA was concerned about the lack of scientific studies which proved a link between AIDS and prostitution (Bowers, Nevada State Medical Association minutes, 8/23/85).

Citing an "immediate need" for additional data, this committee recommended a voluntary testing program for prostitutes working in licensed brothels and the scientific analysis of those results (Bowers, Nevada State Medical Association minutes,1985). Reflecting its purpose as a data collection tool and their concern over confidentiality between researchers, brothel owners, and sex workers, NSMA wanted no action be taken against prostitutes with a positive serologic test and mandated proper medical protocol be followed during this study.[17] While other proposals were offered in their statement including informational material about the ELISA test itself and asking the "private sector" (brothel owners) to fund testing, their discussion fell short of recommending a policy to the Department of Human Resources until more data came in about utility of tests.[18]

The NSMA played an important role in the policy process in two ways. First, unlike the state health division and the State Board of Health, who were discussing an involuntary testing policy, the NSMA suggested a voluntary testing program. The reason they argued for a voluntary testing program was that it adheres to the ethical principle of informed consent and protects the identity of those involved in the study as well. A voluntary study would also indicate that the brothel industry and prostitutes were aware of the potential risk posed by

prostitutes for acquiring and transmitting disease and are ultimately concerned about the health of the consumer. Second, their policy proposed the cost be borne by the brothel industry, not the individual workers or the state. This recommendation suggests that this board which represents the professional and business interests of individual practitioners, not hospitals or other professional health industry organizations was cogent of the economic aspects of a testing policy. Testing was not only necessary to protect the health and safety of workers and clients, but the economic health of the brothel industry.

The recommendations of the Nevada State Medical Association in many ways were contradictory to the tone and direction for policy originally proposed by the state health division and the Board of Health. First the NMSA recognized the lack of scientific study implicating prostitution's role in the prevalence of AIDS. The Board of Health and the state health officer both accepted the findings of two studies from one source (JAMA) as evidence in initiating a testing program. Secondly, the NSMA questioned the applicability of the ELISA for large scale testing. The state health officer was willing to utilize this test even though it had been developed for another use: testing the blood supply. Finally, the NSMA anticipated cooperation from both brothel owners and prostitutes in participating in a voluntary study. By proposing an involuntary study, the state was questioning the degree of acceptance the industry and its workers would have to a testing regime. Yet, the NSMA's need for scientific evidence tempered with its recognition of the social and economic conditions influencing policy were well received by state actors. Its pilot prostitute testing program was seized by the state health division as a viable response. Ultimately, the NSMA gave state policymakers a credible policy response—informed by scientific rationality and supported by influential medical and business professionals—which could mitigate a moral panic and potential economic crisis by allowing for the continuation of legal prostitution.

Passing the Buck, Not the Test: The Politics and Economics of Public Health Policy

Within the span of six months, recommendations for an HIV testing policy toward prostitutes had evolved from an internal memo circulated among health division administrators to a policy proposal for a pilot-testing program supported by both state actors and influential private interest groups. For the most part, the State Board of Health adopted the recommendations of the NSMA and made their proposed pilot program voluntary and established a confidential testing collection protocol. However, policymakers did mandate that prostitutes testing positive cease working. State actors perceived HIV testing policy toward prostitutes as a matter under its jurisdiction, a matter for the state to be involved. But two significant events ended the promise of a pilot testing program. First the proposal did not get legislative approval. Second, the brothels had attempted to institute their own voluntary testing program, and this program failed. The pilot-testing program required legislative approval because it was based on state funding. As I will discuss below, the legislature rejected the suggested state funded pilot study, stating budgetary reasons. This not only shifted the fiscal cost of testing from the state to the private sphere, but it removed any opportunity to gather sound scientific evidence before coming up with a policy. Economics, therefore, played a far more influential role on this policy than scientific rationality. After this legislative defeat, policymakers were forced to come up with a mandatory policy uninformed by scientific research or medical opinion. The rejection of the pilot study denied workers a role in the development and implementation of the policy, relegating them to anonymity despite their status as central characters in the drama. The pilot study was radical in that it involved workers as independent actors, and took into consideration their voices and concerns. While the pilot testing policy had the potential to challenge pervasive ideas about the gendered sexuality of prostitutes, the mandatory testing policies that were ultimately passed relied on traditional tropes and caricatures to justify the treatment of prostitutes as subjects to be controlled, not citizens to be governed.

Rejection of the Pilot Testing Program

The state Legislature's Interim Finance Committee rejected the proposed health division pilot-testing project. The Committee believed that the brothels rather than the state should bear the cost of the HIV testing[19] (Hayes LVRJ 11/21/85: 3B). This decision implies that the state did not feel that it should allocate funds to a study that was primarily a matter concerning private industry. After all, previous STD testing mandates, such as for syphilis, gonorrhea, and Chlamydia, were not supported by a state sponsored study. After legislative defeat of the proposal, policy discussion shifted away from a voluntary testing program to a State Board of Health mandated testing policy.

Mandatory Testing Recommendations

The regulations, which called for a mandatory HIV testing policy for prostitutes, resulted from the failure of five brothels to comply with a voluntary AIDS screening program (Hayes, LVRJ, 11/21/85: 3B, Lowe, State Board of Health meeting minutes 11/20/85). While there is no documentation regarding the reasons why five of Nevada's brothels failed to comply with a voluntary testing program, one can speculate on the factors facilitating non-compliance. One explanation is that it might not be economically feasible for smaller brothels, which lack the ability to recruit and retain prostitutes, to require testing. Secondly, up to this point, the brothel industry was not unified. The threat of the AIDS helped to initiate industry unification and organization. Another explanation is that laissez-faire policy tends to have poor compliance. Unless mandated, private industries do not often initiate voluntary policies, even if they would benefit them in the long run. Last, brothels and prostitutes might not want testing due to a general stigma associated with it. Testing implies that someone has engaged in behavior that puts them at risk—thus recognition of one's potential for disease. If the brothel industry would not institute a testing policy as part of its industry, the state decided that it would mandate such a program.

The November Board of Health meeting was a watershed event in advancing a testing policy toward prostitutes. Not only did it shift the economic responsibility of disease testing

from the domain of public officials to private industry, but did so due to the lack of co-operation from the brothel industry. When some brothel owners balked against voluntary measures, regulatory controls were implemented. The latent message to the brothel industry was that its failure to self-police the industry necessitated state action. Yet the decision to hold prostitutes, but not owners, fiscally responsible for testing is also reflective of the gendered values policymakers hold toward prostitutes. Testing regimes as desired by individual prostitutes indicate a level of self-governance by independent contractors. While it was the inability of brothel owners, not workers, to self-regulate which precipitated a mandatory testing policy, state actors continued a tradition of code based morality to control the bodies of prostitutes. Testing was mandated by the Nevada Administrative Code and in county ordinances, and the costs for testing were assumed by each prostitute as a condition for obtaining a work card.

The Passage of Pre-Employment HIV Testing for Prostitutes

In March 1986, the State Board of Health passed regulation, through the Nevada Administrative Code, which required pre-hire and subsequent monthly HIV testing as a condition for employment and obtaining a county work card. It stipulated that the state's medical lab would oversee the testing (Matheis 1987).[20] These new provisions regarding HIV testing were based on prior policies the Board of Health had approved in the testing of prostitutes for other sexually transmitted disease and represented the culmination of almost a year of policy discussions and proposals. Overall they reflected the state health administrator and state health officer's existing concerns over continuing to allow HIV positive prostitutes to remain working, but it in effect, created a situation where HIV-positive prostitutes could no longer work legally and may continue their trade working illegally.

While HIV testing policies toward prostitutes demonstrated that the state was actively addressing the issue of AIDS in the legal sex industry in Nevada, through surveillance and

monitoring, some public health officials, such as the state health officer and other health division workers, were still concerned about AIDS/HIV in brothels. Testing was only as effective as one's last exposure. Testing did not prevent disease transmission for either the client or the worker. These lingering questions indicate that the moral panic fears had not fully been laid to rest; further action would be needed. The screening policy was focused on the transmission of HIV/AIDS to patrons, and it did not protect prostitutes from acquiring HIV/AIDS and other sexually transmitted diseases.

These issues illustrate the gendered foundations of the policy. Public health practitioners were concerned that testing policies were being marketed by the state and the brothel industry as an effective HIV policy in order to reassure customers and bolster the reputation of the legal sex industry. In actuality, testing only indicates the past status of a worker and would not guarantee that she had not been infected since her last test.[21] Even when a prostitute is tested monthly, the number of patrons who may have been exposed to a sexually transmitted disease (STD) during a window period, or the time in which it takes for the body to develop antibodies, is up to three months. Because prostitutes are associated with a large number of patrons, this process could instigate a moral panic and show the state to be ineffective in addressing this problem. Managing the tensions between public fear, morality politics and the viability of the brothel industry was on the minds of policymakers. Thus while the initial threat of the prostitute associated AIDS moral panic was thwarted with policy, health officials were concerned that this solution was merely putting a bandage on a gaping wound. The discourse/rhetoric of the policy was more effective in allaying the public's fear than actually mitigating disease transmission. The next policy initiative would address prevention rather than just control.

State-Mandated Condom Use Policy

Whereas testing policy was public health's first response to the AIDS crisis in Nevada, mandated condom use in Nevada's brothels constituted the next. One can speculate why a

mandatory condom policy was secondary for policymakers. One reason is that many prostitutes and their brothels were already voluntarily instituting mandatory condom initiatives or they were self regulating. Secondly, as my research shows, the primary focus of health officials had been the institionalization of a testing regime rather than prevention. Also fears about HIV infected prostitutes would have perpetuated the moral panic mentality of associating prostitutes with AIDS and kept the issue going, draining valuable state time, resources, and personnel from other aspects of the epidemic. Testing policy is not only effective symbolically, as a way to alleviate a moral panic, but it is a system of control for the regulation of sexuality.

The first discussion of state mandated condom use is documented in the Board of Health meeting minutes from January 21, 1987. Larry Matheis presented policy initiatives for review by the Board of Health (Matheis, Board of Health minutes 1/21/87: 7). Most importantly, he advocated requiring condom use in all legal brothels. It was noted that a similar voluntary policy had been adopted by the brothel industry (Matheis, Board of Health minutes 1/21/87: 7). As with the earlier pilot testing program, the brothel industry's failure to self-police led to state action. This illustrates a theme associated with state theory. The state is quick to step in if an industry either cannot or will not self-regulate in areas of public concern which can threaten the economy. However, Matheis' recommendations would be not implemented for a full year later.[22] Possible explanations for the time difference in this policy's development include: a regime change within the state health division (Matheis replaced Lowe as state health administrator), and that state authorities had focused efforts on other issues after rapidly responding with a testing policy for prostitutes. In the grand scheme of policymaking, a year is not a long time to formulate and enact policy.

Indeed, beginning in 1986, some brothels, like the Chicken Ranch, began requiring mandatory condom use for all patrons, and they were generally behind the policy[23] (Evensen, LVRJ, 2/23/86: A1). At the BOH meeting, Russell Reade[24] not only voiced support, but also mentioned that the brothel industry had been voluntarily adhering to a

condom policy. Like HIV testing policies for prostitutes, the universal adoption of condoms by the brothel industry had never materialized despite attempts by some brothel owners to encourage this as a wise business move to reassure patrons. This illustrates an idea held by instrumental Marxists. Individual capitalists do not always respond in a manner that benefits the best interests of their particular industry. Instead, regulations must originate from the state and its actors which serve to protect the industry as a whole.

Almost all the public commentators at the Board of Health meeting, except for Dr. Ravenholt,[25] had economic interests tied into the brothel industry. Obviously the brothel lobby and management, rural counties, and medical and allied health professions stood to lose financially if the brothel industry were to collapse.[26] The potential impact of AIDS on the brothels and then by extension to the state's gaming and tourist economy was clearly a consideration throughout the policy process.[27]

While testing policies had targeted prostitutes as vectors of disease, emerging statistics led policymakers to recognize that testing policies targeting prostitutes would not be sufficient to prevent a massive outbreak; these realizations pushed the state's condom policy along. Dr. Bentley, the board member who had originally called for testing of prostitutes, mentioned that while "brothel testing is important, it should not be our main focus" (Matheis, Board of Health minutes 1/21/87: 8). He stated before this comment that the main focus should be on the "gay community, the intravenous drug user, [and] hemophiliacs where high risk behaviors have resulted in all of Nevada's AIDS cases" (p. 8). This comment recognizes prostitutes in legal brothels to be a relatively low risk group for transmitting HIV to others. This admission sharply contrasts the justification of the original testing policy rationale. It also demonstrates that Dr. Bentley's fears about AIDS and prostitutes had been assuaged by a mandated testing policy.

Larry Matheis stated that for the record there was no way to eliminate risk during an epidemic because behavior causes the risk. "Clearly AIDS is a sexually transmitted disease so sexual activity is a risky behavior. This brothel program seeks to identify that risk and con-

tain it within the limits of current technology" (Matheis, Board of Health minutes 1/20/ 1988:. 7). However, only brothel prostitution activity was targeted for containment as "risky behavior." For Matheis, containing the risk of disease through mandatory testing and condom use in prostitutes was the best policy in the face of public fears in an epidemic. In later interviews, Matheis acknowledged that mandatory HIV testing policies and condom use did not play a huge role in slowing down the rate of HIV infection. But it diminished the public's fear of AIDS. To contextualize the panic mentality of AIDS/HIV, Mr. Matheis compared the situation of the anthrax panic to that of HIV/AIDS. As legal prostitutes have traditionally been a group that is easily controlled and regulated due to its gendered sexuality, perhaps the reason they were targeted over other groups was one of convenience, public opinion, and a tradition of the state to test and manage prostitute bodies. While the policy rhetoric may imply a system of regulation, mandatory HIV testing of prostitutes working in confined spaces simply maintains traditional gendered, heterosexist, and stigmatizing policies toward this population. HIV testing policy for prostitutes was accepted because the public understands the familiar tropes of disease-spreading prostitutes and it was a quick, visible response.

> MATHEIS: Dealing with HIV/AIDS, we had to take off the table something that which was not a big part of the issue. Brothels were not a major source of risk to the public, but it was the kind of issue that could get in the way of dealing with it. ...Especially when people are afraid, when they are uncertain, they try to find a way to re-characterize the subject into something they are comfortable with.

Matheis' comments point to the reason in delay for the condom policy. The state had to have an immediate visible response even if it was largely ineffective in stemming the spread of AIDS. The larger problem, for Matheis, was that if the state had not enacted HIV testing policies toward prostitutes, the general public would demand action toward this group and set in motion a severe moral panic environment. Fears about HIV infected prostitutes would

have kept the issue going, draining valuable state time, resources, and personnel from other aspects of the epidemic. The lack of policy also could have meant the end to this industry, thus threatening the economic foundation of the state.

The prostitute's condom use fits well with guidelines in other "risky" occupations advocating the use of latex barriers. While mandating condoms is better for prevention, it is not as tangible as test results. Condom use is difficult to monitor, and ultimately, its success depends on the active resolve of patrons and prostitutes alike. Scientific evidence in the form of aggregate test results can be published thereby giving the public a sense of comfort.

If the state was really in support of regulation, other practices might be encouraged. These policies might include the control of HIV transmission by educating customers and prostitutes, industry support for voluntary condom use amongst customers and prostitutes, and financial benefits to those prostitutes who take measures to know health status, such as price breaks for additional testing.

The mandatory condom policy did have some notable unintended consequences. Three key points emerge from a mandatory condom policy. First, using condoms protects not only the patron but the prostitute as well. Yet this was not discussed during the public hearings on the subject. The lack of attention paid to the health of the prostitute further illustrates the gendered nature of the policy. In contrast, the health and welfare of workers are often preeminent concerns when developing safety policies regulating other industries. Secondly, prostitutes have the support of state law when refusing service to a patron refusing to use a condom.[28] A mandatory condom policy places some responsibility on the client for his safety as well. Finally, statistics indicate that the rate of infection for all STDs have decreased since the beginning of mandatory condom use.[29]

The unintended consequences of the mandatory condom policy illuminate key themes in this study. Not only does prevention benefit prostitutes and clients, but it diminishes the stereotypes as vector. Secondly, the responsibility for disease prevention is shared by the male client rather than the sole responsibility of the female prostitute. Next, this policy

diminishes the potential for a re-emergence of a moral panic mentality. Finally, condoms further assure the public that brothels are safe. This promotes not only the brothel industry but the tourism industry in general. The message of this policy is that in Nevada, whatever needs to be done to keep tourists "sinning safer" will be enacted into policy.

Ultimately, the late implementation of condom policy is further evidence of a policy focused primarily on control rather than prevention. Containment measures are easy means to quell a moral panic mentality. Even once health officials' attention turned toward prevention, it was directed at preventing AIDS/HIV for clients and/or their partners. In these discussions there was no mention of protecting the prostitute herself from infection or even giving workers a degree of empowerment. Thus the gendered and heterosexist nature and reinforcement of male privilege are embodied in the policies.

Themes in the Development of HIV Policy

The preceding chronology exposes a number of thematic features in the development of Nevada's HIV policy. As a state permitting legal houses of prostitution, Nevada embodies a number of complexities and contradictions in the policymaking process which protects its legal sex industry as well as reflecting ideas of gendered sexuality, preconceptions about the nature of prostitutes, and internalized economy. The first key theme is of HIV policy regards policymakers and business interests reliance on the rhetoric of science as a means of presenting objective or rational justifications for policy instead of overt morality. Secondly, for most policymakers, however, this discourse only masked a very clear hetero-normative, gendered hierarchy. Third, the policymaking process was prompted by an atmosphere of moral panic in large part related to the economic livelihood of the state. Last, the complexities of the policymaking process were compounded by the involvement and obligation of various state actors, business interests, and an inadequate legal precedence.

Seeking Legitimacy: Legal, Scientific, and Media Validation

From the very beginning of the state's consideration of policy, the state health administrator sought the legal opinion of the state's attorney general in interpreting her agencies abilities in instituting regulations for prostitutes. The brothel association sought legitimacy through scientific studies that would prove to state agencies, the general public, and the media that AIDS and HIV was not threat in Nevada's legal brothel industry. Last, the media had to perform its duty both as a public watchdog for Nevada's health and welfare and as a public relations tool in promoting Nevada's economy. For as much as controversy sells newspapers, without the sex industry, Nevada's tourist appeal would lose its luster.

Seeking Confirmation of Power: Attorney General Opinion

Following the suggestion of a involuntary testing policy, Catherine Lowe sent a memorandum on July 23, 1985 to the Deputy Attorney General, Bryan M. Nelson, requesting a formal advisory opinion about the State Health Officer's legal authority to mandate involuntary HTLV III[30] antibody testing for brothel-employed prostitutes or any other potentially "high risk" worker.[31] In effect, the state health administrator is asking for legal reinforcement in justifying the utilization of public health's police powers.[32]

While state statues give the Board of Health and health division power to address matters of the public health, Lowe wants assurances regarding the extent of her office's power to address a previously unknown disease in a fearful public. On a more practical level, Lowe is also concerned about her responsibility to report positive test results, to the tested individual and relevant agencies. Additionally, she is very aware of the social and economic implications of a testing policy. Thus, Lowe asks the Attorney General to clarify the need to terminate or bar from employment persons testing positive. Similarly, she inquires about the potential civil liability resulting from the state health officer's action, or inaction. Lowe is concerned that involuntary testing may cost the state money from lawsuits, either from a patron who attributes an HIV status on the lack of policy from the state, a prostitute who faces discrimination and the loss of revenue from her former occupation, or from brothels

who lose business due to their association with the spread of AIDS. Lowe also raises the possibility that a positive test could be considered evidence of an occupation disease, potentially covered under state industrial insurance system or (SIIS). Her question challenges traditional occupational classifications of prostitutes as independent contractors and poses the possibility that they are employees, with all the rights and privileges of that status. The economic cost to the state could be dramatic, and obligate the state to cover prostitutes under existing occupational health and safety statutes.[33]

Lowe's questions to the Attorney General's office demonstrate a narrow concern focused on the authority and resources of the state. She does not mention her office's duty to protect the prostitute's health. Similarly, there is no recourse or compensation for prostitutes if they acquire HIV/AIDS on the job. Moreover, their very ability to find employment is in jeopardy with a positive test result, and despite recent anti-discrimination statutes, the stigma one faces when diagnosed with any life-threatening disease can be socially and economic debilitating.[34] The memo seeks authority to place the prostitute within the regulatory apparatus of the state. Yet the benefits of a protectionist state are not available to prostitutes.

While the Health Division was investigating the feasibility of a testing policy, it takes nearly four months for the Deputy Attorney General to render judgment on the questions Catherine Lowe posed. Bryan Nelson's five-page response addressed the questions raised by the health division administration. The memo illustrates some of the complexities involved in the policymaking process surrounding AIDS testing including questions over basic facts and interpretation of agencies' responsibilities. Scientific information regarding the disease was incomplete. Noting that the opinion of the medical community was still uncertain, In the memo, Nelson challenged the widespread belief that a person with a confirmed positive test would be considered infectious and thus able to transmit the virus to another. While Lowe's original question had classified prostitution as a "high risk" occupation, Nelson is wary of fully supporting this claim since the U.S. Centers for Disease Control had not defined it as such. Instead, he specifies that it is the State of Nevada's belief that prostitutes

have an increase risk of infection and transmission to others due to the "nature" of their occupation[35] (Nelson 1985). Although Nelson finds the medical and scientific evidence supporting the link of prostitutes to the spread of AIDS/HIV in the US to be inconclusive, he defers to the authority and expertise of the state's public health division in making decisions.

Nelson's response is itself complex, and it demonstrates the subtle nuances of the state's health code and bureaucracy. He notes that state law does not currently *obligate* the Board of Health to test prostitutes for HIV/AIDS, and the opinion attests to the Board's ability to test individual prostitutes upon "reasonable suspicion" of being infected.[36] Yet he expressly questioned the authority of the health division and the State Board of Health to take action against legal prostitutes as a group under existing code (Nelson 1985). Recognizing a gap in the health division's authority, Nelson shrewdly reaffirms the power and legitimacy of the health division and the Board of Health to define sexually transmitted disease, to control and regulate the treatment of STDs, and adopt regulations.[37] Thus, he points to an administrative mechanism by which large scale testing would be permissible. Nelson advised that AIDS could be included under the "statutory definition of venereal disease" as so defined by NRS 441.050. This would then give the Board of Health authority to pursue a testing policy under the auspices of a medical definition, not a legal one.

Continuing his analysis, the Attorney General confirmed the authority of the state health officer to remove a prostitute from working[38] in a locally approved brothel if a positive HTLV III test was confirmed (Nelson 1985: 4, citing NRS 441.220, 230).[39] Therefore if it is evident that a prostitute has a venereal disease such as AIDS, and is infectious, then *she* may not engage in her chosen occupation. Thus Nelson's comments not only demonstrate the complexities and contradictory roles of the state and its health division, but overtly gender legal prostitution as a feminine endeavor.

Ultimately, the Attorney General's decision reinforced the power of the state BOH in making policy aimed at regulating legal prostitutes. It also lent support to the state health

division for proceeding with policy discussions. Nelson's memo introduces the possibility for enacting criminal statutes against prostitutes who continue to solicit while knowing they are HIV positive. It is this ruling that paves the way for criminal sanctions against non-legal prostitutes which is explained in more detail in the next chapter.

Lowe's request and the Attorney General's response are examples of juridico-medical discourse central to Foucault's concept of bio-power. The sexuality expressed within the brothel is conditioned by the structure of the state, which serves as a reference point within the overall system defining sexuality. The classification of individuals into definitive groups, infected prostitutes, is justified by a legally sanctioned medical decision, and in turn, they become the objects of state action. The scientific and legal discourses come to serve and reinforce one another. Health authorities consult the Attorney General who then authorizes the use of public health's police powers as backed by medical certainty. In the case of prostitutes, it is a construction of a normative sexuality that comes to be constituted through the regulation of the prostitute body. The mechanisms and regime under which the prostitute can work are prescribed by state regulation.

Seeking Scientific Justifications for Policy: Legitimacy and Scientific Studies

As the state health division sought legal opinion to bolster its legitimacy, public health entities were engaging in scientific studies to test the theoretical linkage of prostitution in the spread of HIV. Not only did these studies allow public health entities to support policy initiatives with scientifically sound data, but also they demonstrated that the perceived threat from prostitutes with HIV/AIDS never materialized among legal workers in Nevada. Additionally, the brothel industry was shown to be compliant with existing public health measures, responsive to the needs of patrons and workers, and as a safe space that regulated the sexuality of its workers for the benefit of clients. These findings place Nevada's brothels within the sphere of legitimate and well-managed businesses central to an economy centered

on pleasure and leisure. Indeed, the brothels could now be considered responsible partners in the state's regulatory system.

Beginning in January 1986, the subject of HIV infection in prostitute women began to merit research from the public health community and social science. In a draft copy of *Intravenous Drug Use, Sexual Behavior, and Human Immunodeficiency Virus Type I Infection in Prostitute Women in the United States,* prominent public health researchers and social scientists (as part of a CDC Collaborative Group) began to assess the sero-prevalence and risk factors for HIV in prostitutes in eight areas of the United States. Cities/areas selected for study included New Jersey (Newark, Patterson, and Jersey City), southern New Jersey (Atlantic City and Trenton), the Atlanta metropolitan area, Dade County (Miami), Colorado Springs, Southern Nevada, Los Angeles County, and the San Francisco Bay area (Darrow c.1990:4).[40]

This study was significant for Nevada's brothel industry in that the incidence of HIV was zero out of a sample of thirty-seven tested prostitutes compared with seventy-five out of one-hundred fifty-eight in Northern New Jersey.[41] This underscored brothel claims regarding their record of relative safety and health and their responsible business practices. Rick Reich and Dr. Otto Ravenholt, employees of the Clark County Health District, were involved with the study for the beginning. These members of the local public health authority helped legitimize and contexualize the study's findings which lent further credence to legal brothel prostitution's claim to be a safe and controllable system of sex-work. The study does not support similar claims regarding non-legal prostitution thereby adding support to continuing the state's bifurcation of prostitution into legal and non-legal forms.

While the CDC sponsored study lent respectability and scientific evidence to the practices of brothel prostitution, another study (commissioned by the Nevada Brothel Association)[42] continued to improve the image of the brothel prostitute in Nevada to the rest of the country and the world. This study shows that the brothel industry and legal prostitutes were eager and willing to work with the scientific community, and it helped justify state regulation of prostitution.

In this study, Dr. Gary Richwald and other researchers from the University of California, Las Angeles (UCLA) Department of Community Health for the School of Public Health examined the occurrence of sexually transmitted diseases at the Chicken Ranch from 1982-1989. Presented at the Sixth International Conference on AIDS in San Francisco in June 1990, the study detailed the testing and mandatory condom policies of brothels. The study suggested that testing policies contributed to a slight to low incidence of STD transmission from prostitutes to clients.

Not only did the study help justify Nevada's testing policy, but the study's claims were supported by the scientific credibility and status of UCLA. It also demonstrated that the brothel industry were aware of the power and influence of a scientific study to legitimate their position and placate public fears. While the brothel industry could be still be criticized on moralistic grounds, scientific and medical evidence are strong forces supporting its legitimacy. The pre-employment STD screening of prostitutes and subsequent STD testing throughout employment, state mandated use of condoms for vaginal and oral-genital contact, a Chicken Ranch policy prohibiting anal intercourse, "dick checks,"[43] and STD prevention and educational services for prostitutes by Clark County Health District and State Health Division professionals were all identified by the researchers as factors contributing to this low sero-positivity status among prostitutes (Richwald et al 1990: 6). In essence, the study supported the state regulation of prostitute's gendered/sexualized bodies.

Fanning or Fueling the Public's Fear:
The Media and Policy

The legitimacy of the public health administration and the brothel industry would not matter unless its legitimacy was supported by public perception. For both state actors and the brothel industry, media accounts helped shape public sentiment about HIV testing policies and prostitutes. Media reports have the ability to shape a moral panic mentality, either by assuaging public fears or by further condemning a private industry. Media accounts

also can reaffirm the public's perceptions of prostitutes through it use of popular stereotypes. The Nevada press highlighted various issues related to prostitution and the spread of HIV. In one account, brothels and individual prostitutes are portrayed as conscientious business operators concerned about patrons' health and public well-being. The second questions the state's ability to control the epidemic through faulty testing and surveillance systems.

One early article, written prior to the institution of mandatory testing, reported that many prostitutes were already being testing voluntarily, and it explained public health officials felt workers should quit if positive. This article illustrates many themes that are explored in this case study: gendered sexuality, the role of moral panics in the policy process, and the economic aspects of this policy. The article promoted the stereotype that prostitutes were actually women with "hearts of gold" who ultimately protected the public interest. This article is an example of how the media can diminish the threat of a moral panic. One prostitute interviewed for the story noted that participating in voluntary testing made her customers feel safer (Nevada State Journal 10/25/85). Recognizing the impact fear could have on her clients and by extension the brothel industry; the prostitute chose to be tested. This indicates an awareness of "internalized economy" of workers in the brothels. The worker's words about making the customer feel safer fits in with the interests of a state based on tourism and leisure. The prostitute had internalized the fears of the clients and society. It seems that the prostitute had initiated testing not only for her own income, but based on the perception (could be internalized as well) that prostitutes are more susceptible to AIDS and spreading it. This article also relies on long standing tropes that paint prostitutes as having "hearts of gold" who ultimately care and contribute to the community. This image of prostitution is one that is cultivated by the brothel industry. Her statement not only that her own immediate livelihood could be in jeopardy, but without placating public fears the industry could be threatened.

While "positive" stories like the one above illustrated prostitutes taking the initiative in preventing the spread of HIV through voluntary testing, other stories echoed continuing public fears of HIV positive prostitutes still employed in the brothels. Media accounts like this could fuel the fears of the public and re-ignite a moral panic mentality. One such article told of the use of pre-employment samples from prostitutes during early instrument calibration testing which produced results interpreted and reported as positive (Reno Gazette, 01/26/86). Even though the positive test results were disputed,[44] these headlines did little to diminish the perception that prostitutes were capable of spreading AIDS—thus the vectors of disease. Another theme of this study implicit in this article and which contributed to the public's fear was that HIV prostitutes were working in brothels and had the potential to spread HIV to unsuspecting patrons and their partners—innocent victims. Last, this article implied that the state was incompetent in the face of a potential health crisis.

Complexities in the Policy Process

The Brothels and Public Health Personnel

The subject of the state's policy the prostitutes and brothels themselves would at times comes into conflict with one another and other policy players. The brothel industry may have appeared to be unified during policy discussions, but in actuality, the brothel industry unified, in part, as a response to the threat of an AIDS pandemic as noted by George Flint, lobbyist for the brothel association (Flint Informal Phone Conversation 2/26/02). Historically, the stigma associated with the business and the often remote location of the brothels caused owners to be fairly solitary and independent. As competing business people, some owners may enact policies for the purposes of protecting their individual business, not the industry.[45] Even when the independent owners formed an association, there was not a unified response. As discussed previously, part of the reason mandatory testing initiatives were introduced was that individual owners refused to comply with a voluntary testing policy. Additionally, members of the brothel association often viewed the state as acting too

slow in instituting regulations and too lax in enforcing standardization of state statutes into county law (Hausbeck and Brents 2000). One can see where tension would occur between the state health division and the brothel industry.

The state health division and the state health officer are responsible for protecting the general public from disease, epidemics, and generally unsafe conditions. The brothel industry relies on revenue generated by the exchange of sex for money. Regulations on sexuality, especially for a business that is based on thwarting traditional notions about sexuality, limit potential revenues. As state health personnel and the brothel industry had differing interests in regulatory strategies, public health workers were concerned about the lack of controls and surveillance in the testing and mandatory condom use process. Former state epidemiologist Dr. Debra Brus expressed this concern.[46] Dr. Brus was especially troubled by the lack of scientific rigor and surveillance that would indicate proper action was taking place, and she worried that the state's involvement provided an unsubstantiated guarantee to the public.

> BRUS: So if a brothel wanted to be completely dishonest and sort of be in cahoots with a health care provider who would submit specimens who [sic] were not from the brothel workers, that could be done. We just have to assume that everything is above board. But who knows if it is? Those brothels can get pretty desperate for employees. That was my whole concern with the brothel testing programs—myself and my staff being involved—because I didn't feel that it was foolproof enough for the state health division and me and my staff to be putting our stamp of approval on this.

While scientific studies, like those conducted by UCLA and the CDC, suggest a history of compliance with past regulations, some public health officials questioned the presentation of this record as unblemished. Dr. Jarvis challenged the brothels' integrity and resolve in following previous regulations.

> JARVIS: There had been a history of prostitute testing for gonorrhea and syphilis before that, and actually they had a kind of unsavory history of

> doing a variety of things that some of which was probably not well conceived. In terms of prophylaxis of various kinds—and then, you know—allowing a prostitute to engage in sex with someone who was known to have the disease that they were trying to prevent, [then] seeing how many women...became infected. There's an unsavory history.[47]

If brothel owners would place workers and customers at risk for other STDs, could they be trusted to adhere to regulations set by the State Board of Health regarding AIDS? This gravely concerned the state's public health authorities. More generally, the brothels had a history of questionable if not abusive treatment of some workers. This added to questions about their competency as reliable players in their own regulation.

Laura Anderson,[48] a former brothel worker from 1986 to 1991 discusses the practice of "black listing." In this practice, a prostitute who was seen as causing problems can be shut out of the business through informal practices.

> ANDERSON: They [prostitutes] are worried about their job. Now they can't run around to different brothels at different times. They are supposed to live in those brothels and they do shifts and they are not operating independently. They haven't the freedom or the mobility as independent contractors. If they get put on the black list, let's say one brothel decides that these women are getting too uppity; they [brothels] don't let them come back to work. And then word gets passed around. Before you know it they [blacklisted prostitutes] can't work at any of the legal brothels.
>
> RADELOFF: I never heard a mention of the black list, that there's kind of a shunning program—.
>
> ANDERSON: —Oh, they talk. They've got their lobbying association, Nevada's Brothel, what's it called? The Nevada Brothel's Association or something like that. George Flint used to run it.

The brothel industry's questionable practices were not limited to informal sanctions. They actively placed prostitutes in danger of losing their right to work by circumventing the law. Thus, while individual prostitutes attempted to play by the rules set forth by the state, individual brothel owners business practices helped to maintain code based morality legislation. Prostitutes were often between a rock and a hard place in challenging normative gendered ideas about the need to regulate their bodies. If they reported the unsavory business practices of brothel owners, they faced occupational ostracism, if they were silent, then they were punished through ongoing regulations.

> WINCHESTER: They kept saying "oh don't worry about your work cards. You went through the medical, passed it." We were supposed to go get our cards in Lyon County. Once you pass the medical, you as a person go to the sheriff and get your card. You initiate your background investigation. It didn't happen, and I kept asking management, I kept saying "the work card, the work card, the work card," and they just kept saying "don't worry about it, we'll get to it, we'll get to it, we'll get to it," and they never got to it. So I quit asking about it after a while. But they knew that they were supposed to, because the sheriff comes in all the time. I mean, they come into all the houses and have coffee and kind of sit around and visit for a while and do their rounds. Basically, what they are officially supposed to be there for is to check the card, and that didn't happen. And what I mean by that is that when the sheriff buzzed in, the girls that didn't have work cards were told to go back to their rooms until the sheriff was gone.
>
> RADELOFF: Now just a question on that. You all went to the doctor. If there would have been a positive, the doctor would have had to report that to the state, right? There was just a kind of disconnect between the sheriff's office?

> WINCHESTER: The sheriff's office...didn't impact in any shape, way, or form, on the medical. They're two separate things. The medical was always very, very stringently adhered to in any house. I have never heard any of my sisters in any of the houses say anything as far as the medical not being done the way it was supposed to be. The sheriff of every county regulates, has the final say on the houses.

Winchester's passage indicates that the brothel management was in effect risking the employment of prostitutes by not satisfying the demands of the country for work cards. By sending prostitutes back to their rooms, out of sight of the sheriff, the brothel knew that it was breaking the law.[49] Yet, when push came to shove, prostitutes would be held in violation more than the brothel.

It is also telling that the brothels, while purposively ignoring the mandates of law enforcement, were in strict adherence to the medical inspection and sexually transmitted disease statutes mandated by the state. Perhaps, the value of having the legitimacy accorded through the health division was larger than adhering to local ordinances for business operations. This legitimacy could quickly evaporate if a customer was ever to be diagnosed as HIV positive as the result of faulty adherence to state statutes. The potential economic fallout from a positive customer would be more lethal to the brothel industry than the fines an owner would face for faulty business practices. Either way, the brothel industry was manipulating workers for their benefit. The victims in this game were the prostitutes.

Protect the Customer at all Costs

Repeatedly in this study it has become clear that although they are a key population in the discourse, prostitute voices, interests and concerns are generally ignored. Notably, in the formulation of state policy, their health was not explicitly addressed. This sentiment was especially obvious in the minds of prostitutes.

> ANDERSON: Well, I think that it [workers' health] should be. As far as the state? Now for the state to come in, they should be pushing prevention. The

> houses, individually, if they want to say you can't work here until you go to a doctor and you come back with a clean bill of health—and you have to be able to verify that—I can see from a business perspective that they should be able to do that. And I have nothing against that, but the state should not be stepping in. The state should be promoting good health for all its citizens and not scapegoating one class of citizens, assuming that they [prostitutes] have higher rates of STDs than all the other ones. It takes at least two to get an STD. You're neglecting one half of the equation.

Anderson's comments contain a lot of the concerns that prostitutes have about the protection of their health and safety. Not only does Anderson believe that the state's testing policies are about containment rather than control or regulation, but the state is more concerned with protecting the customer than helping prostitutes regulate their own health. At a larger level, the lack of direct concern for prostitute health and safety illustrate the gendered assumption and inherent hierarchy of policymakers. The policy is about protecting the predominantly male clients and their "innocent" spouses, partners and children–who denote or stem from normatively accepted expressions of sexuality. Those individuals who deviate from normative expressions of sexuality get what they deserve.

Scientific Legitimacy and Non-Governmental Organizations

As previously discussed, fear of transmission to persons not directly participating in the sexual exchange at brothels was the dominant policy concern of the public at large and the officials sworn to protect it–state health personnel. The State Board of Health looked to two groups in formulating an AIDS testing policy. The NSMA, a non-government organization, was asked to cooperate with the Nevada Health Division. The NSMA called for further study and proposed collecting additional information through a voluntary pilot program, state officials always considered an involuntary testing regime a necessary part of its re-

sponse. The viability of a voluntary program collapsed first when the Nevada legislature denied funding and then, was dealt a final blow when brothels were unable to unite and organize their own system. The NSMA's goals and motives were markedly distinct from those of the state health bureaucracy. As a private organization of professionals, it was primarily concerned with examining the emerging disease and postulating modes of prevention and treatment. While some objectivity could potentially be lost because the NSMA is representing the business interests of its membership, it seemed to maintain a scientific focus in its discourse regarding AIDS. After all, local doctors would depend on the Association for information, guidance and support. Furthermore, they were able to provide desperately needed resources and expertise to the limited means of the Health Division.

Moral Panics and State Financial Concerns

In contrast, seeking to head-off a moral panic, state health authorities grappled with a rising tide of public sentiment against the backdrop of insufficient scientific data. The priority of state authorities was to *assure* the general public action was being taken to protect their health, and thus, a symbolic policy of testing was sufficient. As their purview was directed toward generalized health and safety, officials often felt constrained by legislative and other state forces. Of course, there are always financial restraints on public action as seen here when the proposed pilot program was rejected, so the economic efficiency of a testing program which places the costs on the prostitutes was certainly appealing to state policymakers. Dr. Trudy Larson (member of the Nevada AIDS Taskforce) found the policies were acceptable to the health division and other state authorities because they required very little from the state health division in terms of personnel, resources, and management. When asked about HIV testing policies toward prostitutes and whether our policy was innovative, Dr. Larson responds:

> LARSON: In this particular area, yes, and mainly because it doesn't take a lot of money. Don't you hate that? But anyway, these budgets being what they

> are, people say, " what can we do and how is it going to help public health?" And sometimes we think it helps public health and sometimes we think it's grandstanding, but that's Nevada.

Therefore, testing was a good policy for both the brothel industry and Nevada public health entities was one that had very few operating costs and that would not interfere with profits or state budgets. However, officials often felt limitations went far beyond direct fiscal concerns of state government.

Public Perceptions and Managing Sentiment

Public perception is a key component of a moral panic mentality, and it was the Health Division's job to prevent public sentiment and fear from becoming too explosive. This pushed aside questions regarding the true efficacy of testing in impeding the spread of HIV/AIDS. As previously noted, the brothels' position as part of the allure of sin and sensation to tourists shielded it from any attempt to close the industry, and the tremendous economic impact of the brothel industry cannot be underestimated as a force driving testing policy. The brothels' role in contributing to the allure of sin and sensation to tourists shielded it from any attempt to close the industry. Public perception is crucial to the success of Nevada's tourism and gaming economy, and the threat of a rapidly-spreading deadly disease would have meant disaster. Matheis repeatedly noted the symbolic nature of the AIDS testing policy, pointing out that while brothels were probably not the source of transmission of AIDS to heterosexuals, this response fit the public's historical perception of disease spreading prostitutes. By playing on the public's perception, the state lowers both its fiscal and political accountability. Fear works, then, to the benefit of the state.

> MATHEIS: Especially if they want to find a way to do nothing. And in effect, if we hadn't responded, I think we would have had this huge public campaign issue about legal brothels in Nevada and their tremendous risk to the public as a diversion from addressing the issues of HIV and AIDS.

Legislators and public officials are quick to act when the state's economic lifeblood is threatened or in response to a public outcry. However, less publicized threats to health and safety are largely ignored. For example, Dr. Jarvis was unable to win legislative approval for extending testing to include hepatitis, despite evidence that clearly indicated another emerging health problem.[50] Jarvis felt stifled in his ability to perform the ascribed duties of his job; the Assembly objected to Jarvis's intrusion on the status quo. Their reasoning seemed to be: brothel testing measures are adequate because the public felt safe, and the counties enjoying the profits from brothels were satisfied, why complicate the matter? This illustrates that perception as much as science motivates policy decisions even in the realm of public health.

Conclusion

Would a state like Nevada, that was somewhat maverick in its licensing of female prostitution want to be associated with a moral panic which involved the spreading HIV to the unsuspecting heterosexual public, let along be liable for not taking action to prevent transmission to "innocent" victims of customers-wives and children? While Nevada may have been radical for licensing prostitution, this long-standing tradition signified that Nevada had a long- standing tradition of regulating sexuality. HIV testing policy reinforced existing ideas about sexuality in terms of gender, sexuality and prostitutes. Nevada was unique in that it recognized the profit to be made from the commodification of regulated sexuality, and it worked to incorporate sexual allure and temptation into its burgeoning leisure and tourism industry. The testing policy passed the responsibility for testing and liability to prostitutes thereby reinforcing the stereotype of prostitutes as natural carriers of disease.

HIV testing policies toward prostitutes allowed the State of Nevada to maintain licensed prostitution, rejuvenate the industry and avoid the economically-threatening specter of the AIDS pandemic. These policies further legitimized the industry as well as the workers employed within it. Nevada's testing policy helped to transform a moral panic into an ac-

cepted and respected state response, thereby alleviating the burgeoning fears of the general public about AIDS. Yet the enactment of HIV testing policies for legal prostitution would not eliminate a moral panic within a society that still fears AIDS from non-legal prostitutes. In order to protect Nevada's "Sin Cities," additional measures were needed to control and regulate non-legal prostitute bodies. Drawing on the same norms of hegemonic sexuality associated with legal prostitution—specifically gender inequality, heterosexist orientation, and stereotypes of prostitutes—policymakers were able to enact further legislation that at once quelled the public fears driving the moral panic about heterosexual AIDS, while protecting the state's tourism-based economy.

NOTES

[1] Historically, by providing sexual services, the feminine prostitute body and by extension the brothel serves to represent the site for the enactment of male pleasures, and this underscores larger assumptions regarding sexuality outside the contained space of prostitute-patron relations. These themes of sexual exchange, male privilege and compulsory heterosexually are also discussed in the works of Pateman (1988) and Rich (1993).

[2] Morbidity and Mortality rates for AIDS differed between the 1987 and 1988 editions of *AIDS and Nevada: Policy and Recommendations and AIDS and Nevada: Second Annual Report.* The 1988 edition reports the first case of AIDS in Nevada in 1982. The morbidity and Mortality are the same at 2. This means that 2 individuals were diagnosed and died due to AIDS that year. The next year's statistics were 5 morbidity cases and 4 mortality. In 1984, there were 10 incidents of AIDS mortality and morbidity. By 1985, this number rose to 19 cases of morbidity and 17 mortality. By 1986, there were 53 reported cases of AIDS diagnoses with 37 deaths.

[3] Berube documents the history of gay bathhouses in "The History of Gay Bathhouses" in Colter, et al. (eds.), *Policing Public Sex: Queer Politics and the Future of AIDS Activism* (1996). Berube contends that prior to the closure of bathhouses in San Francisco; city officials compromised their previous efforts to eliminate baths, and homosexuality, by leaving baths alone. During this time, the gay community became politicized and created newspapers that were distributed throughout the baths, legal defense committees to aid those arrested, and a council on religion and homosexuality. This indicates that the gay community had mobilized over this issue and had developed social movement strategies to protect their sexual minority status. Thus the dominant rhetoric that was used to shut down the baths was the association of AIDS with high risk activities that took place in the baths. The officials that were behind this new drive for the regulation of sexuality were the San Francisco Health Department, the Mayor's office, the courts and the San Francisco Police Department. Much like HIV testing policies toward prostitutes in Nevada, health and public officials, along with criminal justice entities were the primary movers and shakers for developing and carrying out regulatory policies. Berube makes a strong case for showing how bath house closures and regulation had a long history in the United States. Primarily, efforts at same sex regulation ebbed and flowed as public and political interest was piqued by military campaigns, anti vice/sanitary reform efforts, attacks on municipal agency's-such as the police, Mayor's office, health department, and during times of moral crusades (206). Matheis stated during his interview that Nevada's Public Health entities were very aware of the political fallout that occurred after the closure of the baths in SF. The negative public response may have been a reason why bathhouse closures were not pursued as strenuously as brothels.

[4] According to accounts in the *Las Vegas Review Journal* (9/15/84 3B) and the *Las Vegas Sun* (9/13/84 3B) the previous health administrator (Franklin M. Holzbauer) was demoted by the State Human Resources Director (Barton Jacka) and replaced with Catherine Lowe. According to the LVRJ, the reason for the change was a difference in management style between the health administrator and the Human Resources director. Prior to this appointment, Lowe had been the Deputy Youth Services Director and had experience working for the Clark County court system. She had 23 years of government experience, including serving under Regan's California criminal justice program. According to the article, Lowe had no previous experience with health administration whereas Holzbauer, a state employee since 1967, held management positions in the health planning division, working in the areas of developmental disabilities and rehabilitation.

[5] The duties of the state health administrator and state medical officer are dictated by law. In 1983, Senate Bill 428 was passed. The language of this bill shifted authority from the state

health officer to the administrator of the health division (Statutes of the State of Nevada 1983, vol. 1, 832-838). Reportedly, the health administrator was given primary authority over the health division due to poor job performance of past state health officers. Dr. Joe Jarvis, Nevada State Health Advisor from 1987-1989, believes that the position was scaled back because he, a previous health officer, was "...not very good at the job....he was in fact not really applying himself to the job...he was irritating as a person and in addition somewhat lazy...apparently rolling a lot of bad qualities into one...and the legislature...in its infinite wisdom decided to solve that problem by simply lining his salary out the of the state appropriation budget" (2/08/02). Unfortunately, incompetence on the job is not always a legitimate excuse to remove someone from a government job. Therefore, a different approach was used by the state. Dr. Otto Ravenholt collaborates this story more succinctly when he stated that the state simply removed the health officer's salary from the budget. While Jarvis and Ravenholt indicate legislative dissatisfaction as the reason for the change in personnel, another former state health administrator, (Matheis) thinks the relationship between Lowe and Bentinck was simply professional. Matheis asserts that prior to his appointment as state health administrator; the state medical officer position had been occupied by physicians that had been employed by the state under federal contracts for services like nursing home reviews (1/29/02). Matheis comment suggests the health officer may have been trying to assert dominance and bring importance/status to his role. Bentinck also, by way of his credentials in medicine, may be pushing for a status as policy advisor rather than only health advisor. Either way, the introductory paragraph of the memo is explicit in expressing the concerns of the health officer and the changes he would like to see addressed. The main problem for the health officer is a lack (or lack of recognition) of trained scientific and technical specialists who can do their jobs objectively and effectively. The solution to this situation, for the health officer, is a less restrictive work environment that allows practitioners "freedom of objectivity and an appreciation of its professional values" in order to complete their duties and act upon findings (Bentinck Memo 1985: 1). This initial paragraph indicates that the health officer is not as pleased with his work role as he thinks he could be.

[6] Bentinck's recommendations for ELISA testing of prostitutes came shortly after the test had been approved for testing of the nation's blood supply.

[7] "Nevada is unique among the states in having legalized prostitution. This creates unique responsibilities for the state through the health division" (Bentinck, 1985:3).

[8] Contact tracing is also known as partner notification. In this process, public health officials trace partners of those who have been diagnosed with a sexually transmitted disease. The rationale for this process is that it controls the spread of STD's by notifying an individual of their health risk and to encourage testing and treatment. Therefore the chain of transmission from person to person is broken.

[9] Like Treichler (1999) Bentinck lists the four recognized risk groups as Haitians, homosexuals, IV drug abusers, and hemophiliacs.

[10] Of course, state law defines prostitution in gender neutral terms, but only Nye County permits men to work in brothels.

[11] JAMA is one of the leading medical journals for American doctors. JAMA's articles can be considered conservative in the sense that they tend to accept studies that are scientifically rigorous (well documented and peer reviewed). Besides providing medical providers with the latest scientific research and trends in medical care, disease prevention, and research, one of JAMA's stated goals is to forecast emerging conditions and problems in a timely manner to medical practitioners. http://jama.ama-assn.org/about_current.dtl

[12] The JAMA article used two separate studies as justification for linking the spread of AIDS from the homosexual to the heterosexual population. Research from the Walter Reed Army Institute of Research and the New York City AIDS activity office indicated that for some heterosexual males with AIDS, their only risk behavior was contact with female prostitutes. The New York study suggested that the risk to the prostitutes was injectable drug use. This study suggested that prostitutes could be carriers, but stopped short of arguing that they were active transmitters. As for the military study, AIDS as a result of sexual contact with prostitutes was attributed to soldiers who not only had a large number of encounters with a variety of different prostitutes (50-100), but had symptoms that differed from confirmed homosexual patients. In other words, the absence of "gay"-associated symptoms indicated transmission from prostitutes to soldiers. This confirmed military researchers' suspicions that prostitutes were the vectors of disease. These findings sharply contrasted with previous studies (Hardy et al. 1985: 215) which suggest females could acquire AIDS from sexual partners but not transmit HIV. Treichler's (1999) analysis of the military study explains the manner by which prostitutes come to be blamed for heterosexual HIV infection. The military study suggests that prostitutes serve as the incubator of infected semen, a conduit through which infection is passed from one male client to another. The prostitute is viewed as the vessel in a quasi-homosexual encounter. This application of the gendered logic of the AIDS pandemic tidily explains heterosexual transmission in homosexual terms. Such explanations contrast with early theories which negated or minimized women's risk of getting AIDS. For example, the "rugged vagina" theory (Lagone 1985) holds that normal vaginas tolerate some trauma, like childbirth and penile intercourse, which suggests that vaginas are naturally resistant to HIV. Lagone's assertions contradict prevailing gender ideologies that define women's bodies as inferior, weak, and abnormal, and therefore more susceptible to disease than men's bodies. Unfortunately, Lagone's theory does not contradict prevailing ideology about the HIV infection risks of traditionally-stigmatized women.

[13] In a series of memoranda in early August 1985, Lowe focuses directly on the dual populations of inmates and prostitutes as targets of testing policy (August 9, 1985 Memorandum). The testing of prisoners as an early policy initiative sets an important precedent for later initiatives aimed at non-legal prostitutes. If there were no objections (by civil libertarians, for example) to testing prisoners, testing of female prostitutes would ultimately fit within this regulatory model. Prisoner policies were the first enacting surveillance and bodily control for deviant populations, including sex workers in the end.

[14] See the Nevada State Medical Association's website for a more detailed description of the membership requirements for this organization. http://www.nsmadocs.org/pdf/Bylaws2001.pdf

[15] See the American Medical Association website for a more detailed account of the organization's key objectives. http://www.ama-assn.org/ama/pub/category/1912.html

[16] This indicates a disjuncture between the Nevada State Medical Association and the state health administrator. The state health administrator was willing to bestow the label of high risk population on prostitutes without the official sanction of the federal health authorities like the CDC.

[17] It is interesting that state policy players are ready to institute HIV testing policies when the medical association recommends voluntary measures. Because the NSMA represents independent owners (doctors) who have traditionally affirmed the voluntary nature of the doctor/patient relationship, it makes sense that a mandatory policy would be problematic to a group that protects capitalists' interests.

[18] The Board of Health and health division are under the division of Human Resources

[19] This is an interesting development in terms of analyzing this policy as either state-centered or Marxist. While traditionally costs of prostitution had been designated to the brothel industry and predominately borne by the independent contractors (prostitutes), one can question the role or duty of the health entities in this compared to other occupations or private citizens. Would the same procedure occur for food service employees? Childhood disease testing?

[20] The regulation, NAC 441.115, required "every person seeking employment as a prostitute shall submit a sample of blood to the State Health Laboratory for a test to confirm the presence or absence of the antibody to the human T-Cell Lymphotropic virus III" (Matheis 1987: 9). Prior regulations already required testing prostitutes weekly (for gonorrhea) and monthly (for syphilis) as a condition of employment\.

[21] Dr. Brus, a former state epidemiologist, explains: "...the testing program has prevented people or women with HIV from going to work as legal prostitutes,...however we know that HIV for instance a person can be contagious with HIV twelve weeks before their blood tests will be positive for instance....so there is the potential that somebody could be positive with HIV and everyone believes that they are negative when they are not....(2/5/02).

[22] At the Board of Health's January 20, 1988 meeting.

[23] Campbell (1990) discusses the adoption of an all condom use policy in the Chicken Ranch in October 1985 in a review copy of "Prostitution, AIDS, and Preventive Health Behavior". (Reich Files) This brothel policy was enacted due to pressure from working prostitutes who felt unprotected sex was too risky. (Campbell 1990: 11).

[24] Manager of the Chicken Ranch.

[25] Director of the Clark County Health District from 1963-1998.

[26] Recent estimates place the amounts of revenue attributable to the presence of legal brothels in Nye County at six million dollars; this includes direct profits and taxation but most importantly, subsidiary benefits to local business (Brean, LVRJ 07/07 /04).

[27] The role of economic concerns plays out in other ways as well. One commentator at the meeting, Dr. Butler with the Associated Pathologists Laboratory a private lab, objected that only the state lab would be processing test samples under other provisions of Mathais' proposal. So clearly, Dr. Butler's concerns were economic.

[28] As independent contractors, prostitutes working in Nevada's brothels have the right to refuse service on various grounds; however, management attempts to dissuade them from denying services too readily. As condom use is mandated by state law, it gives prostitutes clear guidelines for conducting business.

[29] In a memo dated 2/10/89 from Terri Ignacio, Communicable Disease Investigator (CDI) to Dr. Joe Jarvis (State Health Officer), a statistical breakdown of the number of positive reportable STD's among prostitutes testing for work cards showed there was a significant reduction of positives from July 1985 thru June 1986 and the next fiscal year July 1986 thru June 1987. Prior to the fiscal year July 1985 through July 1986, the state only tested for Gonorrhea and syphilis. During this time, there were 173 positive cases of Gonorrhea reported and 1 case of syphilis. In addition, there were 2 positive HIV tests among prostitutes who were applying for a work card for the first time. The next year the number of cases of Gonorrhea 75 cases, with 7 cases of syphilis, 4 cases of HIV among new workers

and 0 cases of HIV among line workers. While the number of syphilis cases went up, the number of cases of Gonorrhea dropped by more than 50%. The next year, from July 1987 to June 1988, Gonorrhea was reported in 35 workers, 2 cases of syphilis, 10 HIV positive test results in new workers and 0 cases of HIV among line workers. Again, the number of Gonorrhea cases dropped by approximately 50%.

[30] HTLV-III was the term that proceeded HIV. This was the name given by Robert Gallo/the French towards this particular type of virus.

[31] The occupations of other 'high risk' employee group were not specified in the July 23, 1985 memorandum authored by Catherine S. Lowe.

[32] In handwritten edits on the July 23 memorandum, Lowe has crossed out the word "authority" and substituted both "duty" and "obligation." While the tone of the memo clearly indicates that she is requesting confirmation of her office's powers, the hesitancy in choosing the term "authority" points to her own uncertainty over whether public health response should be motivated out of a sense of duty rather than an exercise of its police powers.

[33] Australia is quite progressive in its occupational health and safety approach to the sex industry. In a publication "Health and Safety Guidelines for Brothel" the agency Work Cover NSW in tandem with the New South Wales Health Department produced this document as a resource for brothel owners and prostitutes in 2001. In 1991, the legislature passed the Public Health Act, which set minimum standards for the maintenance of a safe and healthy work environment for brothel patrons, employees, owners, and workers. The publication details the legal rights of employers and employees, the working conditions for prostitutes, the availability of work related equipment (condoms, dams, gloves, and lube), basic hygiene controls such as clean sheets, STI monitoring, occupational overuse syndrome, substance abuse in the workplace, violence in the workplace, first aid, pregnancy, workers compensation, and injury management. Not only are prostitutes eligible for workers compensation, but the disease statutes differ in Australia than Nevada. The statutes are similar in penalizing those who know their status but fail to inform a client of their status. What differs is that Australian statues have a clause that allows a sex worker to notify a patron of a STI and proceed with the sexual transaction if the client has voluntarily consented to the risk. For more information see: http://www.workcover.nsw.gov.au/NR/rdonlyres/BFFA4789-E98E-478E-B110-C86A1EA6402E/0/guide_wc_brothels1201.pdf.

[34] The ADA did not extend to individuals infected with HIV/AIDS until 1990.

[35] Nelson quotes sources such as the CDC's Dr. James Curran that HIV can be transmitted through heterosexual sexual contact and that some of the men diagnosed with HIV, whose specific etiology of their cases were unexplained had contact with prostitutes.

[36] Unless a prostitute is confirmed as diseased, such action was not permissible. The only way that prostitutes could be required to submit for testing for AIDS would be if "...such prostitute is reasonably suspected to be infected with any venereal disease in an infectious state, and it is reasonably likely that such person is not undergoing any type of approved treatment for disease" (Nelson, p. 2).

[37] In addition, the Health Division's authority in 'dealing with the AIDS problem' was recognized. Not only was the Health Division specifically referred to as being "...vested with broad responsibility to control, prevent, and cure venereal disease..." but the role of the state board of health was presented as the entity to " ...adopt such regulations as are necessary to effectuate the control, prevention, and care of venereal disease in the state" (Nelson 2).

[38] By working, I assume that the prostitute would be engaging in sexual contact with customers, not reassigned into support or other areas that do not entail sexual contact with customers. I don't think this facet of the ADA had been mandated yet.

[39] NRS 441.220 states that anyone who has a venereal disease in an infectious state shall not conduct themselves in a manner that might likely expose others to infection. Furthermore NRS 441.230 states that a person with VD in an infectious state shall not engage in any occupation in which said infection could be spread to others.

[40] Campbell (1990) states in "Prostitution, AIDS, and Preventive Health Behavior: draft copy" that she was part of the CDC multi-center study as an interviewer who conducted interviews at a brothel outside of Las Vegas. She was not listed in the CDC paper/presentation as an author.

[41] The study found the highest predictor for HIV infection was among women who had injected drugs. Among those who had no history of injectable drug use, evidence of a marker for Hepatitis B, being black or Hispanic, or having twenty or more nonpaying male partners per year of sexual activity were predictors of HIV positivity. (Darrow et al. 2). In terms of research design, it varied widely according to site and was not a representative sample. Enrollment in New Jersey, Atlanta, and San Francisco were drawn from streetwalkers, subjects in Miami and Los Angeles were incarcerated, Colorado Springs obtained subjects from either streetwalkers or those receiving treatment at a communicable disease clinic, and subjects from Nevada were based on those applying for a work card or if employed in a brothel (Darrow et al. 4-5).

[42] RAVENHOLT: ...But there is no way that we could tell the story...speaking of myself and the health officer role of Clark County...and with any success...even with formal comments about the success of our condom policy and our testing policy to professional colleagues elsewhere in the country...only undermined my own credibility...there was no way that they were going to believe ...there's just no way...they just figure you're bought and sold and that's what you are saying...so any attestation of the outcome of this policy would somehow have to be independent ....and above reproach in regards as regards its origin...or the competence of the party that was speaking to it... so the brothel association and Russ Reade decided to hire some outside expertise to do that...I think we had some advice to Reade that this was the course he had to follow...he couldn't hope by his own representations...or anything that anybody in Nevada...to have it come into the story...so he entered into a contract with UCLA investigator...I'm not sure if he is in the school of public health...or in the medical school there...but a principle with the Los Angeles County STD clinic...speaking of a physician...and his friends...he went there with a half dozen students decided they would do an assessment...and a report on the Chicken Ranch experience...with any positive (unclear 143) illness amongst their ...among to use the vernacular among the gals ...who worked there... and they did this ...$25,000 I think they were paid for carrying on this piece...with a written contract ...that they could examine any records ...they could interview any one involved in the operation...they had access to everything...and that they would write and variously report and publicize their findings...as they choose without any editorial control by the Chicken Ranch or the brothel association...you know the kind of thing where ....you might say...that's how we'll get the reality out there...and in a credible fashion....people believe...well they carried out the study and ....prepared a report and they had a press conference in San Francisco ...related to a meeting...of one of the national organizations...in the health field...public health field...(slide 161) they announced their results and how there had been no illness among the prostitutes with this policy...and this related to numbers that were quite extraordinary in regards to the length of time ...how even the limited gonorrhea infections...from preceding times had ceased...once the condom policy was routinely practiced....and they ran

into a kind of buzz saw...from the University of California...Board of Regents....(unclear 170)...that was sort of a haul them out into the Pacific and sink them....with cement shoes...this is contaminating the reputation of the University of California...even though it had all these contractual things in place that this was absolutely objective...it was not ....it was in their publication that the results were totally at their discretion...etc... the fact that it played into the hands of the media ....as endorsing prostitution ...in Nevada...was just absolutely inflammatory...to the sensitivities of the powers that be...in California...

[43] Visual and manual inspection of the male patron's sexual organs for signs of STDs.

[44] According to an interview with Rick Reich, the incident of HIV positives found in samples from prospective prostitutes and pregnant women and obtained for laboratory practices was a matter of misinterpretation. The health officer at the time interpreted results as positive whereas the laboratory technician reported them as negative. Reich contends that the state health officer read them like a test for syphilis (VDRL) in which a person who has had syphilis in the past always shows some evidence of the bacteria. In HIV tests (ELIZA) there are levels or numbers that are low but do not indicate the presence of the virus. As stated by Reich "the bottom line was they weren't positive, not by the laboratory and not by the designers of the test...but he (state health officer) wouldn't let that go....so that continued to permeate out there for a couple of years...and so when the opportunity came forth to think about testing prostitutes...this whole push was right there and ready to roll and there was no stopping it" (Interview Reich 12/17/01)

[45] For instance, Russ Reade, the manager of the Chicken Ranch, instituted universal condom adoption in his brothel as early as 1985. (Evensen, LVRJ, 2/23/86: A1). This was almost two years before mandatory condom use was mandated by state health officials. While this policy was stated to be unpopular with customers, according to the newspaper's account, it was instituted to protect workers health. By responding to worker's concerns, Reade and the Chicken Ranch may have recouped profits by having happier workers and customers who felt safer.

[46] Dr. Brus was the state epidemiologist from January 1988 to March 1993. She was originally trained in veterinary medicine but completed course work for a Masters of Public Health at the University of Washington. During her tenure, she helped rewrite the communicable disease statues for the Nevada Administrative Code and the Nevada Revised Code. She also supervised all the communicable disease programs for the state.

[47] The interview continues:
RADELOFF: You said prophylaxis. Do you mean condoms, latex condoms in the brothels? or other ...?
JARVIS: antibiotics...antibiotics as a way of preventing disease...they would treat a woman with antibiotics or placebo and she wouldn't know which and then she would be on the line so to speak....they would make sure that some men would come who actually had the disease and they would see what would happen... I can't document that that actually happened ...those are word of mouth things... (Unclear 493)... but allegedly those things ...there was a history of that kind of stuff....

[48] Laura Anderson, an alias, has a published piece on her views about Nevada's brothel system on PENnet-the Prostitute Education Network website. It was from this article that I was able to contact Ms. Anderson and add her as a resource for this study.

[49] Within the politics of certain communities of Nevada, brothel owners exercise considerable political clout. They are active in the social, political and economic fabric of their community–even sponsoring local sports teams.

[50] Jarvis's recollection of the incident with the Assembly speaker is significant for a number of reasons. Like Bentinck, Jarvis felt stifled in his ability to perform the ascribed duties of his job. Secondly, it seems that Dini's main objection was Dr. Jarvis's recommendation for further disease testing for prostitutes . Substantiated by evidence that indicated a large percentage of Hepatitis in the brothels, Dr. Jarvis advocated additional mandatory testing procedures for employment in a brothel while he was state health officer. "I had a bad experience. I mean I was not allowed to do what I thought was right about it. It wasn't politically expedient. I was chastised on the floor of the assembly of Nevada by the speaker of the Assembly, he's still probably the speaker—Joe Dini--about this. I had let it slip that I knew that there were relatively high rates of Hepatitis B infection among these women (prostitutes) and we weren't studying that, we weren't testing for that. Shouldn't [this] create some kind of concern.? Doesn't that prove that I'm right, that this is ridiculous, what we're not doing? He [Dini] took me aside for a private flogging and told me, threatened me, my job was threatened about this than virtually anything else."

CHAPTER V

CRIMINALIZATION, PROSTITUTION, AND HIV – AB 550

This chapter charts the development of Assembly Bill 550 as the testing policy for non-legal prostitutes.[1] Specifically, I argue that the rhetoric used in support of the bill employed a series of gendered and sexualized assumptions, which reinforced ideas of heterosexism, female passivity and male sexual privilege. Notably, the wives and children of patrons were characterized as "innocent victims" under threat from diseased prostitutes. Additionally policymakers sought to protect the economic interests of the state through its implicit appropriation of the economy. As with policies addressing legal brothels (which I discuss in the previous chapter), Nevada's regulation of non-legal prostitution emerged out of a moral panic climate characterized by concerns for "innocent victims," fear for first responders (such as firefighters and law enforcement personnel), and, most significantly the fears about the devastating impact that an AIDS epidemic would have on Nevada's tourist and convention economy. Like the legal policy, the foundation of scientific rhetoric was based on ideas of sin and morality. But unlike the HIV testing policies toward legal prostitutes, which originated from the Nevada State Health Division and State Board of Health and were substantiated by scientific knowledge, regulation addressing illegal prostitution originated with lawmakers in the form of Assembly Bill 550. The bill was formulated and passed into law with very little dissent from expected interest groups such as sex industry businesses, escort or outcall companies, the American Civil Liberties Union, prostitute rights organizations like COYOTE, and law enforcement. This policy was the state's mechanism to puni-

tively punish individuals and groups who do not—and often can not—enter into the state's regulated system.[2]

Prior State AIDS Legislation

Prior to the creation of AB 550 in Nevada, California State Senator John Doolittle sponsored and introduced Senate Bill 1002 and 1007 to the California Legislature. These measures were part of a much broader legislative response to address the AIDS crisis and a moral panic mentality. While these early efforts in California would fail, they were both influential on and used by Nevada's policymakers. In other words, Nevada's legislators incorporated aspects of California's policy rhetoric for their own HIV testing mandates. Eventually, California would pass statutes mandating involuntary testing and disclosure for prostitutes but only after Nevada had successfully passed its own initiatives.[3] In the mid 1980s, Doolittle proposed legislation enhancing penalties for sex crimes, including prostitution, committed by knowingly infected persons. Doolittle's interest in controlling AIDS among prostitutes stemmed from his working knowledge of and concern with the link between prostitution and the leisure and tourism industry prevalent in the Lake Tahoe region that he represented. Concerns over the public's perception of the region are central to its economic life. Threats to public health and morals would negatively impact this region's tourism. Doolittle's proposals (and ultimately Nevada's) reflected longstanding assumptions about prostitution's connection to disease and more generally socially constructed assumptions about gender and sexuality.

California's testing proposals correspond to longstanding public health efforts directed at containing disease through the regulation of sexuality in some of its most visible and institutionalized forms–prostitution, marriage and reproduction. Two proposed California Senate bills (1002 and 1007) recommend an additional three-year felony sentence on top of charges for illegal prostitution to anyone violating the state's sex crime statues while knowing they have AIDS or are positive with the antibodies to the virus.[4] California's efforts to regulate

sexual practices through AIDS policy were not restricted to the criminal code nor to prostitutes alone. California attempted to amend existing statues mandating AIDS testing for heterosexual couples applying for a marriage license and for pregnant women. While these measures may have been successful in controlling disease when the rates of marriage were higher, the rise of cohabitation and same sex couples make such measures' ability to reduce the spread of disease minimal. As with previous diseases, pregnant women were targeted for testing as a means to protect the child, not provide resources for the mother.[5]

Other California initiatives targeted traditionally marginalized populations like prisoners and mental patients. Testing for both prisoners and mental patients was intended as a tool for separating HIV positive individuals from the rest of the institutionalized population to prevent further infection, yet this form of quarantine is also punitive in character. Theoretically, testing of prisoners and mental patients without consent might be deemed acceptable given their loss of rights or autonomy stemming from their institutionalized status. Traditionally, prostitutes share features with these groups. All are "deviant" populations, and thus, prostitutes would by extension be subject to state legitimized curtailments of liberty and subsequent state action such as mandatory testing initiatives.

The proposed legislation also aimed to protect the blood supply by criminalizing blood donation by anyone who knowingly had tested positive for HIV.[6] Comparing this to the discourse surrounding HIV screening of prostitutes reveals a number of similarities to Nevada's own subsequent policy responses. First, blood donation and prostitution imply a high risk of HIV transmission to a large number of "innocent victims," a theme which commonly frames public fears. Such fears are influential on public perceptions of safety which, in turn, are important for guiding economic policy in both California and Nevada. Appeals on the behalf of "unsuspecting victims"—i.e., those not directly involved in the initial activity such as wives, girlfriends, partners, and children—were prevalent in the public discourse about prostitution in both states. Finally, discussions of prostitution and blood donation as routes to infection emphasized the issue of intent. Someone donating infected

blood but not knowing their status could ostensibly be forgiven. Forgiveness is certainly more difficult for people who are aware of their HIV positive status, but donate blood anyway. In the eyes of many, such a decision is akin to murder or manslaughter, invoking themes of guilt and responsibility. As I will show, the nexus of knowledge, intent and responsibility would appear in Nevada's policymaking discourse as well.

Unlike Nevada, California's legislators faced strong, organized opposition. Civil libertarian groups, notably the ACLU, challenged these bills as trampling on individual rights. Furthermore, the state's prostitutes had a history of mobilizing and activism which the AIDS crisis fueled. Notably, Call off Your Tired Old Ethnics or (COYOTE) and its splinter group Cal Pep fought allegations of HIV spreading prostitutes through media announcements, protests, and conference attendance (Jenness 1993: 96). When Nevada would propose similar legislation, it met with only token resistance–oddly enough, from California's ACLU.[7] This difference is, at least in part, attributable to the two states' distinct political climates and divergent labor history.

California's proposals were similar to Nevada's legislation in that both sought to mandate HIV testing for prostitutes, inform law enforcement agencies and individuals of their HIV status and finally, make infected prostitutes subject to further criminal sanctions. The California proposition differs in that it specifies testing for a convicted prostitute, not someone merely accused or arrested on prostitution charges. Additionally California's pre-existing restrictions on mandatory testing and medical disclosure conflicted with provisions of the proposed legislation; ultimately, this would result in its defeat. Nevada had not instituted such practices. Through revisions, Nevada's statute became more specific in the notification and records keeping procedure than was California's attempt.

While it is difficult to say with exact precision what the full extent of the influence California's initiatives were on Nevada's legislation, it seems reasonable that they were significant in shaping perceptions and rhetoric of the Silver State's emerging AIDS policy. California is Nevada's most populous and economically important neighbor. Nevada authori-

ties are well aware of activities occurring to their West. California also was recognized as one of the first states in the country reporting AIDS and consequently was identified as an epicenter of the epidemic. It makes sense that California would explore public and health policy responses to AIDS. And, at least one legislator, Nevada State Assemblyman John DuBois–AB 550's sponsor, requested copies of California's legislation as a blueprint for crafting his own.[8] Although ultimately defeated, California's draft laws provided a model for Nevada policymakers. The discourse surrounding both states' policy proposals closely mirrors one another. Responding to a growing public fear of AIDS, state actors looked to prostitutes as a vector of disease. The resulting policies effectively maintained traditional norms of gendered sexuality by targeting a primarily feminine occupation with a long history of moral persecution and then rationalizing such initiatives by invoking scientific support no matter how tenuous.

Does the Punishment Fit the Crime?

While criminal sanctions against prostitutes were passed under the auspices of mitigating the spread of AIDS to the general public, prostitutes were the first group who were held accountable and punished for knowing their status and continuing to engage in sexual behavior. Not until 1993, with the repeal of Nevada's sodomy laws and the passage of intentional transmission statutes, were other individuals and groups held responsible for engaging in similar behavior. When intention is critical to the definition of crime, this policy holds prostitutes to a different standard of conduct than the rest of the population by reaffirming legal and popular ideas of gendered sexuality.

The passage of AB 550, codified as NRS 201.356-358, in 1987 formally made HIV testing a consequence of arrest for solicitation.[9] It also, in essence, established a de-facto testing system for non-legal prostitutes. Previously, all non-legal prostitution was classified as a mere misdemeanor violation. AB 550 raised the charge for solicitation while knowing one's positive HIV status to felony manslaughter.[10] NRS 201.358 discusses the punishment faced

by individuals who continue to engage in prostitution or solicitation for prostitution after both testing positive for HIV and being notified of their HIV positive status. Directed toward both legal and non-legal prostitutes who test positive for HIV and have received notification of their status, this offense is considered a class B felony[11] (which means that this offense can have the possibility of parole) and carries a minimum term of no less than two years in a state prison and maximum term of no more than ten years, or a fine of no more than $10,000 or both (NRS 201.358).[12]

While an untested HIV positive prostitute is considered a threat to the community, a prostitute who is aware of her status and continues to solicit prostitution is considered a monster. The tendency in law is to impose harsher sanctions against individuals who are cognizant of their actions and continue to engage in illegal practices. While non-prostitutes who continue to engage in unprotected sex and/or fail to inform partners of their HIV status face the same punishment as prostitutes, non-prostitutes have a possible defense against these charges. Prostitutes are never able to utilize the affirmative defense available to non-prostitutes.[13]

Conditions Facilitating Non-legal Testing

National reports from organizations like the Centers for Disease Control (CDC), which linked incidents of HIV infection in heterosexuals to prostitution, helped policymakers substantiate legislation to initiate regulatory policy for controlling transmission through illegal prostitution.[14] In one of the first reports from the CDC about HIV and prostitution, investigations of sixty-five of the males with AIDS indicated that seventeen or twenty six percent had a history of sexual contact with female prostitutes (CDC 1984). Also included in the report were nine cases of women with AIDS, one who had previously been a prostitute (Treichler 1999: 52). Additionally, doctors concerned about female prisoners exhibiting AIDS related symptoms contacted public health officials as early as 1982. Echoing the rest of the country, some of the earliest accounts of women infected with AIDS were observed

in Nevada's prisons, and many were serving time for prostitution related offenses.[15] Media accounts contributed to the rising fear of AIDS and the disease's connection to prostitution. For example, CBS *Sixty Minutes* correspondents dramatized the case of small town sheriff from the South faced with an AIDS infected prostitute but who lacked the legal sanctions and resources to effectively confront the problem. Other popular accounts, such Randy Shilts' (1987) *And the Band Played On*, chronicled the case of a drug addicted prostitute suspected of having AIDS by vice officers.[16] As a result, the archetypical drug abusing, street hustling prostitute became synonymous as the new vector of AIDS for the public.

Considering the volume of prostitutes working illegally in Nevada's tourism and resorts areas, the fear of AIDS infected prostitutes is of tremendous importance to Nevada. Estimates of non-legal sex workers are difficult to accurately project.[17] According to estimates from Schoenmann (2003), LVMPD made 771 misdemeanor and 43 felony arrests for prostitution from April-June 2002.[18] Thus, there were approximately 64 misdemeanor arrests a month with three felony convictions for prostitutes working while knowing their HIV positive status. And, this is just a fraction of the number of prostitutes working in Las Vegas who may be HIV positive. There are a variety of different types of prostitution occurring in Nevada ranging from store front massage parlors, to out-call or escort service workers who "entertain" you in your room or house, prostitutes who work particular hotels and bars, and street walkers who offer drive-up services.

Nevada's police and lawmakers are well aware of the numbers and visibility of prostitutes working illegally and the issue often enters into state and local politics. For example, Las Vegas Sheriff John Moran's 1986 campaign platform emphasized his longstanding attack on vice, specifically clearing prostitutes from the streets of Las Vegas. Beginning in 1982, a suppression campaign was conducted that swept an average of ten prostitutes a night from the streets. In 1983, 12,808 individuals were arrested on solicitation charges, and over the next three years, arrests totaled more than 15,000.[19] The numbers arrested were staggering a convincing argument that prostitution was rampant in Las Vegas.

The visibility and perception of prostitution in Nevada is intricately tied to the state's economy. Popular advertising slogans like "What happens in Vegas, stays in Vegas," represents a conscious marketing of the state as a safe destination for licentious but controlled indulgence. The potential loss of revenue from tourism, conventions and leisure activity–all customarily enhanced by the allure of illicit sexuality–could be devastating if the fear of a widespread outbreak went unchecked. The AIDS crisis began to threaten Nevada's tourist based economy once a connection to prostitution was made. State actors were mobilized to respond. While prostitution in legal brothels came under the regulation of public health, illegal prostitution was to be addressed by expanding police powers through mandatory testing and enhanced sentencing. Yet the policy processes that facilitated the initiation of police powers were fueled by an AIDS based moral panic supported by ideological appeals for the protection of innocent victims and the punishment of "dangerous individuals."

Policy as a "Power Tool" for Police

The need for more power by the police to oversee morality and protect innocent victims was a primary justification for AB 550.The process by which testing for non-legal prostitutes was initiated and assigned to the police resulted from the restrictive state law that limited state agencies from proposing laws, boundaries set by the state over the jurisdiction of the health department over criminal cases and potential economic, budgetary and personnel constraints that problematized mass prostitute testing by health authorities.

One of the major principles that underscore the ability of governmental regimes or "the state" to enact public health policy is a principle known as "police powers." According to Wing (1999) state governments have extremely broad and inherent powers to act based on the legal system (p. 21). Police powers often refer to the ability to "prescribe, within the limits of the state and federal constitutions, reasonable laws necessary to preserve the public order, health, safety, welfare, or morals"(p. 22). Yet while police powers may exist in theory, the ability of law enforcement agencies to be accorded police powers is hampered by exist-

ing state statutes that limit the amount of legislation proposed by bureaucratic entities.[20] Nevada is a state that has been grappling with the degree of involvement of state bureaucratic agencies and legislative initiatives.[21] Not only are public health police powers limited by state mandate, they are most likely to be invoked only in the face of an perceived external threat to the community.[22] Thus, the justification for proposing HIV testing policy toward prostitutes was a demonstrated threat of infection to innocent victims and a remedy to the threat that was unobtrusive to the majority of the population. The policy process that began with a moral panic initiated policy discussion about prostitute testing. It also depended on the same perceived public fears of AIDS to facilitate invoking public health police powers to govern.

The power to control epidemics and the public health under the domain of medical and scientific authorities is a fairly new development in history. Not until the late nineteenth century and early twentieth century did local and state governments start giving this duty to state health authorities through the passage of public health law (Parmet 1989). Previously, one would assume that the same entities that were in charge of maintaining the public order, health, safety, welfare or morals were the police. Thus, while the charges of police departments and other criminal justice entities may have lost this responsibility formally, there are still institutional shadows remaining in the discourse of the police. Order, health, safety, welfare and morality are still implicitly part of duty. Therefore, while prostitution in the context of the AIDS crisis may seem to be under the domain of health authorities, the long-standing regulation of sexuality has been a matter for police intervention.

Deputy Chief Bill Young characterizes AB 550 as part of LVMPD's public safety mission:

> YOUNG: Well, we felt it gave us a tool. Our job, of course, in law enforcement is public safety. It's one of our primary missions, the safety of the public. ... So a person who has a fatal disease and can transmit it to an unsuspecting customer [and] there was nothing in the prostitution statutes

> with any teeth to fix this unique and emerging and danger to society of HIV, quite honestly, in those days.

The comments of Deputy Chief Young indicate that existing prostitution statutes were not enough to protect the public from the threat of HIV infection. The prostitution statutes, prior to 1987 could, at most, charge someone with a misdemeanor solicitation. For law enforcement personnel, not only were the statutes too lenient, as prostitutes could pay their fine or spend a limited time in jail, but they could resume their occupation and spread a fatal disease to unsuspecting customers. The possibility of prostitutes spreading a life threatening disease is not only problematic to police officials who are sworn to "protect and serve" but threatens the bread and butter of a tourist economy—risk taking customers. Therefore the overt issue of inadequate policy and a manifest threat to the economy promoted the call for more police powers. Yet what was missing from this debate was a discussion of gender inequality and male privilege. The responsibility for disease prevention and transmission in the prostitution exchange rests squarely on prostitutes, not the other part of the exchange relationship—customers.

The call for more "police power" by Metro was endorsed by the state of Nevada and its public health administration. The police are not threatening the role or power of another governmental entity, as might be feared by state power experts, but are in fact proceeding in a direction that was suggested by one of the state's highest legal authorities-the State's Attorney General's office. As discussed in the Memo from Deputy Attorney General Bryan in the previous chapter on legal policy, non-legal prostitutes and HIV testing were not a matter for the state health division and the Board of Health. They were under the jurisdiction of law enforcement and the criminal justice system. In fact, Nevada's public health authorities had clearly classified AB 550 as outside their domain when lending their support to the bill before the Assembly Judiciary Committee. Larry Matheis, the state health administrator states "...questions of appropriate punishment or violation of laws is really outside my purview, or for that matter, from a very real perspective, it's outside of my interest"

(Matheis , Verbatim Testimony 4/23/87). For Matheis, Assembly Bill 550 concerned him as it dealt with statewide public health policy—the primary focus of his office, but the population it was directed at was governed by law enforcement agencies.

Besides dictated legal boundaries, Nevada's health authority's limited involvement with this policy is shown in the specified fiscal considerations set by the bill. The costs for testing non-legal prostitutes are tied into the criminal justice system which recovers its expenditures for those convicted of solicitation charges through fees and fines built into the court appearance system. Health authorities provide HIV testing for the population. While some of the costs for testing are recovered through fees, much of the cost of testing is specifically budgeted for prevention and surveillance purposes. While legal boundaries and the economic outlay for testing prostitutes may be cited as reasons why the state health division avoided being the state entity in charge of regulating non-legal prostitute's sexuality, the overt support of AB 550 by health authorities indicates that this entity did not want the responsibility or police power needed to control this population.

On the other hand, law enforcement not only supported this legislation, but was part of the discourse that initiated its inception. The concept of protecting the community from disease may seem like a justifiable reason for enacting policy. Confidence in public officials and employees is supported by the appearance of action. Police may have responded to the public's fear of AIDS by outwardly demonstrating they are helping by proposing policy toward a group traditionally associated with disease. While the specified risk of transmission is not medically or scientifically justified by the comments of Officer Smith, the association of prostitutes with the spread of disease is assumed. In addition, while implicit in the rationale for protecting victims from prostitutes as vector of disease, HIV testing policy also rests on morality arguments about prostitution. While Deputy Chief Bill Young may argue that this policy was not initiated as a way to increase police's powers, he was not opposed to the added social control granted to law enforcement through this legislation.[23] Through the application of police powers, law enforcement usurped the duties traditionally assigned to

health entities as part of its mission. Yet as shown in the previous chapter, the state of Nevada's Deputy Attorney General clearly delineated the responsibilities of the health division versus criminal justice agencies when issuing the opinion on HIV testing policies toward prostitutes. While the rationale for invoking police powers may have been delineated by legal opinion and supported by public health entities, the need for more power by the police was initiated from a moral panic mentality and legitimized and justified through morality-based appeals to protect innocent victims. An increase in police powers also presented no challenge to the health division's budget. In fact, this proposal had the potential to protect the state's major resource: tourism.

Rationalizing a Policy With "More Teeth"

Fear is a prime force motivating human and institutional action (Goode and Ben-Yehuda 1994; Glassner 1999). In the 1980s as the AIDS crisis increased, the Las Vegas Metropolitan Police Department's Narcotics/Vice Bureau and state legislators were clearly concerned about the threat AIDS posed to "first responders," such as police, fire and medical personnel, and perhaps more importantly, the general public. The rhetoric surrounding AIDS would focus attention on the threat to "innocent victims." This included various populations such as blood recipients; however given historical associations between prostitution and disease, special concern would be extended to the spouses, partners and children of patrons and importantly, the clients themselves. AIDS threatened not only human victims, but business and commercial interests as well. Concerns about protecting individual and public health are precisely the type that traditionally addressed by the state's police apparatus.

Although knowledge about AIDS and HIV and its transmission was still in its infancy, the *Las Vegas Review Journal* and the *Las Vegas Sun* ran stories, beginning in 1985, about the concerns of the first responders. Confusion reigned even among healthcare experts during this time. Detective Bob Smith of the LVMPD Vice Department explained the state of knowledge about AIDS in the mid-1980s.

> SMITH: The HIV virus phenomenon first surfaced with us[when we were] trying how to figure out how to deal with this thing. In regards to the police aspect of it, there was a lot of running around going on...talking to doctors [about] how this thing was spread. There were mixed feelings on how contagious or it might be and how it might be spread. APL (Laboratory), at the time, was sent out here to talk. [They brought] three doctors and one doctor was of no opinion that it was contagious at all and very difficult to spread from one person to another and the other extreme was that it was extremely contagious and it could be passed on very easily from one person to another. And the third doctor, he was sort of [the] middle ground and as it turned out, it was found out, that HIV virus could be spread through any body fluid, i.e. fluids spread through sexual activity, perspiration and saliva.[24]

Without clear answers from medical practitioners, police officials were all the more concerned for their officers. As Deputy Chief Bill Young explains, the fear of HIV/AIDS that law enforcement officers and firefighters experienced during that time . . .

> YOUNG: came out in the early eighties. Nobody knew anything about it. I remember law enforcement thought it would be the death disease, you know, if you get blood on you. It was maybe a little bit before your time but I was an ambulance driver, a paramedic, in the mid-seventies and we never thought anything about it. We never wore gloves, I never...I put my hands in somebody's guts, and put them back in there, blood up to my elbows. I never thought anything. I had cuts on my hands... Now you won't see any of our officers in the emergency medical field handling anyone's blood without gloves and masks.

With a strong fear of contagion through blood and body fluids and a lack of knowledge on transmission modes and mediums, it is little wonder that police would consider groups historically associated with disease, like prostitutes, as threatening to the public health and

safety. While those employed as first responders may be accustomed to heightened danger and risky situations, the fear of AIDS among first responders for their own safety was a catalyst for broader concerns about public health more generally.

Officials' rhetoric echoed their occupational discourse along with traditional themes regarding disease, infection, and morality—even equating AIDS infected prostitutes with murders.

> YOUNG: [W]e thought...oh God this isn't a crime...its almost like you're premeditating murder, or you're just real negligent homicide when you knowingly go out there knowing you have a disease. At that time [it] was fatal. It's come a long way, obviously, HIV treatment since then. It's not fatal anymore. Or it can be, but it's not nearly as much as it was, and we didn't have all these drugs then. It was a death sentence.

It was frightening and reprehensible that prostitutes had AIDS/HIV, but to "knowingly" solicit when infected with a deadly disease was amoral. Thus the HIV infected prostitute comes to be identified as a moral and criminal threat. If AIDS-infected or HIV-positive prostitutes would not cease their practices voluntarily, other legal interventions might be warranted. In other words, if education about their HIV status was not enough to motivate internal control by this population, containment through imprisonment was needed to reinforce morality. Yet the fear of first responders arose in Nevada without a specific case of an infected prostitute knowingly having sex. Ultimately, the threat of the AIDS infected prostitute was accepted without substantive evidence that they were apt to spread disease. Thus, the roots of this policy were based on a hypothetical situation in which precautionary principles being invoked. This policy also echoes a sentiment found in the development of testing policy toward legal prostitution. As suggested by instrumental Marxists and Foucault's discussion of moral codes, when practitioners and/or industry are unwilling to voluntarily adopt regulations, the state is forced to intercede.

From Panic to Politics in "60 Minutes"

While the threat of the knowingly infected prostitute was supported beyond the realm of law enforcement and medical discourse, media coverage from sources like CBS's news program "Sixty Minutes" was also influential in facilitating action among policymakers. The story, which focused on the plight of a small southern town sheriff who had limited options in dealing with an identified HIV positive prostitute, was specifically mentioned by policymakers as confirming their fears about prostitutes and the spread of HIV to an unsuspecting public. As detective Smith recalled,

> SMITH: There was this video that surfaced. Some news agency contacted us. A sheriff in Mississippi and interviewed him about how he was dealing with this particular problem and his answer in short was quarantine them (AIDS suspected prostitute), the individual up to ninety days. After they find out that ...that person has the HIV virus and then we buy them a bus ticket and ship them out of town. So there was a lot of indecision to do with this stuff but a lot of people were leaning toward just filing these with the health department whose regulations, laws, whatever you want to call them, most of them have to do with quarantining the individual who had a contagious disease. And that really in our discussions wasn't helping us in dealing with prostitutes who had the HIV virus. The lieutenant (Randall Whitney) at the time, he got the section (vice) together at the time and we had some skull (brainstorming) sessions, informal of course, being cops we didn't know a lot of the medical stuff. The problem was first we had to identify who the individuals were, then where (there) were the particulars on did they have to know that they had the virus, how would they be pursued.

Not only did Detective Smith's interview comments indicate that the media had a huge impact in constructing AIDS infected prostitutes as an object of fear and a social problem, but it illustrates the informal processes that allow non-medical personnel to shape law that

pivots on a medical issue. There are also several elements of a moral panic mentality in Detective Smith's statement. As characterized by Goode and Ben-Yehuda (1994a, 1994b), moral panics are defined through five criteria: concern, hostility, consensus, disproportional, and volatility. The most apparent indicator of a moral panic in Detective Smith's comments is that the perceived threat of the situation from the report is out of proportion with the reality of the situation. The *Sixty Minute* broadcast revolved around *one* HIV infected prostitute in *one* small southern town. Not only was the number of HIV infected prostitutes in this media account low, but the evidence of transmission from this individual to others has never been in the discussion. It is just the *potential* for infection that motivates policymakers. This perception translates into heightened concern about prostitutes, which at its essence, reflects a degree of hostility toward this group not only for its association with disease, but ultimately its egregious behavior—sexual impropriety. This episode of *Sixty Minutes,* which portrayed prostitutes as disease carriers, was considered so important it was eventually used as a visual aid during the judiciary review stage of AB 550 because of the perceived impact of inaction on the part of legislators.[25] Consequently, it had a significant role in leaving an institutional legacy in Nevada statues and its organizational structures. By not addressing the problem, it was argued by AB 550 sponsor and law enforcement that state actors would be consciously unleashing a plague upon an unsuspecting public.

> JOHN DuBOIS: And there was that case from Alabama, [a] prostitute who used to travel around. They'd catch her and throw her in jail overnight and give her a bus ticket to the whatever next town, and get (her) out of town. It was a problem that just went on and on. And to me it was mass murder, so it caused quite a furor that they could not do anything about it. She had, it turned out she had AIDS, and they knew about it, and they couldn't do anything about it, the AIDS part. They could arrest her on a misdemeanor for prostitution on the streets, but they'd get out right away. And imagine that they would give her a bus ticket to the next town to get her out of town, and

> yeah, I saw that. It might have been Sixty Minutes, and so that's where I got the idea to introduce the bill.

While the existence of HIV positive prostitutes in one's town is terrifying, law makers would be shirking their duty of legislating for the public good by not interceding on behalf of unsuspecting clients Customers of prostitutes are to be protected like other consumers. While this may seem to be a generic consumer beware message, it is, in fact, a very specific consumer of a very specific product—heterosexual male johns receiving services from heterosexual female prostitutes. In Foucault's (1988) terms, solely targeting the heterosexual female prostitute is one dimension of defining and regulating the "dangerous individual." By this term, Foucault means a principle inherent to modern medico-juridical discourse which justifies punishment and/or treatment on dual rationales: the identity or nature of the person and then, the actions of the individual (Foucault: 1988:150).

The prostitute is already suspect because of her nature, her blatant sexuality and feminine embodiment. However, these characteristics will become all the more corrupting when she intentionally plies her trade while knowing her HIV-positive status (which is apparently expected because of her "inherently" immoral nature, according to authority's assumptions). The favoring the further criminalization of an HIV positive prostitute is also an instance of what Foucault (1985) calls "code-based morality." A non-legal prostitute who continues to solicit for prostitution lacks *askesis* or the ability to self govern—a function of her nature and choices. The act of soliciting for prostitution is problematic and criminal, but when a prostitute knows her HIV status and continues to put others at risk, containment directed by a criminal statute is required. It is the prostitute's knowledge of status and the disregard for others health and safety that contributes to another theme in the Metro's rationale to enact a policy that penalizes HIV positive prostitutes: potential victims. The patron, while breaking code oriented morality—*nomoi*—is not going against his nature of male privileged promiscuity. The client or the customer is the victim of a prostitute who lacks both ethics and code oriented morality. Thus, this is a highly gendered, specifically sexualized policy that limits

stigma and punishment to the prostitute as dangerous individual, whom is assumed to be out of control and the necessary object of regulation. By extension, the male johns are innocent potential victims of an illegal, yet common, transaction gone awry.

Potential Victims

Early in discussions about AIDS policy for prostitutes, there were clear comparisons between HIV status and murder which was a major rationale for instituting testing polices toward non-legal prostitutes. Part of that rationale was based on an interest in getting the "immoral, sinful, and murderous" perpetrators off the streets. Another part was based on concerns about potential large number of victims that could be infected unknowingly. Both parts of the rationale perpetuate strong, longstanding stereotypes of prostitutes embedded in a highly gendered, stigmatizing rhetoric, specifically, in the association of the feminine prostitute with spreading disease. The clients, their spouses, partners and children are all labeled the innocent victims of the pernicious and probable irresponsibility of prostitutes. It holds prostitutes responsible as the vectors of disease and largely ignores the "risky" behavior of predominantly male patrons. Such perceptions thereby reinforce common tropes of male sexual privilege and persecuting aberrant feminine sexuality, further solidifying the stigma of the prostitute as "dangerous individual" through the code-based regulation politicos would pursue (Foucault 1985).

The prostitute is explicitly singled out as the vector of disease in legislative discourse. Assemblyman John DuBois,[26] the sponsor of AB 550, made this association explicit in his remarks for the first reading of the bill when he exclaimed, "this bill is directed at prostitutes who are carriers of the AIDS disease" (DuBois Personal File). Concern over innocent victims is continued in DuBois' introductory remarks. "Thus, they [prostitutes] continued their practices on the street and remained in a position to infect literally hundreds of unsuspecting victims" (DuBois personal file). Partners and children of johns are often unaware of partner(s) duplicitous activities with sex workers and might thus be seen as "unsuspecting

victims." Policymakers clearly classified the customers themselves as unaware of the risks associated with their own freely chosen "high" risk behavior.

The use of "victim" within the policy rhetoric is not limited to the girlfriends, wives, partners, and children of customers. It also suggests that male patrons have no active role in the sex exchange relationship, gives the prostitute active role as the "spreader" of disease, and assumes that a prostitute is knowledgeable of their HIV status. The discussion omits any reference to protective measures, such as condoms, which might be negotiated as part of the sexual contract. This also serves to absolve the customer from accepting responsibility for his actions. More importantly it also absolves legislators from having to control and regulate the actions of a much less denigrated, much less stigmatized, and much less acknowledged and acknowledgeable group—the johns. In a state where prostitution generates millions of dollars each year in gross revenue, policymakers are loathe to arrest and regulate tourists who are the economic backbone of the state.[27] Yet, it is the patron who customarily can dictate the use or non-use of condoms. Similarly, other factors which might be disclosed in negotiations between prostitute and john such as their past sexual history, STD infection or intravenous drug use are absent from the policymaking discussion. The client comes to be protected (or at least not regulated) from the consequences of their illegal and duplicitous activity. Furthermore, the preventative potential of condoms and full disclosure of one's past history are ignored.

The language embedded in DuBois' remarks clearly draws up and conveys the well established association of prostitutes and contamination who are capable of spreading AIDS and currently uncontrolled. But the problem of infected prostitutes goes beyond their infectious state. It is the potential of prostitutes to spread their condition beyond their own morally corrupted bodies to others—namely innocent victims— that facilitated this policy initiative.

The policy's morally laden "innocent victim" rhetoric also contains deeply-rooted assumptions about gender and sexuality. Prostitution is classified as primarily a feminine

occupation,[28] so the testing and punitive measures would necessarily be expected to dramatically affect the lives of women. From early Judeo-Christian thought, women are seen as the originators of sin, and thus, they are potential polluters of men and incubators of infection–both moral and physical (Bullough and Bullough 1987; Clark and Richardson 1996; Spongeberg 1997). The slide from moral to physical corruption and back again is ever so subtle, but it is deeply rooted in the construction of the feminine body in Western culture.

Yet the blame ascribed to prostitutes goes beyond just being female. Prostitutes exemplify what are assumed to be the worst characteristics of women: they are uncontrolled, independent, and unbounded. Prostitutes are not only seen as biologically diseased but socially diseased in that they challenge the gendered order. Prostitutes exchange sexual relationships outside the bounds of marriage, they separate sexuality not only from reproduction, but intimacy and dependency, and they highlight the inequality between men and women in seeking pleasure.

The rhetoric of innocence is common in many morally-based initiatives, e.g., child support, domestic violence, drug offenses near schools. These all appeal to women and children as unknowing victims. Certainly, this discourse may embody key elements of feminist thought in that women are recognized as disadvantaged and oppressed in our culture and need state protection.[29] However, the female prostitute is not protected under AB 550. Nevada's policymakers expressed no concern about the health of the prostitute. The alarming rate (85%) at which female prostitutes report not using condoms with their primary sex partner, husband or boyfriend, leaves them open to the same risk factors shared with any woman in a heterosexual relationship (CDC 1987). Likewise, the prostitute's risk of HIV exposure from her client is a danger she is said willingly to accept. Of course, the parallel risk "johns" face is explained somewhat differently. As a consumer, the male client is not seen as having the same responsibilities in the prostitution contract. This all assumes that prostitutes have other work options, particularly at the time of the beginning of the HIV epidemic and it ignores that law does not protect their working and living conditions. This

information seldom enters into policy formulation. While the majority of prostitutes are women, they are exempt from special consideration due to their sexual practices and reluctance to succumb to traditional gender roles. Indeed, they are marked as targets for state control, regulation or persecution. Thus, the prostitute represents only the aberrant expression of the feminine.

Moreover, the connection between the feminine prostitute and disease comes to be accepted with the emergence of medical and scientific discourse. Nineteenth century medical treatises constructed prostitute bodies as doubly different and diseased–through its aberrant expression of an already deficient feminine sexuality and form. These traditional conclusions were accepted as "true," and disease was considered inherent to the mental and physical nature of the prostitute.[30] The reigning medical and scientific theories ascribed infection as the result of "unnatural vice and sexual excess" (Walkowitz 1980: 56). Associations of prostitutes with past emerging epidemics, like cholera and syphilis, arose simply when no other explanations existed (D'Emilio and Freedman 1988).[31] These historical assumptions were reflected in the public discussion surrounding AB 550, and as in the past, Nevada's policymakers appealed to inconclusive medical data to justify a regime of sexual regulation which reinforced a normative system of gendered heterosexuality.

The policy's focus on the feminine prostitute reinforces the vision that women, and particularly prostitutes, are objects of male sexual pleasure, which is unburdened by negative legal or social consequences. This acceptance of male sexual privilege was apparent throughout the policymaking process as the patron's responsibility was generally ignored. The male client comes to the feminine prostitute to fulfill *his* pleasure. In return, she receives direct monetary payment; her sexual pleasure is a byproduct if it exists at all. This understanding illustrates what many early feminists labeled the sexual "double standard." After enactment, enforcement of the provisions of AB 550 has been directed almost exclusively at the prostitute not the client as evidenced in media accounts and arrest records.[32]

Similarly, the policy would serve to protect the socially normalized form of sexuality–heterosexuality. While including clients, the most empathetic "victims" were the wives, girlfriends and children of patrons as noted by Deputy Chief Young.

> YOUNG: [Y]ou know a lot of johns (customers) were men and you know they would have sex with a prostitute and go home and possibly have sex with a wife or girlfriend or somebody else....

The dominant heterosexual paradigm is explicit in the policy's rhetoric. While the "somebody else" Deputy Chief Young mentioned may have included homosexual partners, the fact they are not directly mentioned may only suggest that homosexuality does not warrant the same consideration, thus, protection as heterosexuality.

Furthermore, the policy's inherent acceptance of heterosexual privilege is seen in its interrelation with the state's other statutes governing prostitution. The language of Nevada's solicitation statutes implicitly acknowledges that male and trans-gendered persons do work as prostitutes. However, only one of the Nevada counties with legal brothels recognizes that prostitutes can be of any gender, and historically, no brothel has ever provided workspace for males or transsexuals. Consequently, male and transgendered prostitutes would be almost always be working outside the licensed brothel system–and therefore be working illegally. Hence, male and trans-gendered prostitutes would always come under the screening provisions and sanctions of AB 550.

The police especially vice are the public entity entrusted to control and contain intentional malcontents. Vice divisions are founded on the manifest function of protecting the public morals. Not only does it control vice that harms the public directly, such as physical violence and economic loss resulting from illegal activities gone astray—like physical threat to a community from the trade in illicit drugs[33]—but are damaging to one's soul.[34] Similarly, the rhetoric in support of AB 550 is laden with moralist terms from a legislator with a history of morality-based initiatives.

Morality Policies Supported through Science

While morality themes are manifest in the policy discourse surrounding AB 550, the evidence and experts used by state actors in support of this legislation were based on medical science, The legislature had long recognized the legitimacy accorded policy that is based on scientific studies as it created the Legislative Counsel Bureau (LCB) to provide expert information and assistance for crafting legislation promoting more a rational and scientific approach to policy development by balancing legislators' over-dependence on the executive branch and lobbyists.[35] This rationalized approach to policymaking is apparent in the development of AB 550. Specifically, state health administrator, Larry Matheis, lent a great deal of support to Assemblyman DuBois as he crafted the bill by providing scientific confirmation of emerging trends in the AIDS epidemic in Nevada and lending additional institutional support of another state agency to the bill. As DuBois explains,

> JOHN DU BOIS: Matheis in particular was very helpful and if I had questions. He gave me the answers, found the answers, and he was able to take a lot of research and then when you appear before a committee you have to know the answers to whatever questions may pop up and so you have to work with the health officers and administrative health department and what not. Larry was a great help.

There is more than mere collegiality in this relationship. The state health administrator, while not a medical professional, Matheis did represent the public health authority of the state bureaucracy. His appearance at committee hearings, along with health information lent a significant degree of scientific and medical credibility to the legislation.

Besides testimony and information from the state health division, legislators also obtained scientific and medical information for their bills from the LCB. Prior to AB 550's review by the Judiciary Committee, Assemblyman DuBois was sent material regarding questions he had raised about the incidence of prostitutes as the carriers of HIV. In April 1987, Nevada Legislative Counsel Bureau research analyst Natalie Birk-Jenson sent John

Dubois a memo that contained important scientific information for his pending legislation. Attached to the memo were an excerpt from the *AIDS Record* and an article in the CDC's MMWR, "Antibody to Human Immunodeficiency Virus in Female Prostitutes" that examined HIV infection among a single sex of prostitutes-females. It was the CDC study and its synopsis through the *AIDS Record* that supported policymakers' fears about HIV infected prostitutes in the United States.[36] Thus HIV infected prostitutes could be interpreted not only as carriers of disease, as suggested by the study's researchers, but it was a gendered population—female— needing additional control measures from law enforcement agencies.

HIV Infection Rates Among Prostitutes

The rate of HIV infection among prostitutes was strong support for AB 550. A major point highlighted in the CDC study and its synopsis, the *AIDS Record,* was a statistic estimating "the rate of HIV infection among prostitutes nationally is eleven percent, although that figure can be as high as 57% in some areas" (1987:12). When average estimates for HIV infection of female prostitutes around the country calculate approximately eleven percent of a target group is infected, and that this population is seen as having the ability to have contact with multiple partners, it is not difficult to understand why this population is considered a high risk population, especially when 57% of prostitutes are infected with HIV in some areas of the country. While this supports the association of prostitutes with disease, it also affirms the gendered sexuality of prostitution. Because only female prostitutes were the subjects of the study, traditional associations that link women with disease go relatively unchallenged. The text also discusses condom use and exposure from primary partners, demonstrating that among the prostitutes studied, condoms were used with customers about 50% of the time, but that 84% reported never using condoms with their primary partners: husbands or boyfriends. The primary source of infection for prostitutes was either through the direct sharing of needles and products for intravenous drug use or from partners who are intravenous drug users, only 25% of the prostitutes became infected through sexual activity.[37] In addition a large number of the prostitutes studied were infected with Hepatitis

B, which follows a similar transmission pattern to HIV. Often, the presence of one Sexually Transmitted Infection in a population foreshadows the emergence of other STIs like HIV.

The data in the CDC study from Nevada demonstrated that there were no cases of HIV/AIDS among prostitutes employed in licensed brothels, thus showing regulation is successful in minimizing rates of Sexually Transmitted Disease (STD) infection rates. The evidence of a large number of HIV infected non-legal prostitutes across the country justifies legislation toward non-legal prostitution from a legislative perspective for DuBois. The health division and Board of Health had instituted effective policy that was working to prevent the spread of HIV/AIDS in the brothels. In other words, containment and control policies were working.[38]

The scientific and health material utilized by policymakers is significant for several reasons. Not only would it provide answers to questions that could be raised about his bill, but it lent scientific credibility to what otherwise would have been merely a moralistic piece of legislation. The material included in the enclosure came from a respected and premier public health source—the US governments lead infectious disease agency—the CDC. But the scientific data does not diminish the highly-gendered assumptions regarding the relationship of prostitution and disease that were at play. While the research shows prostitutes were at risk for acquiring HIV, the studies focused mainly on their potential to be carriers of disease. In addition, while editorial comments by researchers in the CDC study discussed prevention and care for this population, policymakers were more concerned with justifying the potential threat of prostitutes to the general public. Policymakers utilized the evidence of HIV infected prostitutes as support for policy that contained bodies and criminalized behavior rather than as a catalyst for legislation that could possibly help an infected population While these studies did indicate that prostitutes posed a degree of infection risk to the general public, the studies assessment never clearly showed a causal link between infected prostitutes and infected customers. Additionally the risk from prostitutes was really never compared to the risk posed by other risky behaviors.

While policymaker's appeal to medical science, the provisions of AB 550 still retained deeply rooted normative assumptions about gender and sexuality. For Foucault, knowledge systems, like those based on science and morality, reinforces each other like a perpetual motion machine. There is a move in modern discourse to accept the rhetoric of science as the foundations for truth. In his work, Foucault analyzes the interrelations between power and knowledge. Particularly, Foucault argues that the expansions within state power always presuppose "the constitution of a certain type of knowledge." (Foucault:1988, 76). In the case of the connections between prostitution and disease, the medico-juridical or medical-legal discourse accepted as "truth" was previously grounded only within the rhetoric of morality. This effect and use of science is one of the most prominent mechanisms of power within modernity. Science, politics, business and individuals engage in a self-reinforcing system of discourse which serves to make the state's chosen form of action the *only* rational one. As Foucault explains, "[T]he strategies, the networks, the mechanisms [of power are] all those techniques by which a decision is accepted and which that decision could not but be taken in the way it was." (Foucault 1988:104).

While state authorities may disavow a moral agenda, they cannot completely deny the normative effect of Nevada's AIDS policy.

> YOUNG: we are not moral police. We're not. It's not our job but the thought process the legislature used, and of course underpinned things...you know a lot of johns (customers) were men. and you know they would have sex with a prostitute and go home and possibly have sex with a wife or girlfriend or somebody else. There's a little bit of social control thing but I don't think that was a bad thing.

Protection is accorded to the patrons or johns rather than having their behavior condemned, or at least without having their behavior directly regulated. Prostitutes are still seen as the menace to be regulated rather than the customer. Not only are the gendered attributes of the prostitution relationship asserted in this statement—male customers and female sex provid-

ers–but the heterosexual nature of the relationship is assumed. It is the morality-based rationale of protecting the innocent victims, and consequently male patrons, that is implicit in the discourse calling for increased regulation. Ultimately, Nevada's solution had to fit within an economy dependent on gendered sexualized leisure and a history of maintaining legal brothels.

Economy and the Policy

Nevada economy has always been bound with a tradition of prostitution. Whether it provided sexual services and feminine comfort to Nevada's miners or to complement gambling, prostitution has long been an under-acknowledged industry for the state. Because of Nevada's economic dependency on mining and gambling, Nevada and its cities have tacitly approved the exchange of sex for money. "Gambling and sex go together: or to put it more precisely, one follows the other. [the] thrill of gambling is bound up, one way or another, with the libido. And anyone who comes to Las Vegas is aware of the city's reputation. It's part of the mythology of the place—easy money—easy sex—part of the glamour" (Spanier 1992: p.135).

The reputation of Las Vegas and the allure of "Sin City" were threatened by the specter of AIDS. Sex is part of the leisure lifestyle that Las Vegas sells. AIDS threatened that image by upping the ante on chancy sexual encounters with prostitutes. Ultimately, the fear behind policymaker's rationale for AB 550 was one of illicit sex. While the gaming industry benefited from the allure of easily accessible and commodified sexual activity, the potential consequences stemming from a prostitute associated AIDS panic would be disastrous to Nevada's economy. Without prostitution and the attraction of forbidden sexuality, gaming would lose some of its appeal. Without revenues from gambling and employment in the gaming, tourism, convention, and leisure industry, the state would face an economic downturn. The solution to this economic quandary was a policy that would remove the dangerous and diseased prostitutes from working and would institute de-facto regulation for non-legal

prostitutes by means of testing done as a condition of arrest. AB 550 was a reasonable policy for maintaining the image of Nevada as a state to indulge in risky behavior and remain relatively safe.

The Cost of AIDS: Tourists and Workers

While the economic ramifications of AIDS on the tourism industry from prostitutes was the manifest consideration of policymakers, epidemics, such as HIV and AIDS impact the economy through the long range planning of projected state revenues. Epidemics impact the ability of governments to provide basic services and necessities to its citizens due to the economic costs to the state in terms of health care provision, loss of worker revenue, and diminished resources of the state for disability and unemployment resources. An AIDS epidemic would be disastrous to Nevada's economy not only for the loss of tourist dollars but for its health care expenditures. These concerns impacted the discourse that informed policymakers.

The costs of AIDS treatment would soar in the event of an epidemic. Carolyn Fassi, Nevada's AIDS coordinator is quoted as estimating, at the time in 1987, that caring for AIDS patients from diagnosis to mortality ranges from $33,000 to $200,000 and the average cost for care is $140,000. While the number of AIDS cases in the state exponentially rising, concern over the fiscal costs of diagnosis, care and treatment is likely to grow. AIDS and HIV infection's impact on society can be measured not only in expenditure out, but monies coming in. For example, state revenue loss can be measured in hospital expenditures, years of work lost, and disability benefits. One of the most telling parts of a JAMA article on the subject of AIDS and the economy is a discussion on the loss of projected lifetime earning potential: "over 90% of patients with AIDS are between the ages of 20 and 49 years" (Hardy et al. 1986: 209). While loss is discussed in terms of hospitalization, and diminished levels of resources due to use of disability benefits, the most striking is that of the loss due to premature death. When a large proportion of an age cohort dies early, this impacts social support systems and the economy. Workers not only add to the health of an economy by

spending and investing capital, but they maintain resources to welfare and social security holdings. With falling numbers of workers in these support structures, resources do not last as long and fail to gather interest.

Because epidemics, such as HIV and AIDS impact the economy, it has bearing on the long range planning of state economies. Without the revenues from certain groups, and the potential loss of a major source of income for the state's dominant industry—gaming—the ability of governments to provide basic services and necessities is compromised. In addition, this does not take into consideration the resources non-legal prostitutes add to the economy through spending. Unfortunately, because of the illegal status of business, non-legal prostitutes cannot always contribute to state welfare and protection accounts. An infected population impacts the population in two ways: indirectly through their clients, as workers who contribute to the state's welfare system, and directly as they use the resources of the state such as hospitalization and disability resources. Thus, while non-legal prostitutes contribute to Nevada's economy as sexual enhancements to the tourist experience, release for Nevada's service industry workers, and as consumers, when this population becomes infected, they also draw on Nevada's health and welfare resources. Because of these factors, prostitution is often over-scrutinized as a source of infection and under-analyzed as a group both contributing to the economy and utilizing scare state resources.

Minimal Opposition to AB 550

Overall, AB 550 encountered little resistance. As noted, health officials ceded regulation of illegal prostitution to the police, and so there was no power struggle within the state's public safety entities. Likewise, legislators overwhelming supported the legislation. During committee hearings, comments and questions were generally favorable.[39] While minor amendments were approved, they did not alter the fundamental character or provisions of DuBois' original draft.[40] On June 18, 1987, AB 550 was unanimously approved by the Nevada Assembly as amended and was sent to the Senate on that same day for unanimous

approval. On June 24, 1987, AB 550 was delivered to Governor Richard Bryan and approved as Chapter 762. AB 550 became effective as a state statute on July 1, 1987.

AB 550 did not provoke an outcry from the public, businesses or advocacy groups. There was no organized resistance from prostitutes themselves nor the larger sex industry in Nevada. As noted earlier, there was no history of sex workers uniting and mobilizing in the state. The brothel industry did not oppose the legislation, and in fact, they supported the initiative. A representative of the Brothel Association was present and testified in the legislative hearings.[41] Certainly, brothel managers and owners saw the legislation as beneficial in curtailing competition from illegal workers, culling from its ranks rouge owners, and further legitimizing the industry. Even though the testing provisions targeted individuals who were only "accused"–not convicted–of a crime, the expected outcry from civil libertarians was minimal. Jim Shields, director of the American Civil Liberties Union of Nevada, merely questioned the need for the policy as redundant to the existing powers of the state's health division.[42] While concerns over the confidentiality of medical information were instrumental in the defeat of California's initiatives, the issue provoked little discussion in Nevada.[43] Feminist activists and academics were also silent regarding the bill; they did not draw attention to the gendered assumptions inherent in the policy.[44]

Impact of AB 550–Policy Actors' Discourse

Each of the policy actors interviewed was asked about the impact of Assembly Bill 550—specifically, *Were the policy actors satisfied that beneficial change had resulted from its passage?* Both Metro and Assemblyman DuBois agreed that this policy has been successful. Yet there are also indications of uncertainty about the long-term outcomes and effectiveness of AB 550 in their responses. In the end, the resigned tone betrays a tendency to offer rational justifications for the policy, moral justifications that hide, perhaps, the inadequacies of this policy response.

Although AB 550's sponsor felt the legislation overall was effective, his enthusiasm for AB 550's effect was subdued. In particular, he found it difficult to quantify "beneficial change."

> JOHN DuBOIS: I think its [the impact of the legislation] been sizable, it hasn't been enormous. It hasn't gotten prostitutes off the street or anything, but I think it has...its hard to measure something like this. Lives—literally—lives may have been saved in Nevada from a bill like this that prevented innocent people from getting the disease. And you know, prostitutes....I guess they might have 2 or 3 customers a night. That TV show I saw, originally on "Sixty Minutes," talking about this and tracing one prostitute woman that had HIV and you know they had to trace it to hundreds of people from that one person.

For DuBois, it was troubling to still see prostitution occurring after the policy was enacted. Therefore, the impact of this containment policy was not clearly evident on the streets, or phone books for that matter of Las Vegas given the variety of "entertainers," massage, and outcall services listed. But the policy was effective for DuBois if it got just one HIV positive prostitute off the street, prevented contact with a few customers on a single night and ultimately prevented hundreds of new cases of infection among innocent people. Yet the victims in this perspective are not prostitutes but customers—men—and their primary partners at home, while the perpetrators are women.

Like the bill's sponsor, law enforcement generally expressed satisfaction with AB 550. "Oh yeah, I think the law has worked," reports Deputy Chief Young:

> I'd say we have some dangerous people off the street, you know, a person, a prostitute who knowingly has that disease. I still don't think there is a lot of sympathy invoked [sic] for that person—from any community, whether it be gay, pro prostitution or anybody else—that a person who would knowingly go out and have unprotected sex with an unsuspecting person, whether it be

> the act of prostitution or not. I mean, I don't see a lot of good coming from that. It's a pretty destructive thing that can affect a lot of other people's lives. The medical costs of people getting this disease—astronomical.

Young saw this policy as benefiting society. Not only did it reduce the number of HIV positive prostitutes in society, but it removed amoral ones at that. In addition to the health and safety benefits, Young mentions the potential economic impact of this legislation. He also believes that the policy may in some measure prevent the transmission of disease. While Young describes HIV as a "destructive thing that can affect a lot of other people's lives" he ends his statement with an assessment of the fiscal impact of the disease. AIDS impacts more than individual lives, it literally costs society as a whole in medical and care costs. Ultimately, the benefits of this legislation for law enforcement were that it gave police the ability to isolate dangerous criminals who spread HIV from the larger population and it raised awareness about the danger of prostitution and AIDS in the community. Other law enforcement personnel echo this sentiment.

> SMITH: Yeah, I think its been very successful in that when we do arrest an individual that get[s] a DR (detention) for whatever the amount of time... they're incarcerated because of the felony charge. It keeps them from spreading the virus to other individuals.

Besides containment, the bill supports the very justification presented by AB 550 sponsors by reinforcing the idea that prostitutes are a threat to the community, have HIV and can spread it to others.

> YOUNG: The awareness level is certainly raised in the community because of the publicity raised by this, that prostitutes can be dangerous and street prostitutes in many cases have HIV.

For police and law enforcement, this policy is at least effective for its symbolic value. The threat and danger of HIV prostitutes is perceived as real and thus effectively supports their

increased power. Yet antidotal accounts of unethical HIV positive prostitutes affirm law enforcements perceptions of the prostitute as a monster that requires containment.

> SMITH: A couple of years ago, there was this lady on Las Vegas Boulevard and Charleston and she was strolling up and down the boulevard. I pulled into a driveway and she walked over and asked, "are you looking for a date?" I said "Yeah," and after I arrested her we did the weapons check and she had a prior. So I told her ... that I'm going to book her under NRS 201.354 and then blood will be drawn and we will test the blood for the HIV virus and we will notify you if you test back positive. And she says, "I'm positive, I have the virus." I said, "You do?" And she said, "Yeah, I do and I'm going to die and take as many people with me." But when I went to court for the misdemeanor, they were saying we could plead this out, do something else, and she's taking medical treatment, she's repentant. I said no, we've got to have a guilty plea.

The point of Detective Smith's account is to illustrate his sentiment that AB 550 was necessary to contain individuals who would not otherwise cease to exchange sex for money even after testing positive for HIV. The prostitute in this scenario is incapable of self-regulation, thus necessitating code-based morality. The character of the prostitute as a non-repentant, amoral, disease carrier remained intact in Detective Smith's account. Even worse, is that the prostitute was deliberately spreading the disease angry about her own impending death. Detective Smith also uses the pejorative term when referring to prostitution.

All in all, the defense and justification of AB550 from representatives of law enforcement are more forceful than the bill's legislator, but in the end, even the police discourse suggests that the policy is a temporary fix for a much larger and persistent social problem.

> YOUNG: And we definitely saw a decrease in some areas of prostitution, at least for a while.

Besides affirming the rhetoric that prostitutes are the vectors of disease who need regulation, law enforcement also is cognizant of the legislation's impact on gendered sexuality. While male clients or johns are becoming the targets for intervention the intent of the intervention is not prosecution. The true concern for police is clearly the containment of prostitutes and regulation of their activities, while their patrons—mostly men—are essentially shamed into counseling or aversion therapy. While clients are sanctioned for patronizing illegal prostitutes, the responses from law enforcement continue to frame prostitutes as blameworthy. While this fits with moral panic theory and its need to have a definitive population to scapegoat, ultimately the police are aware of their role in perpetuating the gender inequality of this policy.

Overall, Young's comments indicate that prostitutes are still to be objects of concern and fear. Prostitutes are seen dangerous and can spread AIDS. The old perceptions about prostitutes as the spreaders of disease are alive and healthy in Nevada. Without surveillance and containment, our community and its economic resources would suffer due to increased numbers of HIV positive individuals. When institutional ideologies fail to create docile bodies that do not put others at risk for disease through self-regulation, larger containment policies address the problem.

Conclusions

The formulation and passage of AB 550 illustrates how Nevada chose to respond to a media fueled AIDS based moral panic by becoming one of the first states to criminalize HIV positive prostitutes. As decided through legal opinion, brothel prostitution and testing policies were under the jurisdiction state health authorities Thus AB 550 was a necessary legislative response for a state that also had non-legal prostitution. Similar to policy passed by health authorities, this bill rests upon gendered conceptions of sexuality. In particular, AB 550 illuminates assumptions about prostitution as a feminine occupation, male sexual privilege and institutionalized compulsory heterosexuality. Additionally, policymakers looked to

protect entrenched elements of the local and state economy—gaming and tourism. Finally, the passage of AB 550 shows the complexities and contradictions of policy-making process itself within the criminal justice and legislative system.

Prior to the passage of AB 550, disease testing was not a condition of arrest for prostitution. While the charge of solicitation itself was applied to prostitutes and patrons alike, the result of a later amendment to DuBois' original bill, prostitutes are still the primary targets for mandatory testing and enhanced penalties. Thus reflecting the gendered conceptualization of prostitution, this bill maintained the perception that it is primarily a feminine occupation. While testing and punitive measures would dramatically effect women, it still left the predominantly male clientele untouched and unaffected by regulatory controls. Even though male and transgendered persons do work as prostitutes, the fact that only one of the Nevada counties with legal brothels recognizes that prostitutes can be of any gender means by default that male and transgendered prostitutes would be working outside the licensed brothel system–and therefore illegal. Thus, male and transgendered prostitutes would almost always come under the screening provisions and sanctions of AB 550.

Even in the scientific studies used by policymakers in support of their initiative, gendered assumptions regarding prostitution and disease were at play. The primary CDC study describing infection rates among prostitutes in the US limited their sample to females. Observations from Dr. Trudy Larson echo this bias, as she emphasized the correlation between infection, drug use and gendered sexuality–namely with women working as prostitutes.

The rhetoric used in support of the bill employed a series of gendered and sexualized assumptions, which reinforced ideas of heterosexism, female passivity and male sexual privilege. Notably, the wives and children of patrons were characterized as "innocent victims" under threat from diseased prostitutes. This completely ignores the voluntary participation of predominantly male clients—an enactment of male heterosexual privilege. The alarming rate (85%) at which female prostitutes report not using condoms with their primary

sex partner, husband or boyfriend, leaves them open to the same risk factors shared with any woman in a heterosexual relationship (Centers for Disease Control 1987). This information seldom enters into policy formulation.

While ultimately not adopted by state agencies, early discussions of responses to the AIDS crisis included mandatory testing of marriage applicants. As exclusively heterosexual, in 1987 as now, marriage parallels prostitution as an institution, which regulates and controls sexuality.

The regulation of sexuality would necessarily have economic implications in a state almost entirely dominated by tourism and gaming. Popular advertising slogans like "What happens in Vegas, stays in Vegas" represent a conscious marketing of the state as a safe destination for licentious but controlled indulgence. Legislators highlighted the economic costs of AIDS in Nevada when imposing added sanctions on infected prostituted. Obviously, these costs included those associated with the prevention, treatment and care of AIDS, but the potential loss of revenue from tourism, conventions and leisure activity—all customarily enhanced by the allure of illicit sexuality—would be devastating. Even though not directly regulating legal prostitution, AB 550 served to further legitimize and engender confidence in the legal brothel industry as "safer sin"—a fact that did not go unnoticed by brothel owners themselves. Policymakers would all recognize the overwhelming importance of maintaining the state's primary economy.

NOTES

[1] The section of the Nevada Revised Statutes that presently outlines the definitions of pandering or soliciting and prostitution begins at NRS 201.295 and end with NRS 201.440. A prostitute is defined a "a male or female person who for a fee engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person. Prostitution means engaging in sexual conduct for a fee". (NRS 201.295). In Nevada, the exception to criminalized prostitution is defined as prostitution or solicitation in a licensed house of prostitution (NRS 201.354).

[2] Male and transgender prostitutes and those who test HIV positive are unable to work licensed brothels per Nevada Statutes.

[3] Doolittle's sponsored AIDS legislation failed only months before DuBois proposed AB 550. Policy diffusion between Nevada and California would be expected due to the geographic proximity of the state capitals and similar tourist based economic industries. The influence of both Nevada and California's legislation on each other is unclear given their political histories for passing legislation and the role of social movements in challenging pending policy.

[4] Prostitution and solicitation under the then existing law was a misdemeanor offense. SB 1002 proposed a felony sentence. However, SB 1002 did acknowledge that sex offenders could be both male and female therefore making it more gender inclusive. Senate Bill 1007 specifically addresses toward prostitutes, even though prostitution and solicitation is included in SB 1002. Ultimately, Senate Bill 1007 sought to mandate involuntary testing for convicted prostitutes. After testing, the results of the blood test would be forwarded to officials at the state Department of Justice. The California Department of Justice would make this information available to any individuals involved in the criminal investigation or prosecution of acts of prostitution.

[5] Mandatory syphilis testing is a part of the prenatal and delivery care process provided by health professionals. STIs like syphilis and herpes can be fatal to an infant. Pre-natal testing mandates traditionally have been legislated to protect against infant mortality

[6] Specifically, Senate Bill 1002 proposed felony charges for blood donors who knew they were HIV positive.

[7] When DuBois was proposing the Nevada legislation, the only group that really protested it was the American Civil Liberties Union from California. According to Judy DuBois, "...when he (John DuBois) presented the bill the ACLU from Sacramento, California came in and they really made a lot of noise against it (the bill)...and they were threatening to demonstrate with placards and stuff like that" (DuBois Interview, 2/7/02).

[8] This material was included in memorandum from Birk-Jenson of the Nevada Legislative Counsel at the request of Assemblyman DuBois as AB 550 was being prepared.

[9] When HIV test results are positive, the arresting law enforcement agency must notify the person who subjected to testing. This can be done either by certified mail to the person's last known address with notification in their file, or if the person is in custody, the results can be personally delivered (in the law says him) with a record of the affidavit and its of delivery placed in the agency's records. When the arrestee is arraigned, part of the appearance entails that the person must re-appear before the court to determine whether test results have been

received. Under the provisions of NRS 202.356, the court requires the defendant to reappear 45 days after arraignment in order to verify that the defendant has been properly notified of their test results. However, if the court receives notice that the person's test results are negative before the end of the 45 day period, the subsequent hearing will be cancelled and the defendant notified of both the cancellation and the negative test result. Similarly, if a person testing positive for HIV notifies the court in writing that they have been informed of their positive status, the requirement to reappear will be waived. In cases when a person does appear at the post-arraignment hearing, the court will inquire if he has received the screening result ands makes note of the defendant's answer for the court record. If the individual is unaware of the test results, the court will order he be notified, and verification of this will be included in law enforcement's record. Of course, any record indicating that the individual was informed of their positive status would be available for subsequent prosecutions and allow felony charges pursuant to NRS 201.358. For persons who are required to reappear but fail to do so, the statute mandates that the court issue a bench warrant and arrest the defendant–this opens the defendant up to additional liability for contempt of court charges. Following an arrest, the person is then informed of the test results as in accordance with the statute's general provisions. In all instances, the person still faces disposition of any pending prostitution charges against them. While theoretically, the possibility of a bench warrant may seem to threaten persons who test both positive or negative, two provisions of the statute work so that burden falls disproportionately on persons with positive test results. First, the law requires that test results be received by law enforcement within 30 days, which means prior to the required post-arraignment hearing, and then second, the court rescinds the requirement to reappear for individuals testing negative as a matter of course. Thus, only individuals testing positive will face the added legal sanctions stemming from their "failure to appear." This result underscores the legislation's clear intent to focus the state's police powers on HIV positive prostitutes.

[10] Prior to 1987, non-legal prostitutes were not tested for any sexually transmitted infections (STI). After this bill became part of Nevada Statutes, non-legal prostitutes were tested only for HIV. It can be questioned why HIV was emphasized when there are many other life threatening and altering STIs in the state, such as syphilis and hepatitis. It can be surmised that HIV still has an association with a terminal infection, rather than a chronic manageable disease. While public health and medical rhetoric may promote a shifting perspective of HIV/AIDS, it has not been addressed in criminal statues.

[11] The designation of this offense as a class B felony is a fairly new development in the Nevada statues that can be traced to 1995. The rationale behind this new classification is uniformity in the law that corresponds to national trends for standardization.

[12] According to Seppa Arroyo (2003), from 1987 until 1999 there were only 292 cases of prostitutes testing positive. Of these statistics, there were only 89 repeat offenders, including 23 arrested 5 times, 5 arrested 4 times, and 1 arrested 5 times.

[13] For more information about intentional transmission statutes, see NRS 201.205. The three affirmative defense elements that must be met include informing a partner of one's HIV status, an understanding of that status, and an agreement to engage in behavior knowing the risk involved.

[14] This report was included in the Centers for Disease Control's *Morbidity and Mortality Weekly Report* (MMWR) in November 1984.

[15] The Centers for Disease Control sent researchers to prisons like Riker's Island. The focus of the research was on prostitutes as sources of disease rather than sufferers. (Corea 1992: 13-14.) In the specific context of Nevada prisons, Dr. Trudy Larson was keenly aware of the

inter-related cluster of HIV positive, I.V. drug using prostitutes who knew each other from Las Vegas, where prostitution is illegal. (Larson Interview 2/6/02)

[16] The specific case that Shilts refers to in his account is discussed in chapter (to add).

[17] In previous chapters, I discussed estimated numbers of prostitutes working both legally and illegally in Nevada in more detail.

[18] Estimates based on arrest statistics lack reliability in that often prostitutes are arrested multiple times, and so it only captures a small number of the individuals who work in this capacity. It also fails to take into account budgetary and staffing limitations. Because Metro Vice's fiscal year budget is fairly small—four million in 2003—there is a trend among vice officers to cite prostitutes rather than arrest them.

[19] Specifically, the following year saw a decrease in arrests to 6,305. In 1985, 5000 prostitutes were arrested. The last estimate given in the article was October 1986. At that time more than 4000 prostitutes were arrested. The statistics beg the question as to why the number of prostitution arrests decreased. One could speculate that the police campaign was effective in decreasing the number of prostitutes working in Las Vegas. The other hypothesis is that the police felt prostitution was not needed as a political issue and therefore required less attention.

[20] According to NRS 218.241, since 1983 agencies and officers of the Executive Branch of the State Government along with county, school district or city can request a legislative matter. The only issue is that there is a limit to the number of legislative requests these entities can submit. In 1995, this policy was amended. Not only were county population limits added to the number of proposals county governments could submit, but in populations over 400,000, at least one measure could come from the metropolitan police department of that county (NRS 218.2413). This aspect of the Nevada Statutes is important to HIV testing policies and prostitution because it indicates that public entities, such as the Las Vegas Metropolitan Police Department (METRO) has in its capacity the ability to propose legislation. Yet this ability is limited to a set number of proposals per legislative session. Prior to 1995, the 1983 amendment gave local government limited power to sponsor and develop bills. Thus, there was no guarantee that even if law enforcement had an important proposal, it would be selected as one of the numerous county driven initiatives. Because Nevada's legislature meets biennially (every other year) for approximately six months (Bowers 61), county policy initiatives ideally would be ranked in terms of urgency and feasibility. Thus, according to an informal discussion with the Nevada Legislative Council Bureau and its research division, many local governments approach legislators for sponsorship of potential law and policies. This approach is informal, often based on prior knowledge of legislator's interests and voting history, and can also be arranged with legislative chairs of committees.

[21] In 2004, Nevada's Supreme Court formally prohibited state and municipal employees from serving in the legislature to preserve the separation of powers within Nevada's governmental powers ,

[22] A reasonable means standard posits that public health police powers can be enacted under a tangible threat to the community. Not only must a threat be demonstrable, but approaches or methods used must be designed to prevent the threat. In other words, the treatment or policy must have a correlation to the perceived risk and not just be an invasion of rights. The tenet of proportionality maintains that intervention efforts cannot exceed unnecessary invasions into personal autonomy. Harm avoidance as a principle, allows state intervention only if it does not pose a risk to the subjects of public health policy (69). The main court case used to demonstrate public health police powers is Jacobson v. Massachusetts, 197 U.S.

11 (1905). Jacobson refused to comply with a local ordinance that required mandatory smallpox vaccinations for adults. The Jacobson's argument centered upon a citizen's ability to care for their body in a manner they see fit (autonomy) and that the state's dictate represented an assault. The U.S. Supreme Court ruled that the state did not violate Jacobson's rights and was acting upon its legitimated police power to "enact health laws of every description" and "such reasonable regulations established directly by legislative enactment will protect the public health and the public safety " (p. 24). In determining what is 'reasonable', the U.S. Supreme Court felt that the legislative branch, not the courts would determine this based on a common belief-even an unsubstantiated one. The only "proof" being the idea that a particular measure protected the public health or safety. (p. 25) While Jacobson seemingly opened the doors for state exercise of its police powers in regards to matters of public health directives, Gotsin maintains the Supreme Court in deciding this case issued its first statement on "the constitution limitations imposed on governments" (p. 68). Public health police powers are permitted when they are exercised in conformity with four standard: public health necessity, reasonable means, proportionality and harm avoidance. The standard of public health necessity holds that the subject of public health directives must pose a threat to the community. For example, in the case of HIV/AIDS, an individual or group must either be HIV positive or have an AIDS diagnosis or be classified as a member of a "high risk" population to be targeted for policy intervention efforts. (p. 68)

[23] YOUNG: we are not moral police....we're not...its not our job....but the thought process the legislature used and of course underpinned things...you know a lot of johns (customers) were men....and you know they would have sex with a prostitute....and go home and possibly have sex with a wife or girlfriend or somebody else and its just....and so it's a little bit...there's a little bit of social control thing but I don't think that was a bad thing (Young Interview 2/21/2002).

[24] Later in the interview, Detective Smith mentions how police officers were instructed on basic hygiene and disease prevention, such as hand washing, but overall even national experts were at a loss of providing adequate guidelines to criminal justice personnel about contact with infectious individuals.

[25] The *Sixty Minutes* episode ended with the statement, "AIDS is something people volunteer for with risky choices, and you can't protect people from themselves."

[26] John DuBois had over five years of experience in the Nevada Legislature by the time he crafted AB 550. During the course of his term, DuBois served as the chairman of the Commerce and Labor committee and as a member of Judiciary, Legislative Affairs and Operations, and Ways and Means. Each of these committees are important in the construction of how Assemblyman DuBois may have conceived AB 550. The Commerce and Labor committee examines legislative proposals about the regulation of business and labor in the state, including discussion about unions and workers compensation insurance. The commerce and labor committee has special bearing on HIV testing toward prostitution because it deals with a non-legal business arrangement. Workers in non-legal business situations face no protection for job related injuries, the protection of unions, or mistreatment by business owners. Yet non-legal prostitution fuels 'legitimate' businesses in the state such as the tourist industry. The Ways and Means committee oversees state spending and budgeting. Any bill that requires additional police intervention would require additional spending. AB 550 would have a fiscal impact not only for the arresting personnel, the tests, but also the personnel required to run the tests, administrative time and personnel for informing prostitutes of test results, along with court resources for maintaining these records. Another committee that DuBois was a member was the Judiciary Committee. Like the Ways and Means committee, the Judiciary Committee is considered a strong committee. It has jurisdiction over the gaming industry and proposed constitutional amendments. A seat in this committee keeps

legislators aware of the importance of maintaining the health of the state's largest industry. Assemblyman John Dubois's election to the Nevada Assembly as a Republican candidate, along with his committee membership, indicates, to a degree, his general political orientation. Yet, a review of the bills that John DuBois authored and which became state laws gives a stronger indication of the theme of his legislation: morality politics. Many of the bills that DuBois introduced into the legislature were based on regulating sin and morality. Among some of the targeted populations were welfare recipients (AB 66), drug pushers (AB 157), AIDS infected prostitutes (AB 550), "deadbeat" parents (delinquent child support payments AB 210), home intruders/robbers (AB 190 allows homeowners to use firearms against burglaries or armed assault), sex offenders (AB 165 allows DNA fingerprints to be kept of sex offenders), domestic violence offenders (AB 229), white collar criminals (AB 109), and death row inmates (AB Concurrent 35). DuBois' bills can be classified under traditional morality based themes- tough on crime policies, assistance to police and criminal justice entities, and aid to women and children. A traditional platform for politicians is to 'clean up the town, city or state' through measures that regulate group and individual behavior through harsher criminal penalties. Criminals such as murderers, prostitutes, negligent fathers, and welfare cheats have been the scapegoats of morality based social policy for centuries. If one chooses to be tough on crime, the forces of law and order must be strengthened. Therefore by increasing the support of criminal justice entities either through new technology (DNA fingerprinting) or the legitimization of HIV testing policies to detect disease in prostitutes, policy makers support their efforts as 'tough on crime' measures.

[27] Estimates for the economic revenue for prostitution came from Sheehan, Jack (2003). "How Fabulous is Our New Image?" *Las Vegas Life,* Vol 7:1:55-57.

[28] While prostitution is legally defined as male and female, and through popular ideology identified as a feminine or female occupation, the nomenclature of this law is written in masculine terms. I interpret this as a function of traditional norms about discourse that automatically made subjects masculine. The text is contradictory in light of such a gendered occupation.

[29] Assemblyman John Dubois's election to the Nevada Assembly as a Republican candidate, along with his committee membership, indicates, to a degree, his general political orientation. Yet, a review of the bills that John DuBois authored and which became state laws gives a stronger indication of the theme of his legislation: morality politics. Many of the bills that DuBois introduced into the legislature were based on regulating sin and morality. Among some of the targeted populations were welfare recipients (AB 66), drug pushers (AB 157), AIDS infected prostitutes (AB 550), "deadbeat" parents (delinquent child support payments AB 210), home intruders/robbers (AB 190 allows homeowners to use firearms against burglaries or armed assault), sex offenders (AB 165 allows DNA fingerprints to be kept of sex offenders), domestic violence offenders (AB 229), white collar criminals (AB 109), and death row inmates (AB Concurrent 35).

[30] Philosophers and sociologists of science have critiqued the supposed objectivity of medicine and science toward particular bodies based on gender, race, class, and sexuality. See Fee 1988; Fox Keller 1990, 1996; Harding 1986, 1987, 1991, and Martin 1987.

[31] The association of prostitutes with disease does make sense in that prostitutes and brothels were a social space for interaction of often a wide range of people across geographic areas. Even in remote locations, often-isolated individuals would gather in sex industry areas, which would provide a fertile location for the spread of disease. Yet it was not the prostitutes themselves spreading the disease, but the contamination from customers.

[32] Theoretically, the provisions of AB 550 apply to both prostitute and patron. However, law enforcement rarely files "reversals" and arrest johns.

[33] Some of the ramifications of the trade in illegal drugs in a community are increased violence due to the conditions of product and monetary exchange, environmental hazards resulting from the mixing of chemicals in a non-laboratory situation (meth labs), and increased petty crimes that are initiated for money/capital to acquire more substances.

[34] Brock(1998) discusses the role of the Morality Squad of Toronto's police department in control and containment policies toward prostitutes. The language assigned to both Canadian and the United States law enforcement officials in maintaining public safety clearly indicate the morality based mission of these departments.

[35] For more information see http://www.leg.state.nv.us/lcb/morelcb.cfm

[36] *The AIDS Record* summarized one of the first major studies of the incidence of HIV among prostitutes in the United States, the Centers for Disease Control's "Antibody to Human Immunodeficiency Virus in Female Prostitutes" published in the CDC's MMWR. The authors conducted a cross-sectional study of women who have engaged in prostitution related activities in seven geographic areas. The subjects for the study were recruited from a variety of locations: jail/prison, sexually transmitted disease clinics, methadone maintenance clinics and community outreach programs. This study was important as an informational source for a number of reasons. Not only does it provide a fairly detailed assessment of HIV incidence among prostitutes in the United States, but it breaks this down according to geographic location, ethnicity, incidence of HIV/AIDS infection, and primary source of infection. As was summarized in *The AIDS Record*, it is significant that the primary source of infection was either injectable drug use, or infection acquired from an injectable drug using partner. The rate of infection was also higher among women of color. In a section of the study entitled *Editorial Note*, the authors discuss the parameters of the study and its limitations. Subtly, the authors mention that the rate of infection among the prostitute women closely resembles the incidence of AIDS in general among women of their geographic area. To address the rate of infection amongst prostitutes and their sexual partners, the authors suggest HIV testing and counseling efforts directed at prostitutes and their partners along with "...additional control measures by local public health, and law enforcement agencies, and the involvement of voluntary and other social service organizations (CDC 1987: 159). This statement overtly suggests the involvement of law enforcement agencies for control measures. While recommending traditional public health measures, such as testing and counseling, they propose the use of police intervention as well. This can be taken as support for criminal sanctions and mandatory testing policies for prostitutes. The authors never directly mention punitive measures or call for state regulation of prostitute's sexuality. Their subtle reinforcement of the possibility of law enforcement participation implies less than voluntary measures could be mandated. This is seen in the article's discussion of state regulatory practices. Besides discussing Nevada's testing policy for employment at licensed brothels, the CDC discuss Florida's criminal statues that require mandatory STD testing for convicted prostitutes. Passed in 1986, this statue imposes a misdemeanor charge against anyone who tests positive to HIV and continues to solicit for prostitution. Florida's status as the first state to enact legislation for mandatory STD/HIV testing of prostitutes is significant. Not only did it establish a policy for other states to emulate, but the criminal sanctions of the statue were less punitive than in Nevada. Felony charges impose longer jail time and fines and may strip those convicted of basic rights of citizenry. Misdemeanor charges impose sanctions, such as fines and potential jail time, but are less stigmatizing. Florida's policy of testing for all STDs including HIV is better aimed at informing prostitutes of their health status rather than punishment. Yet, like Nevada's proposed legislative criminal statute, Florida still viewed prostitutes as the spreaders of disease, rather than the victims of it.

Following the mention of control measures, a variety of methods for reducing the risk of infection to prostitutes and their consorts is recommended. Among the suggestions mentioned are counseling and testing services, the insistence of condom use during sex acts, abstinence from prostitution and sexual activity in general, and safer practices with injection drug use. The MMWR study in essence reflects public health's dueling mission: to contain bodies in order to control disease. Police and criminal justice statutes contain prostitutes from the general public, whereas prevention strategies seek to control an at risk population.

[37] The importance of material from the CDC study, included in the memo, is that it highlights the risks to prostitutes rather than the risks posed by prostitutes. While this paragraph may indicate to legislators that mandatory testing of prostitutes is warranted because only 50 percent of the prostitutes use condoms in their exchange with customers, the fact that 50 percent of the prostitutes regularly use condoms in their relationships with customers is important. One could question what is more important: testing or protection. Testing is only as good as the last test, but protection helps decrease the risk of transmission. If the goal is disease transmission, then emphasis should be on protection rather than incidence of sero-positivity.

[38] Unfortunately, this estimate is only about prostitutes. The number of customers who tested positive is not evident, as customers do not have to test to obtain services from a prostitute, their sero-positivity before and after sex in with a prostitute in a licensed brothel is not known.

[39] Assemblyman DuBois noted support of the bill from Rex Bell and Ray Jeffers in the Clark County District Attorney's office and Mills Lane-the Washoe County District Attorney. Jeffers testified before the Judiciary Committee regarding the legislation; he expressed frustration over the limitations of existing law to confront the AIDS crisis. Questions from the Committee members followed Jeffers testimony. The committee's main concern involved the specific classification of the charge: misdemeanor or felony.

[40] At the end of the bill's presentation before the Judiciary Committee, several amendments were proposed and accepted. Not only was the charge lowered from murder to felony, but the sentencing requirement was also altered. Additionally, the language was amended to reflect the participation of both parties–prostitute and client–in the exchange. Changes were also made to the notification process, and the cost of testing was charged to individuals upon conviction. The bill's sponsor, John DuBois, recognized that some changes would be necessary for the legislation to pass. He summarized the process: "When I first went in, the first draft—and it's in here somewhere— was making the penalty, was attempted murder...not murder, but attempted murder. Then it went to committee, [the] judiciary committee and they changed that to one to twenty years, and they still...it was still a felony. Attempted murder would have been a lot worse, so it got changed in that manner, the committee did....before they voted to move it out of committee, and approve it and move it down to the [assembly] floor for the vote. So yeah, things changed" (2/7/02).

[41] Russell Reade, Owner and manager of the Chicken Ranch and Nevada Association of Brothels represented the brothel industry. Mr. Reade discussed legal prostitution and the measures his brothel had taken in response to the epidemic, such as mandatory condom use beginning in 1985. The brothel association was interested in this bill because it added sanctions against brothel owners who allowed an HIV positive prostitute to continue working. A committee member question Reade questioned the civil liability for owners. According to the committee minutes, civil liability was not a problem as long as brothel owners followed health division regulations and brothels adhered to licensing specifications (1987: 8). The presence of the brothel association and brothel owners is significant not only in that they were contributing to enactment and direction of policy, but because this legislation helped to

legitimize their industry and thereby protecting an entrenched economic interest of the state. Assemblyman DuBois' wife, Judy, offered a similar interpretation, as she believes the brothel association and owners were interested in this bill "...so they could advertise that their girls were clean" (2/7/02).

[42] Shields felt measures should be directed toward strengthening the civil authority of the Public Health Department. He felt the Health division already had the power and expertise to deal with testing, quarantine, follow up, counseling, and other health required matters, and Shields advocates expanding the powers given to public health entities in areas where they were not adequate. Mr. Shields also believed some liability should be shifted to the customer who knowingly engages in a sexually promiscuous activity, and he ended his comments by rejecting the attempted murder charge as too severe. Mr. Shields critique reflects a number of themes in this study. By questioning the lack of testing for customers, he recognizes the gendered assumptions of the policy. Secondly, by questioning the role of the criminal justice system in this policy's enforcement, it draws attention to the forces that regulate sexuality– both law enforcement and public health entities. Ultimately Mr. Shields felt uncomfortable with any type of legislation requiring testing for prostitutes or injectable drug users.

[43] NRS 441A.220 justifies differential treatment for prostitutes in what seems a violation of individual bodily rights as accorded by patient confidentiality mandates. The statutes maintain that confidential medical information may not be disclosed except to other state and federally mandated institutions, such as the health division and criminal justice entities, for the following reasons. They include: statistical purposes (for epidemiological estimates of the rates of disease in the population), the prosecution of other violations in this chapter, such as prostitution, sexual assault investigation, abuse or neglect cases, to provide information to another individual as determined by the health authority or welfare authorities who need a diagnosis for securing medical services, and to emergency or law enforcement personnel who may have risked exposure (NRS 441A.220).

[44] As seen in the literature historical and theoretical material on prostitutes and disease is plentiful, the same critical analysis was not applied to the contemporary situation regarding AIDS.

CHAPTER VI

CONCLUSIONS & RECOMMENDATIONS

In January 2004, I participated in a panel discussing the history and status of HIV screening policies toward prostitutes on KNPR, the Las Vegas National Public Radio affiliate. As the token academic and feminist invited to participate, I was to share my perspective with three other panelists—a lieutenant from the vice-division of Metro, a Clark County district attorney and an official from the Clark County Health District. Almost immediately, I recognized that I was "not like the others." The groups represented by the other panelists—local law enforcement, the legal community, and public health agencies, respectively—had all been part of the policy process itself, and each unquestioningly accepted the wisdom and necessity of Nevada's bifurcated HIV screening policies. By questioning the necessity and legitimacy of these policies, I made myself immediately suspect to the panelists and to the host of the program, who allowed me to speak only three times during the hour-long radio show. My on-air experience has not been unique but repeated in casual conversations at parties or dinners; when asked about my formal studies, I am constantly confronted with the refrain, "Of *course* we should test the prostitutes." As such accounts illustrate, Nevada policymakers were largely successful in mitigating a burgeoning moral panic about the spread of HIV to the heterosexual population. This was accomplished by presenting a common rationale characterizing the HIV testing policies as inevitable, scientifically justified and medically effective in stemming the spread of AIDS thereby obscuring the normative sexuality, gendered assumptions and economic interests at work in the complex policy development process.

Overall, this dissertation has been an exploration of just these elements. While generally my research aims at an examination of why Nevada chose to respond to the AIDS crisis by keeping legalized prostitution and imposing health testing and condom use and by becoming one of the first states to criminalize prostitutes with a positive HIV state, I used the case study of Nevada's seemingly contradictory HIV/AIDS policy regarding prostitution to examine three themes. First, the ways testing policies reflect and reproduce hegemonic sexuality–specifically gender inequality, heterosexist orientation, and stereotypes of prostitutes. The reason that a testing policy toward prostitutes was the dominant policy response to AIDS was that it was able to draw upon existing attitudes and a culture of sexism, normative sexuality, and an accepted stigmatization of prostitutes that allowed both policies to be accepted by the public, law enforcement, legislators, and prostitutes. Basically, these policies alleviated the concerns of the general public about the personal and societal threat of AIDS and fit with long standing associations between prostitutes and disease transmission. The policies indicated that the state and its powers were responding adequately and appropriately. Second, I used Nevada's unique bifurcated treatment of prostitution—as as legal and non-legal—to examine the effects of economic dynamics on the contours of sexuality policy. Not only did these policy's assuage the public's fear about disease, but protected the state's primary economic interest-tourism-as enhanced by the sex industry. Finally, I examined the contradictions and conflicts in the policy-making process.

The Themes Revisited

Nevada's policy reflected value-laden assumptions regarding gender and sexuality. Prostitutes, as figures within a gendered and normative sexuality, were singled out for testing. Scientific rhetoric served to rationalize state action. Yet my research exposes the inadequate nature of the medical evidence offered in support of screening prostitutes for HIV. Nevada's policies reflect a time-honored association between prostitution and disease. Yet

the regulation of a gendered sexuality through control of the feminine prostitute body is but one aspect of this larger story.

This study also demonstrates the connection between the control and containment of prostitutes and disease and Nevada's tourist based economy. Faced with a developing moral panic, policymakers scrambled to respond and placate public fears in order to prevent dire economic consequences. The resulting testing policies were largely symbolic, but they served to reassure prospective visitors and secure the state's economic interests. Testing policies are a visible indicator of how the state institutionalizes a moral panic. HIV testing policies showed the state was actively addressing the AIDS epidemic through the regulation of a highly visible and easily identifiable population: prostitutes. Within the brothels, mandatory condom use was more effective in preventing transmission of HIV, yet this policy was secondary for public health officials. The primary goal of mitigating the public's fears had been accomplished.

Finally, this study revealed the contradictions and complexities of the policy process itself. Despite distinct public mandates, Nevada's health division legislators and law enforcement all pressed for mandatory HIV testing of prostitutes. However, different guiding principles within these state entities led them to create separate policies to reflect the bifurcated treatment of prostitution: legal and non-legal.

Review of the Dissertation

This research is a case specific analysis of the policy-making process of AIDS testing toward prostitutes in the state of Nevada. Influenced by other case studies (Best 1998, Hobson 1987; Walkowitz 1980) that only speculate on the effect of HIV/AIDS, my study intentionally focuses on the actual policymaking, which targeted prostitutes as a response to the AIDS crisis. While many, like Brandt (1985) and Fee (1988), examine historical events or trends and then make parallels to current AIDS policy, their approach is somewhat limited by time and focuses largely on the ultimate effects of past policies. Schneider and Jenness

(1997) frame the AIDS epidemic as a disease and a moral panic, yet fail to substantially demonstrate the specific policymakers and processes that institute the regulation of sexuality into law. The contemporary nature of my study allowed direct access to policymakers and their influences; this gave me unique perspective into the dynamics of the policy formulation process itself.

This study uses a multi-method qualitative approach involving interviews with key policymakers as well as persons effected by the policy (e.g., prostitutes and public health workers), documents used in development of testing policy (e.g., LCB memorandum, public health studies) and reports chronicling the process (e.g., hearing transcripts, newspaper articles, etc.). These materials provided questions of their own which propelled the study to consider additional themes beyond those of power, sexuality and role of the state, which first framed my theoretical approach.

What makes Nevada so unique in contrast to the rest of the United States is that it has both legalized and criminalized prostitution within its borders. Resisting the temptation to simply mimic the state's division, my analysis sought to expose similarities and contradictions within the policy development process as well as within the resulting codes themselves. The testing policies that developed reflect the varied control and containment measures that have commonly regulated prostitute bodies in Nevada.

The testing policy that developed for prostitutes who are employed with licensed brothels allows for the surveillance of individual workers, maintains a standard of health for prostitutes, is lucrative for small business owners (like doctors), and requires little effort or expenditure from criminal justice and health entities for enforcement. In contrast, AB 550 supports a laissez faire criminalization model of this line of sex work. It imposes heightened criminal charges for a prostitute working and knowing their positive HIV status. This policy arose in response to a perceived threat to an economy dependent on the tourism and convention industry. Ultimately, Nevada's HIV testing regimes toward prostitutes were not truly

directed at halting a dangerous disease, but instead, these polices sought to regulate sexuality and the "feminine" body through targeting prostitutes.

Justification for HIV Testing

Economic, moral and scientific rationales all were used to support and defend what was seen as the "obvious" answer–test the prostitutes. Mandated HIV testing requirements and condom-use policies have secured the support of health entities and the public for legalized prostitution in Nevada. The dearth of HIV-positive brothel prostitutes is a public relations dream demonstrating to outsiders the success of Nevada's regulatory approach to prostitution and sex-for-sale. For example, according to Albert et. al., "between July 1, 1988 and December 31, 1993, more than 20,000 HIV tests were conducted. None of the women employed at any of the Nevada brothels tested positive.... These data are in sharp contrast to HIV sero-prevalence rates among other female prostitutes in the U.S." (p.1514) Trends and messages like this have helped the brothel industry grow and thrive: the number of brothels in Nevada is rising, and many existing brothels have recently begun extensive capital improvement projects in response to an increasingly competitive and expanding market.

The dramatic decrease in diagnoses of sexually transmitted diseases observed in Nevada brothels after the implementation of testing and condom-use policies is an empirical fact. Since AB 550 went into effect, a total of 10,260 HIV tests have been conducted under the law as a result of arrest or detention of non-legal prostitutes. Of those, 339 positives were obtained–196 women and 143 men–suggesting that non-legal prostitution poses much more of a public health threat than legalized, regulated prostitution (Las Vegas Metropolitan Police Department 2002, faxed material). It is difficult to determine, however, whether testing policies for prostitutes actually prevent additional cases of HIV/AIDS, decreased rates of HIV and other sexually-transmitted infections, or whether the policy mandating condom use in brothels is responsible for lowering transmission rates. The assumptions that prostitutes carry disease, that loose morals in unregulated sexual spaces are the source of HIV infection,

and that the state has compelling interests in protecting the public from sex-related health risks by legitimizing the behaviors of some prostitutes while criminalizing the behaviors of others simply go unchallenged in the emerging discourse. In the end, containing sex workers in brothels and controlling non-legal prostitutes with threats of imprisonment or other penal remedies makes for good political theater. This success story is spun out into the public consciousness with a deceptively comfortable happy ending: being frisky isn't risky. Nevada makes sin safer.

Findings and Conclusions

More specifically, this study revealed that HIV testing policies worked to reinforce traditional divisions and regulatory measures within the construction of gender and sexuality. Additionally, the state's tourist and gaming industry relied heavily on the sexual allure symbolized by prostitution in Nevada, and this in turn impacted the decisions of policymakers. Looking at the policy process itself exposed a system complicated by the existence of both legal and non-legal prostitution and the distinct character of the policy actors. Yet what these seemingly disparate policies had in common was an emerging response to a moral panic: AIDS. Furthermore, subsequent data calls the efficacy of these policies in combating AIDS (the stated justification) seriously into question. Finally, this study points to some general recommendations and potential areas for further research.

Regulation of Sexuality and Gender

The lines between sexuality and gender are often blurred in policies toward prostitutes. In general, policies in Nevada embody assumptions about sexual practices and serve to construct a system of normative sexuality, and moreover, they reinforce gendered ideals –the classification of prostitution as a feminine occupation and presumptions of male privilege.

While social institutions like marriage, reproduction, and obligatory heterosexuality all define and set the parameters of sexuality, prostitution is the only one isolated for mandatory testing and state sanctions for a positive result (loss of work privilege or heightened criminal

penalties). This action further serves to identify the prostitute as a form of aberrant sexuality in need of strict control. In contrast, testing is not even generally required for members of the other institutions. But even when testing is required of pregnant women, for example, protective and not punitive state action results in treatment for positive mothers and children and guarantees parental rights.

Historically, prostitution stands counter to the social approved forms of sexuality such as monogamy, marriage and reproduction. The prostitute representing the "bad girl" openly disregards social prescribed behavior, and thus, she must accept state force, social condemnation and disease as means of disciplining her actions. The prostitute is also excluded from participation in the "good girl" sexual life of wife and mother. In fact, the prostitute is blamed for the fall of the "good girl" through infection or disgrace. Thus, deviant sexuality must be controlled, confined or disciplined in order to impose a normative regime and ultimately validate approved sexual practices. Thus, the deviant status of the prostitute makes them a readily available target for regulation. Policies responding to the fear of AIDS followed this bio-political model and imposed disciplinary practices on prostitutes.

The rhetoric behind much of the testing policy was to stop the spread of AIDS to "innocent victims" (the patrons' children, spouses or partners). This rationale illustrated the gendered notions that the feminine must be the objects of policy and not constituted as agents enacting policy. They must be protected as they cannot protect themselves. It is important to note that the need to protect the feminine is not extended to the feminine prostitute because she has compromised her value. Only approved visions of feminine sexuality merit protection, and that protection is from the aberrant sexuality of the feminine prostitute. Justifying the present policy according to these customary enactments of sexuality serves to reinforce normative sexual models.

However, Nevada's testing policy did not rely wholly on rhetoric of morality. Indeed, it primarily looked to scientific and medical discourse as justification for its actions. Science comes to reproduce the ideologies of sexuality morality and its gives rise to new mechanisms

for disciplining sexuality. Studies published by the CDC and other medical authorities served to ground and validate the policy in both the realms of public health and the penal code.

The studies used to support testing policies concentrated solely on women. Notably, many were limited to female prostitutes and were often more concerned with infection rather than transmission rates. These studies demonstrate that medicine had internalized a gendered bias, which reinforced gendered stereotypes about prostitution and targeted them as the source of transmission. One clear example illustrating this point was the Army's study used as evidence in JAMA involving soldiers, which focused on their visits to prostitutes and largely ignored other possible avenues of exposure to HIV (Hardy et al. 1985). Rather than challenge, these reports employed the same gendered assumptions common in historical and existing regulatory systems.

These policies focus on testing prostitutes and not their clients. Certainly, not all prostitutes are women nor are all clients male,[1] but the orientation of current policy targets women (who make up the majority of prostitutes legal and non-legal) and immediately labels them suspect as carriers of disease. This continues long held ideas marking women as the origin of evil. On the other hand, their predominantly male clients are absolved of responsibility or suspicion as a source of infection and furthering conceptions of male privilege. Additionally, policymakers' concern over safety was directed almost entirely at the male customer not the (presumed) female prostitute. This further emphasizes the gendered nature of the policy. Even though mandatory condom use, may ultimately protect the health of the prostitute this was not the design of the requirement. Moreover this would only effect legal prostitutes. Non-legal prostitutes have no institutionalized means to protect themselves from infection, and condom use by non-legal prostitutes carries with it no statutory incentives such as reduced sentencing. While presumably both parties—prostitutes and patrons—are engaging in a voluntary transaction, the burdens and risks are clearly imposed only the provider of services (predominantly women). The close association of prostitution with the feminine is illustrated in other policy measures as well.

While amendments to the criminal code in 1979 attempted to make laws regarding prostitution non-gender specific and subsequent statutes use the pronoun "he," only one county actually permits legal prostitution by males (although no male brothels exist) (Nevada Revised Statutes). Thus, the effect of the state's statutory language has been to relegate male and transgendered prostitutes to illegal work. Given the distinctions in policy toward legal and non-legal testing, this classification can have dramatic effects on the individual sex worker's life. This further serves to underscore the presumption that prostitution is a female occupation.

Economic Dynamics

While assumptions of a normative sexuality and gender stratification can be seen in the design and effect of Nevada's HIV testing policy, economic forces of a state heavily dependent on tourism and gaming were a critical consideration in the formation of a practical and viable policy.

Certainly, outright criminalization was theoretically an option; the fact that state policymakers chose to approach the legalized brothel industry through a separate regulatory system is telling of prostitution's impact on the state's economy. The attorney general and public health officials never seriously considered eliminating legalized prostitution. The impact of legal brothels goes far beyond the approximately 300 workers they directly employ statewide. These businesses also provide revenue for other local enterprises and county government. However, the real importance of the brothels to Nevada's economy is largely symbolic. Escapism and the pursuit of visceral experiences are central to Nevada's tourism economy. The need to preserve the more risqué allure of the state pushed policymakers away from any real consideration of criminalizing prostitution across the board and toward regulatory mechanisms to make "sin safer."

Similarly, the process leading to passage of AB 550 would consider the state's economic lifeblood when constructing the policy toward non-legal prostitutes. However, the recognition of sexuality as an economic force was less pronounced in these deliberations. Legisla-

tors and police had internalized the needs and forces of the state's tourist economy even if they did not actively vocalize these influences. Knowing that visitors would not come to a destination characterized by an atmosphere of danger and disease, policymakers looked for mechanisms aimed at reassuring tourists whether or not they came seeking to engage in sexual services.

There were also historical economic arrangements within the state itself, which arguably played a role in the development of HIV testing policy. In 1971, the recognition of legalized brothels in Nevada prohibited such establishments in two counties–Clark and Washoe; these contain Nevada's most populated cities–Las Vegas and Reno. While legalized prostitution would pose no threat to the state's gaming industry in small isolated communities, it would compete directly with the developing casino industry if allowed in the more densely populated areas. Casino owners seldom like seeing their customers leave the premises. So the need or desire for a criminalized sector of prostitution alongside the legal brothels has been a part of Nevada's economic history for decades. Contemporary policymakers simply preserved these historical economic divisions by addressing the AIDS crisis in distinct ways.

Policy Process

The economic importance of prostitution would ultimately bring legal brothel owners into the policymaking process itself. While some brothel owners had voluntary instituted HIV testing as part of their pre-employment requirements for prostitutes, the state Board of Health was forced to mandate testing initiatives after a few brothel owners refused to participate in a voluntary initiative. State actors, who had diligently labored on behalf of the brothel industry and the economy by proposing pilot testing, who were willing to allow the industry to self regulate, and were publicly on record for advocating a testing policy had no recourse but to invoke their state power and impose regulations. Yet, it was the threat of AIDS and imposed regulations that motivated brothel owners to realize the need for collective action and an industry voice.

After HIV testing policies toward legal prostitutes were passed and ultimately viewed and embraced as a positive public relations move for the brothel industry, the Nevada Brothel Association was active and supportive of AB 550. Nevada Brothel Association representatives were present at Judiciary Committee hearings of the bill and were accessible sources of information for DuBois. AB 550 not only made the brothel industry more credible and responsible, but it acknowledged brothel owners as important business owners and experts who lent authority to DuBois proposed legislation.

Legal precedent and an opinion from the state's Attorney General defined the nature and scope of public heath response for legalized prostitution. This maintained the bifurcation of prostitution in Nevada–legal and non-legal. The opinion clarified the purview of the state's public health administration as limited to legal brothels. Not only where public health officials untroubled by this limitation on the scope of their powers, they seemed relieved not to be further burdened by testing and regulating non-legal prostitution. Their active support of AB 550 underscores this sentiment.

One might speculate on potential differences in testing policy manifestations if public health officials were entrusted to regulate both forms of prostitution. Certainly, placing all prostitution under the regulation of one entity would be logistically and financially challenging, but moreover, as public health administrators would be primarily focused on prevention, education and treatment, they would be poorly suited to enforcing criminal provisions aimed at keeping prostitution solely within licensed brothels. This could potential challenge the viability of brothel industry and progress toward a policy of decriminalization.

Scientific and medical discourse was used in formulating the distinct HIV testing policies toward both legal and non-legal prostitution. Medical reports from recognized sources (CDC 1987; Hardy et al. 1985) prompted public health officials to examine the need for policy in Nevada. While these reports did not detail a recommended course of action, they did serve to alert state health authorities that action was necessary to prevent the spread of AIDS into the heterosexual population through prostitutes. Likewise, the scientific data notified

policymakers of an emerging problem outside the domain of public health administration. However, police and legislators were called to action by the suggestion that criminal sanctions might be justified (CDC 1987). They would also look to the scientific and medical information to provide a rational justification for what were essentially morally driven policy initiatives.

Assemblyman John DuBois, who authored AB 550, had a long history of conservative morally based legislation (e.g., workfare policy, heightening sentences for drug and sex offenders and pursuing "deadbeat dads"). DuBois can be seen as an instance of a larger national movement aimed at enacting moralistic social policy under the guise of scientific authority or necessity. Influenced by a episode of *60 Minutes*, he saw AB 550 as one step of an ongoing policy response to AIDS and prostitution; he feared a major outbreak of the disease would impact the general public. DuBois' heightened concern about the impact of AIDS from infected prostitutes is one indicator of a moral panic mentality.

Moral Panics

AB 550 and testing policies toward legal prostitutes are both policies manifesting a moral panic. AIDS and HIV were identified as a threat by the media and public health authorities to the general public which necessitated a public policy response. Nevada's policymakers located prostitutes as the source of threat and the concern was placated by the enactment of testing policies. Prostitutes need to be controlled because they are the vector between the deviant, infected, and dangerous classes and the general population. Prostitutes are easily identified as the source of the problem because they have a long historical association with disease and also have a long history of being the recipients of control and containment measures. These policies ultimately address societal anomie through the regulation of women's bodies and the containment of sexuality.

Policy Effectiveness Toward Stated Goals

While stemming the spread of AIDS was the stated policy goal of both testing regimes, it is difficult to determine whether HIV/AIDS testing policies toward prostitutes actually

prevented additional cases of HIV/AIDS in Nevada. It can be questioned if testing policies decreased the rates of HIV and other sexually transmitted infections or if the state mandated policy mandating condom use is responsible for lowering rates. At any rate, a dramatic decrease in sexually transmitted disease is evident after the institutionalization of testing policies and mandatory condom use in the brothels.

In a memo dated 2/10/89 from Terri Ignacio, Communicable Disease Investigator (CDI) to Dr. Joe Jarvis (State Health Officer), a statistical breakdown of the number of positive reportable STDs among prostitutes testing for work cards showed there was a significant reduction of positives from July 1985 thru June 1986 and the next fiscal year July 1986 thru June 1987. Prior to the fiscal year July 1985 through July 1986, the state only tested for gonorrhea and syphilis. During this time, there were 173 positive cases of gonorrhea reported and one case of syphilis. In addition, there were two positive HIV tests among prostitutes who were applying for a work card for the first time. The next year the number of cases of gonorrhea was 75, with seven cases of syphilis, four cases of HIV among new workers and no cases of HIV among line workers. While the number of syphilis cases went up, the number of cases of gonorrhea dropped by more than 50 percent. The next year, from July 1987 to June 1988, gonorrhea was reported in 35 workers. In that year, there were two cases of syphilis, ten HIV-positive test results in new workers and no cases of HIV among line workers. Again, the number of gonorrhea cases dropped by approximately 50 percent.

This demonstrates that not only did screening prostitutes for HIV prior to employment prevent HIV positive workers from entering the field, but safer sex practices, mandated by mandatory condom use beginning in January 1987 and in the Chicken Ranch voluntarily begun as early as February 1986 impacted the decreasing rate of Sexually Transmitted Disease in brothel prostitutes. By February to March 1988, gonorrhea was reported at four cases, syphilis at two cases, no HIV, and two chlamydia. These numbers also indicate that there was what Larry Mathesis called "worker buy in." As the policies may have been man-

dated, the workers did not have to adhere to regulations. But the reduction in cases may indicate that the workers saw this as a good policy. Not only did it reduce their exposure to STDs but mandatory condom policies gave prostitutes more power in negotiating with customers. Albert described prostitute's compliance with the mandatory condom policy in her book *Brothel.* Not only did Albert et al. find that prostitutes were using an average of six condoms per day with customers, but they experienced few problems typically associated with condom failure: slippage or breakage. Techniques associated with prostitutes' high success rates included: insistence on putting on condoms on customers, visual checks during sex to check the integrity of the condom, doubling up on condoms, and a change in condoms during long sex acts (Albert 2001: 28). The techniques and diligence of prostitutes demonstrates that the effectiveness and success of this policy is in large measure attributable to workers. Unfortunately, the active role of prostitutes in prevention techniques and obeying the dictates of the law has largely been ignored. Given fifteen years have past since the inception of these laws; it begs further review and analysis.

Recommendations and Questions for Further Study

Because the specter of AIDS infected prostitutes has never been realized, the draconian measures regulating and containing prostitute bodies should be reconsidered. Earlier it was questioned how testing policies would differ if administered by public health entities. One policy response that has been used in other countries that are less punitive toward prostitutes and are oriented toward protecting the health and welfare of workers, patrons, and the general public is decriminalization. Australia and New Zealand have attempted to negotiate a compromise between prostitutes, brothel owners, and health officials that recognizes the needs and rights of workers, the responsibilities of owners in maintaining an appropriate work place, and which enable customers and workers to mutually agree upon the conditions of a sexual exchange.

Aside from the consideration of decriminalization, further examination is needed of the relationship between moral panic theory and morality politics. Thompson (1998) and Goode and Ben Yehuda (1994 a, 1994b) postulate that moral panics can become institutionalized into legislation. Sociology tends to recognize the emergence of moral panics and the factors that facilitate them. Political science has examined the processes by which morality issues become integrated into legislation. Unfortunately little analysis and theory has been generated that integrates the common features of both moral panics and morality policies and how they are mutually dependent. In addition, an examination is needed of the degree of which conservative political forces play on moral concerns and moral panic conditions in pushing normative policies.

The impact of larger political trends points to the need for an exploration of the nature of the state and its role in disciplining the body and the construction of gender and sexuality especially as related to marginalized groups such as prostitutes. Feminist scholars like Campbell (2000) have analyzed the governing mentalities inherent in state action toward substance abusers noting the dramatic effect on women. A similar analysis of state policy regulating prostitutes would seem appropriate.

NOTES

[1] Although in my research I have heard of only one female required to attend "John School" as diverted sentencing.

APPENDIX

INTERVIEW SUBJECTS AND INFORMAL CONTACTS

Susan Anderson (5/22/02) Former Brothel Worker

Dr. Deborah Brus (2/5/02) Former State Epidemologist

Dr. Jerry Cade (6/14/02) Las Vegas Physician-HIV/AIDS specialist

John DuBois (2/07/02) Former Assemblyman, AB 550 Sponsor

Judy DuBois (2/07/02) Campaign Manager and Spouse-John DuBois

Dr. Joe Jarvis (2/08/02) State Health Officer

Dr. Susan Jones (2/07/02), AIDS Task Force Member (an alias is used).

Dr. Trudy Larson (2/6/02) AIDS Task Force member,UNR School of Medicine, Pediatric Infectious Disease Specialist

Larry Matheis (1/29/02) State Health Administrator

David Parks (2/20/02) AFAN Board Member-current State Assemblyman

Rich Reich (2/17/01) Clark County Health District(CCHD)-Supervisor Office of AIDS

Dr. Otto Ravenholt (2/1/02) Former CCHD Health Officer

Detective John Smith (3/20/02) METRO Vice Detective (an alias is used)

Dr. Jack Vergils (1/10/02) AIDS Task Force Member-Former State Senator

Jessi Winchester (1/18/02) Former Brothel Worker

Deputy Chief Bill Young (2/21/02) Former METRO Vice Commander

Informal contacts and conversations

George Flint (2/26/02) Nevada Brothel Association Lobbyist

Russ Reade (3/12/02) Brothel Manager-Chicken Ranch

Richard Bryan (2/27/02) Former Governor-Nevada)

REFERENCES

Acton, William. [1870] 1969. *Prostitution.* Edited, with an Introduction and Notes by P. Fryer. New York.

Acton, William. 1972. *Prostitution: Considered in its Moral, Social, and Sanitary Aspects.* London: Frank Cass and Company Limited.

Aggar, Ben. 1993. *Gender, Culture, and Power: Toward a Feminist Postmodern Critical Theory.* Westport, CT: Praeger.

Aggleton, Peter, Peter Davies, and Graham Hart. 1992. *AIDS: Rights, Risk, and Reason.* London: The Falmer Press.

Albert, Alexa. 2001. *Brothel: Mustang Ranch and Its Women.* New York: Random House.

Albert, Alexa, Warner, David, Hatcher, Robert, Trussell, James, and Charles Bennett. 1995. "Condom Use Among Female Commercial Sex Workers in Nevada's Legal Brothels. " *American Journal of Public Health.* 85:11: 1514-1520.

Alexander, Priscilla. 1987. "Prostitutes are Being Scapegoated for Heterosexual AIDS. " Pp. 248-263 in *Sex Work: Writings by Women in the Sex Industry*, edited by F. Delacoste and P. Alexander. San Francisco, CA: Cleis Press.

Alexander, Priscilla. 1994. "Sex Workers Fight Against AIDS: An International Perspective. " Pp. 99-124 in *Women Resisting AIDS: Feminist Strategies of Empowerment,* edited by B. Schneider and N. E Stoller. Philadelphia, PA: Temple University Press.

Alexander, Priscilla. 1996. "Bathhouses and Brothels: Symbolic Sites in Discourse and Practice. " Pp. 221-251. In *Policing Public Sex: Queer Politics and the Future of AIDS Activism*, edited by Dangerous Bedfellows. Boston, MA: South End Press.

Althusser, Louis. 1971. "Ideological and State Apparatuses. " In *Lenin and Philosophy and Other Essays*, edited by L. Althusser. London: New Left Books

——. 1987. "Nevada AIDS Bill Could Charge Prostitutes with Murder Attempt. " *American Medical News.* May 8: 24.

Atkinson, Ti-Grace. 1970. *Radical Feminism. Notes from the Second Year, 32-37.* New York: Radical Feminism

Backstrom, Charles and Leonard Robins. 1995/1996. "State AIDS Policy Making: Perspectives of Legislative Health Committee Chairs. " *AIDS and Public Policy Journal.* Winter 1995/1996. 238-248.

Baldwin, Margaret. 1997. "Split at the Root: Prostitution and Feminist Discourse of Law Reform. " Pp. 307-380 in *Pornography, Sex Work, and Hate Speech*, edited by K. J. Maschke. New York, NY Garland Publishing, Inc.

Ballard, J. A. 1993. "Sexuality and the State in Time of an Epidemic. " Pp. 102-116 in *Rethinking Sex: Social Theory and Sexuality Research,* edited by R. W. Connell and G. W. Dowsett. Philadelphia, PA: Temple University Press.

Ballard, James David. 2000. "Terrorism and Political Policy: Crisis and Policy Making Indicators in the Media During Legislative Action. " Ph. D. dissertation. Department of Sociology, University of Nevada, Las Vegas, NV.

Barker, Rodney. 1990. *Political Legitimacy and the State.* Oxford: Clarendon Press.

Barker, Rodney (Ed.) 2000. *Political Ideas and Political Action.* Oxford: Blackwell Publishers.

Barry, Kathleen. 1979. *Female Sexual Slavery.* Engelwood Cliffs, N. J. : Prentice Hall.

——. 1995. *The Prostitution of Sexuality.* New York: New York University Press.

Bassford, H. A. 2000. "HIV Testing and Confidentiality. " Pp. 304-311. In *Gender Basics: Feminist Perspectives on Women and Men.* Second Edition, edited by A. Minas. Belmont, CA: Wadsworth.

Bayer, Ronald, Daniel M. Fox and David P. Willis. (Eds.) 1986. *AIDS: The Public Context of an Epidemic.* Milibank Quarterly, Vol 64:1.

Beck, Joan. 1985. "AIDS and Fear of It Spreading. " *Las Vegas Review Journal.* November 29.

Bell, Shannon. 1994. *Reading, Writing, and Rewriting the Prostitute Body.* Bloomington, IN: Indiana University Press.

Bellinger, Iris. 1987. Minutes of the Assembly Committee on the Judiciary: Assembly Bill 550. April 23. John DuBois Personal File.

Bendix, Reinhard. 1974. *Work and Authority in Industry.* Berkeley: University of California Press.

Benjamin, Harry. 1939. *Prostitution and Venereal Disease: A Medico-Sociological Study.* Reprinted from the *Medical Review of Reviews*, September 1935.

Bentinck, Richard C. 1985. Memorandum to Catherine S. Lowe, Administrator, Subject: Public Health. May 8. State of Nevada Health Division Files.

Berberoglu, Berch. 2001. *Political Sociology: A Comparative/Historical Approach.* Dix Hills, NY: General Hall, Inc.

Berube, Allan. 1996. "The History of Gay Bathhouses. "Pp. 187-221 in *Policing Public Sex: Queer Politics and the Future of AIDS Activism,* editied by Dangerous Bedfellows. Boston, MA: South End Press.

Berer, Marge and Sunanda Ray (Ed.). 1993. *Women and HIV/AIDS: An International Resource Book.* London: Pandora Press

Berki, R. N. 1989. "Vocabularies of the State. " In *Politics and Social Theory,* edited by P. Lassman. London: Routledge.

Bernat, Frances P. 1997. "New York State's Prostitution Statute: Case Study of the Discriminatory Application of a Gender Neutral Law." Pp. 51-68. In *Pornography, Sex Work, and Hate Speech,* edited by K. J. Maschke. New York, NY: Garland Publishing, Inc.

Bernstein, Laurie. 1995. *Sonia's Daughters: Prostitutes and their Regulation in Imperial Russia.* Berkeley: University of California Press.

Best, Joel. 1998. *Controlling Vice: Regulating Brothel Prostitution in St. Paul, 1865-1883.* Columbus: Ohio State University Press.

Best, Steven and Douglas Kellner. 1991. *Postmodern Theory: Critical Interrogations.* New York: Guilford Press.

Bimber, Bruce. 1996. *The Politics of Expertise in Congress: The Rise and Fall of the Office of Technology Assessment.* Albany: State University of New York Press.

Bingham, Nicole. 1998. "Nevada Sex Trade: A Gamble for the Workers." *Yale Journal of Law and Feminism.* 10: 69-99.

Birk-Jenson, Natalie. 1987. Memorandum: Acquired Immune Deficiency Syndrome (AIDS). Estimates of treating AIDS Patients from C. Fassi, AIDS Coordinator for Nevada ; attachments: "A. I. D. S. Public Education in Nevada, AIDS Record (1987), CDCs "Antibody to Human Immunodeficiency Virus in Female Prostitutes," and Hardy et al. "The Economic Impact of the First 10,000 Cases of Acquired Immunodeficiency Syndrome in the United States." April 15. John DuBois Personal File.

Bishop, Ryan and Lillian S. Robinson. 1998. *Night Market: Sexual Cultures and the Thai Economic Miracle.* New York: Routledge.

Bliss, Katherine E. 2001. *Compromised Positions: Prostitution, Public Health, and Gender Politics in Revolutionary Mexico City.* University Park, PA. The Pennsylvania State University Press.

Blotcher, Jay. 1996. "Sex Club Owners: The Fuck Suck Buck Stops Here." Pp. 25-44 in *Policing Public Sex: Queer Politics and the Future of AIDS Activism,* edited by Dangerous Bedfellows. Boston, MA: South End Press.

Borders, Myram. 1987. "Regulations Help Nevada's Brothels Block AIDS Scare." *Las Vegas Sun.* April 26. B1,3.

Bornstein, Kate. 1994. *Gender Outlaw: On Men, Women, and the Rest of Us.* New York: Vintage Books.

Bowers, John A. 1985a. Nevada Medical State Association Commission on Major Health Issues Minutes. August 23. State of Nevada Health Division Files.

——. 1985b. Nevada Medical State Association Subcommittee on AIDS Testing Minutes. October 4. State of Nevada Health Division Files.

Bowers, Michael W. 1996. T*he Sagebrush State: Nevada's History, Government, and Politics.* Reno: University of Nevada Press

Bowleg, Lisa. 1992. *Unjust Punishments: Mandatory HIV Testing of Women Sex Workers and Pregnant Women.* Washington, DC: Center for Women Policy Studies.

Brandt. Allen. 1985. *No Magic Bullet: A Social History of Venereal Disease in the United States Since 1880.* New York: Oxford University Press.

Brandt, Allen. 1988. "AIDS: From Social History to Social Policy." Pp. 148-168 in *AIDS: The Burdens of History*, edited by E. Fee and D. M. Fox. Berkeley, CA: University of California Press.

Brean, Henry. 2004. "Nye Brothels to Stay in Business." *Las Vegas Review Journal.* July 7, 1A and 10A.

Breen, Courtney. 1987. "More Brothels Opt for Condoms." *Reno Gazette Journal.* February 22.

Brents, Barbara and Kathryn Hausbeck. 2001. "State-Sanctioned Sex: Negotiating Formal and Informal Practices in Nevada Brothels." *Sociological Perspectives*, 44: 307-322.

Brock, Deborah. 1998. *Making Work, Making Trouble: Prostitution as a Social Problem.* Toronto: University of Toronto Press.

Brush, Lisa. 2003. *Gender and Governance.* Walnut Creek, CA: Alta Mira Press.

Bryson, Valerie. 1992. *Feminist Political Theory: An Introduction.* New York: Paragon House.

Bullough, Vern and Bonnie Bullough. 1987. *Women and Prostitution.* Buffalo, NY: Prometheus Books.

Burbank, Jeff. 1987. "Brothels: a $20 Million Industry." *Las Vegas Sun.* December 20. 1-2 E.

Burbank, Jeff. 1987. "Brothels Flourishing on Outskirts of Las Vegas." *Las Vegas Sun.* December 21. 1-2D.

Burbank, Jeff. 1989. "15 LV Hookers Infected with AIDS." *Las Vegas Sun.* July 20.

Burris, Scott and Lawrence O. Gostin. 2003. "The Impact of HIV/AIDS on the Development of Public Health Law." Pp. 96-117 in *Dawning Answers: How the HIV Epidemic Has Helped to Strengthen Public Health,* edited by R. O. Valdiserri. . Oxford: Oxford University Press.

Butler, Josephine. [1871] 2005. "Letter to my Countrywomen, Dwelling in the Farmsteads and Cottages of England." Pp. 86-91 in *Feminist Theory: A Reader. Second Edition*, edited by W. K. Kolmar and F. Bartkowski. NewYork: McGraw Hill

Butler, Judith. 1999. *Gender Trouble: Feminism and the Subversion of Identity.* New York: Routledge.

Cady Stanton, Elizabeth. [1848] 2005. "Declaration of Sentiments" from *the History of Women's Suffrage.* Pp. 71-73 in *Feminist Theory: A Reader. Second Edition*, edited by W. K. Kolmar and F. Bartkowski (Eds.)NewYork: McGraw Hill

California Senate Bill 1000 (1987)

California Senate Bill 1001 (1987)

California Senate Bill 1002 (1987)

California Senate Bill 1003 (1987)

California Senate Bill 1004 (1987)

California Senate Bill 1005 (1987)

California Senate Bill 1006 (1987)

California Senate Bill 1008 (1987)

California Senate Bill 1432 (1987)

Calvin, Kateri. 1988. Memorandum to Brian McKay, Attorney General. Prostitution in Nevada July 6. State of Nevada Health Division Files.

Campbell. Carole. 1990. "Prostitution, AIDS, and Preventative Health Behavior. " Department of Sociology, California State University, Long Beach, Long Beach CA. Unpublished Manuscript.

Campbell, Carole. 1991. " Prostitution, AIDS, and Preventative Health Behavior. " *Social Science and Medicine.* 32: 1367-1378.

——. 1999. *Women, Families, and HIV/AIDS.* New York: Cambridge University Press.

Campbell, Michael. 1988. "Brothels Will Likely Survive '89 Legislature. " *Las Vegas Sun.* 1,2B.

Campbell, Nancy D. 2000. *Using Women: Gender, Drug Policy, and Social Justice.* NY: Routledge.

Caplan, Arthur. 1995. *Moral Matters: Ethical Issues in Medicine and the Life Sciences.* NY: John Wiley and Sons, Inc.

Carnoy, Martin. 1984. *The State and Political Theory.* Princeton: Princeton University Press.

Centers for Disease Control. 1984. "Update: Acquired Immunodeficiency Syndrome (AIDS) Update-United States. " *Morbidity and Mortality Weekly Report* 33 (30) 661-664.

Centers for Disease Control. 1987. "Antibody to Human Immunodeficiency Virus in Female Prostitutes. " *Morbidity and Mortality Weekly Report* 36: 157-61

Chambers, Donald E. 2000. Social Policy and Social Programs. A Method for the Practical Public Policy Analyst. Third Edition. Boston: Allyn and Bacon.

Chancer, Lynn S. 1993. "Prostitution, Feminist Theory, and Ambivalence: Notes from the Sociological Underground. " Social Text 37 (Winter)

Chapkis, Wendy. 1997. Live Sex Acts: Women Performing Erotic Labor. New York: Routlege.

Chapkis, Wendy. 2000. "Power and Control in the Commercial Sex Trade. " Pp. 181-202 in Sex for Sale: Prostitution, Pornography and the Sex Industry, edited by R. Weitzer. New York, NY: Routledge.

Charisse, Marc S. 1989. "Brothels in the Marketplace of Ideas: Toward a Heuristic Definition of Commercial Speech." M. A. Thesis, Department of Communication Studies, University of Nevada, Las Vegas, NV.

Charles, Nickie. 2000. *Feminism, The State, and Social Policy.* NY: St. Martin's Press, Inc.

Cimons, Marlene. 1987. "AIDS Epidemic Forces Media to Rethink Condom Ads Ban." *Las Vegas Review Journal.* January 25.

Clark, Charles F. 1994. *AIDS and the Arrows of Pestilence.* Golden, CO. Fulcrum Publishing.

Clark, Elizabeth A. and Herbert Richardson. 1996. *Women and Religion: The Original Sourcebook of Women in Christian Thought.* San Francisco: HarperSanFrancisco.

Clegg, Stewart. 1975. *Power, Rule, and Domination.* London: Routledge and Kegan Paul.

——. 1979. *The Theory of Power and Organization.* London: Routledge and Kegan Paul.

Closen, Michael L. , Mary Bobinski, Donald Hermann, John Hernandez, Gene Schultz, and J. Kelly Strader. 1994. "Criminalization of an Epidemic: HIV/AIDS and Criminal Exposure Laws." *Arkansas Law Review.* 46: 921-983.

Cohen, Jeffrey E. 1992. *The Politics of Telecommunications Regulation: The States and the Divestiture of AT&T.* Armonk, NY. M. E. Sharpe.

Cohen, Jerry. 1977. "Prostitution a 'Commodity' in Las Vegas." *The Los Angeles Times.* April.

Cohen, Stanley. 1972. *Folk Devils and Moral Panics: the Creation of the Mods and the Rockers.* London: MacGibbon and Kee.

Connell. R. W. 1987. *Gender and Power: Society, the Person, and Sexual Politics.* Stanford: Stanford University Press.

——. 1990. "The State, Gender, and Sexual Politics." *Theory and Society.* 19: 507-544.

——. 1995. *Masculinities.* Berkeley: University of California Press.

Connelly, Mark Thomas. 1980. *The Response to Prostitution in the Victorian Era.* Chapel Hill, NC: University of North Carolina Press.

Connolly, William. 1984. "Introduction: Legitimacy and Modernity." In Connolly (Ed.) *Legitimacy and the State.* New York, NY: New York University Press.

Cook, John Robert. 1987. "The Case for Keeping the Nevada Brothels Legal." *Las Vegas Review Journal.* December 15.

Cook, Timothy E. and David C. Colby. "The Mass-Mediated Epidemic: The Politics of AIDS on the Nightly Network News." Pp. 84-124 in *AIDS: The Making of a Chronic Disease*, edited by E. Fee and D. M. Fox. Berkeley, CA: University of California Press.

Corea, Gena. 1992. *The Invisible Epidemic: the Story of Women and AIDS.* New York: Harper Collins.

Cornellson, Margaret. 1988. "Letter to the Editor: Stop Attacking Brothels. " *Reno Gazette Journal.* June 9. 17A

Creswell, John W. 1994. *Research Design: Qualitative and Quantitative Approaches.* Thousand Oaks, CA. Sage Publications.

Cristi, Marcela. 2001. *From Civil to Political Religion: The Intersection of Culture, Religion, and Politics.* Waterloo: Wilfrid Laurier University Press.

Dahlberg, Tim. 1985. "Nevada Immates Exposed to AIDS Virus, Tests Show. " *Nevada State Journal.* October 11. C1,2.

Dank, Barry M. and Roberto Refinetti, eds. 1998. *Sex Work and Sex Workers.* New Brunswick, N. J: Transaction Publishers.

Darrow, William. 1990. "Prostitution, Intravenous Drug Use, and HIV-1 in the United States. " Pp. 18-40 in *AIDS, Drugs, and Prostitution,* edited by M. Plant. London: Tavistock/Routledge.

Darrow, William and the CDC Collaborative Group. c. 1990. "Intravenous Drug Use, Sexual Behavior, and Human Immunodeficiency Virus Type I Infection in Prostitute Women in the United States. " Division of AIDS, Centers for Disease Control, Atlanta, GA. Unpublished Manuscript.

Davidson, Dale W. 2003. "Letter to the Editor: Prostitution Makes Every Female 'Fair Game. '" *Las Vegas Review Journal.* November 4. 6B

Davidson, Julia O'Connell. 1996. "Prostitution and The Contours of Control. " Pp. 180-200 in *Sexual Cultures: Communities, Values, and Intimacy,* edited by J. Weeks and J. Holland. NY: St. Martin's Press.

Davidson, Julia O'Connell. 1998. *Prostitution, Power, and Freedom.* Ann Arbor: University of Michigan Press.

De Leon, Darcy. 1990. "Professor Claims Legal Prostitution Lowers Risk of Catching HIV. " *Reno Gazette Journal.* June 22. 1A, 5A.

D'Emilio, John and Estelle Freedman. 1988. *Intimate Matters: A History of Sexuality in America.* New York: Harper and Row.

Denzin, Norman K. and Yvonna S. Lincoln. 1994. "Introduction: Entering the Field of Qualitative Research. " Pp. 1-18 in *Handbook of Qualitative Research,* edited by N. K. Denzin and Y. S. Lincoln. Thousand Oaks, CA. Sage Publications.

Des Jarlais, Don, Samuel R. Friedman, Douglas Goldsmith, and William Hopkins. "Heterosexual Transmission of Human Immunodeficiency Virus from Intravenous Drug Users: Regular Partnerships and Prostitution. In *AIDS and Sex: An Integrated Biomedical and Bio-behavioral Approach,* edited by B. Voeller, J. Machover Reinisch, and M. Gottlieb. New York: Oxford University Press.

Domhoff, G. William. 1998. *Who Rules America? Power and Politics in the Year 2000.* Mountain View, CA: Mayfield Publishing Company.

Donnovan, Mark C. 2001. *Taking Aim: Target Populations and the War on Drugs.* Washington: Georgetown University Press.

Downe, Pamela. 1997. "Constructing a Complex of Contagion: The Perception of AIDS Among Working Prostitutes in Costa Rica." *Social Science and Medicine.* 44: 1575-1583.

Downey, Lorne W. 1988. *Policy Analysis in Eduction.* Calgary, Alberta. Detselig Enterprises Limited.

Doyle, Lesley, Jennie Naidoo, and Tamsin Wilton. (Eds.) 1994. *AIDS: Setting a Feminist Agenda.* London: Taylor and Francis Ltd.

Driggs, Don W. and Leonard E. Goodall. 1996. *Nevada Politics and Government: Conservatism in an Open Society.* Lincoln: University of Nebraska Press.

DuBois, John (1987) Bill Summary: Assembly Bill 550, Assembly Amendment 1403 and Personal notation. John DuBois Personal File.

DuBois, John (1987) Press Release. April 8. John DuBois Personal File.

DuBois, John (c. 1987) Introduction AB 550: Nevada State Legislature. John DuBois Personal File.

DuBois, John. (c. 1988) "On the Record: What Has He Been Doing Since 1981." Campaign Flyer. John DuBois Personal File.

Edlund, Lena and Evelyn Korn. 2002. "A Theory of Prostitution." *Journal of Political Economy.* 110(1) 181-214

Elias, James E., Vern L. Bullough, Veronica Elias, and Gwen Brewer. (Eds.) 1998. *Prostitution: On Whores, Hustlers, and Johns.* Amherst, NY. Prometheus Books.

Elifson, KW, J. Boles, WW Darrow, CE Sterk. 1999. "HIV Seroprevalence and Risk Factors Among Clients of Female and Male Prostitutes." *Journal of Acquired Immunodeficiency Syndrome Human Retrovirology,* 20(2): 195-200.

Elizar, Daniel J. 1972. American Federalism: A View from the States (2nd Edition). New York: Crowell.

Elling, Richard C. 1992. *Public Management in the States: A Comparative Study of Administrative Performance and Politics.* Westport, CT. Praeger.

Engels, Friedrich. [1884] 2005. "From *the Origin of the Family, Private Property, and the State.*" Pp. 100-102 in *Feminist Theory: A Reader. Second Edition*, edited by W. K. Kolmar and F. Bartkowski, NewYork: McGraw Hill.

Enloe, Cynthia. 1989. *Bananas, Beaches, and Bases: Making Feminist Sense of International Politics.* Berkeley: University of California Press.

Erni, John Nguyet. 1998. "Ambigious Elements: Rethinking the Gender/Sexuality Matrix in an Epidemic." Pp. 3-31 in *Gendered Epidemic: Representation of Women in the Age of AIDS*, edited by N. L. Roth and K. Hogan. New York: Routledge.

Evensen, Jay. 1986. "Brothel Industry Concerned About AIDS." *Las Vegas Review Journal.* Febuary 23: A1-4A.

Falk, Gerhard. 2001. *Stigma: How We Treat Outsiders.* Amherst, NY: Prometheus Books.

Farley, Melissa and Vanessa Kelly. 2000. "Prostitution: A Critical Review of the Medical and Social Sciences Literature." *Women and Criminal Justice,* 11(4):29-64.

Fausto Sterling, Anne. 1985. *Myths of Gender: Biological Theories About Women and Men.* New York: Basic Books.

——. 2000. *Sexing the Body: Gender Politics and the Construction of Sexuality.* New York: Basic Books.

Fee, Elizabeth. 1988. "Sin versus Science: Venereal Disease in Twentieth Century Baltimore." Pp. 122-142 in *AIDS: The Burdens of History,* edited by E. Fee and D. M. Fox. Berkeley, CA: University of California Press.

Fee, Elizabeth and James Fox. 1988 (Eds.) *AIDS: The Burdens of History.* Berkeley: University of California Press.

——. 1992. "Introduction: The Contemporary Historiography of AIDS." Pp. 1-21 in *AIDS: The Making of a Chronic Disease,* edited by E. Fee and D. M. Fox. Berkeley: University of California Press.

Fechner, Holly B. 1994. "Three Stories of Prostitution in the West: Prostitutes' Groups, Law, and Feminist 'Truth.'" *Columbia Journal of Gender and Law.* 4(1): 26-72.

Fernando, M. Daniel. 1993. *AIDS and Intravenous Drug Use: The Influence of Morality, Politics, Social Science, and Race in the Making of a Tragedy.* Westport, CT. Praeger.

Firestone, Shulamith. 1970. *The Dialectic of Sex: The Case for Feminist Revolution.* New York: Bantam Books

Flowers, R. Barry. 1998. *The Prostitution of Women and Girls.* Jefferson, NC: McFarland and Company Publishers, Inc.

Fontana, Andrea and James H. Frey. 2000. "The Interview: From Structured Questions to Negotiated Text." Pp. 645-672 in *Handbook of Qualitative Research,* edited by N. Denzin and Y. Lincoln. Thousand Oaks, CA. Sage Publications.

Foucault, Michel. 1965. *Madness and Civilization: A History of Insanity in the Age of Reason.* New York: Pantheon Books.

——. 1978. *The History of Sexuality: An Introduction.* New York: Vintage Books.

——. 1980. "Body/Power." Pp. 55-62 in *Power/Knowledge,* edited by C. Gordon. New York: Pantheon Books.

——. 1984. "The Juridical Apparatus." In *Legitimacy and the State,* edited by W. Connolly. New York: New York University Press.

——. 1985. *The Use of Pleasure: Volume 2 of The History of Sexuality.* New York: Vintage Books.

——. 1988a. "On Power. " In *Politics, Philosophy, Culture: Interviews and Other Writings 1977-1984.* Translated by A. Sheridan. Edited by L. D. Kritzman. NY: Routledge.

——. 1988b. "Politics and Reason" In *Politics, Philosophy, Culture: Interviews and Other Writings 1977-1984.* Translated by A. Sheridan. Edited by L. D. Kritzman. NY: Routledge.

——. 1988c. "Politics and Sex. " In Politics, Philosophy, Culture: Interviews and Other Writings 1977-1984. Translated by A. Sheridan. Edited by L. D. Kritzman. NY: Routledge.

——. 1994a. "The Birth of Biopolitics. " In *Ethics: Subjectivity and Truth,* edited by P. Rabinow. New York: The New York Press.

——. 1994b. "Preface to the *History of Sexuality, Volume Two. "* In *Ethics: Subjectivity and Truth,* edited by P. Rabinow. New York: The New York Press.

Freedman, Estelle B. 2002. *No Turning Back: The History of Feminism and the Future of Women.* New York: Ballantine Books.

Freeman, Jody. 1997. "The Feminist Debate Over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists, and the (Im)possibility of Consent. " Pp. 209-244 in *Pornography, Sex Work, and Hate Speech,* edited by K. J. Maschke. New York: Garland Publishing, Inc.

Friedman, Lisa. 1995. "AIDS Infected Prostitutes Spending Less Time in Jail. " *Las Vegas Review Journal* and *Las Vegas Sun.* 1B, 3B

Fujimoto, Lila. 1985. "Nevada Called 'Potential Reservoir" for AIDS. " *Nevada State Journal.* October 30. A1.

Fumento, Michael J. 1992. "The Political Uses of an Epidemic. " Pp. 29-34 in *Homosexuality and Medicine, Health and Science,* edited by W. R. Dynes and S. Donaldson. New York: Garland Publishing Inc.

Gagnon, John and William Simon. 1973. *Sexual Conduct: the Social Sources of Human Sexuality.* Chicago: Aldine.

Gaventa, John. 1995. "Power and Participation. " Pp. 14-22 in *American Society and Politics: Institutional, Historical, and Theoretical Perspectives,* edited by T. Skocpol and J. L. Campbell (eds.). New York: McGraw-Hill.

Gibson, Mary. 1999. *Prostitution and the State in Italy: 1860-1915.* Columbus: Ohio State University Press.

Gil, VE, MS Wang, AF Anderson, GM Lin, and ZO Woo. 1996. "Prostitutes, Prostitution, and STD/HIV Transmission in Mainland China. " *Social Science and Medicine.* 42(1): 141-152

Gilman, Sander L. 1985. *Difference and Pathology: Stereotypes of Sexuality, Race, and Madness.* Ithaca, NY: Cornell University Press.

——. 1997. "AIDS and Stigma. " Pp. 101-117 in *Acting on AIDS: Sex, Drugs, and Politics,* edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Glassner, Barry. 1999. *The Culture of Fear: Why Americans are Afraid of the Wrong Things.* New York: Basic Books.

Goldier, Maurice. 1970. "System, Structure, and Contradiction in Das Kapital. " In *Introduction to Structuralism*, edited by M. Lane. New York: Basic Books.

Goldman, Emma. [1910]2005. "The Traffic in Women" from *Anarchism and Other Essays*, Pp. 120-124 in *Feminist Theory: A Reader. Second Edition,* edited by W. K. Kolmar and F. Bartkowski. New York: McGraw Hill.

Goldsmith, Marsha. 1985. "More Heterosexual Spread of HTLV-II Virus Seen. " *Journal of the American Medical Association.* 253(23): 3377-3379.

Goode, Erich and Nachman Ben-Yehuda. 1994a. *Moral Panics: The Social Construction of Deviance.* Oxford UK: Blackwell.

——. 1994b. "Moral Panics: Culture, Politics, and Social Construction. " *Annual Review of Sociology.* 20: 149-171.

Goodin, Robert E. and Philip Pettit. 1997. *Contemporary Political Philosophy: An Anthology.* Oxford: Blackwell Publishers.

Gorna, Robin. 1996. *Vamps, Virgins, and Victims.* London: Cassell.

Gorna, Robin. 1997. "Dangerous Vessels: Feminism and the AIDS Crisis. " Pp. 146-165 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Gostin, Larry. 1987. "Harsh Laws Will Not Help Control the Spread of AIDS. " *Las Vegas Review Journal.* July 7.

Gostin, Lawrence O. 2000. *Public Health Law: Power, Duty, and Restraint.* Berkeley: University of California Press.

Gostin, Lawrence O (Ed). 2002. *Public Health Law and Ethics: A Reader.* Berkeley: University of California Press.

Gottdiener, Mark, Claudia Collins, and David Dickens. 1999. *Las Vegas: The Social Production of an All-American City.* Malden, MA: Blackwell Publishers.

Gramsci, Antonio. 1971. *Selections from Prison Notebooks.* New York: International Publishers.

Green, Richard. 1992. *Sexual Science and the Law.* Cambridge, MA. Harvard University Press.

Griffin, Gabriele. 2000. *Representations of HIV and AIDS: Visibility Blues.* Manchester: Manchester University Press.

Griffith, Martin. 1994. "Gay Brothel Part of AIDS Battle. " *Nevada Appeal.* December 9. A1, 12

Grimke, Sarah M. [1838] 2005. "Letter VIII from Letters on the Equality of the Sexes and the Condition of Women. " Pp. 69-71in *Feminist Theory: A Reader. Second Edition*, edited by W. K. Kolmar and F. Bartkowski. NewYork: McGraw Hill

Gross, David and Derek Adam-Smith. 1995. *Organizing AIDS: Workplace and Organizational Responses to the HIV/AIDS Epidemic.* London: Taylor and Francis Ltd.

Guba, Egon G. and Yvonna S. Lincoln. 1994. "Competing Paradigms in Qualitative Research." Pp. 105-117 in *Handbook of Qualitative Research*, edited by N. Denzin and Y. S. Lincoln. Thousand Oaks, CA. Sage Publications.

Guess, Raymond. 2001. *History and Illusion in Politics.* Cambridge: Cambridge University Press.

Gwinnett, Barbara. 1998. "Policing Prostitution: Gender, the State, and Community Politics." Pp. 80-99 in *Gender, Politics, and the State,* edited by V. Randall and G. Waylen. London: Routledge.

Hammel, Jacques, Stephane DuFour and Dominic Fortin. 1993. *Case Studies Methods.* Newbury Park, CA. Sage Publications.

Hannaway, Caroline, Victoria A. Harden and John Parascandola. 1995. *AIDS and the Public Debate.* Amsterdam: IOS Press.

Harcount, Christine. 1994. "Prostitution and Public Health in the Era of AIDS." Pp. 203-224 in *Sex Work, Sex Workers in Australia*, edited by R. Perkins, et. al. Sydney: University of New South Wales Press.

Hardy A. M. , J. R. Allen, W. M. Morgan, and J. W Curran. 1985. "The Incidence Rate of Acquired Immunodeficiency Syndrome in Selected Populations." *Journal of the American Medical Association*, 253(2): 215-220.

Harrison, Pat. 1989. "Senator Laments Failure of Brothel Ban Proposal." *Reno Gazette Journal.* C1, C5.

Harsin, Jill. 1985. *Policing Prostitution in Nineteenth Century Paris.* Princeton, NJ. Princeton University Press.

Hausbeck, Kathryn and Barbara Brents. 2000. "Inside Nevada's Brothel Industry." Pp. 217-244 in *Sex for Sale: Prostitution, Pornography and the Sex Industry*, edited by R. Weitzer. New York, NY: Routledge.

Hawkes, Gail. 1996. *A Sociology of Sex and Sexuality.* Philadelphia, PA: Open University Press.

Hawkesworth, M. E. 1988. *Theoretical Issues in Policy Analysis.* Albany, NY: State University of New York Press.

Hayes, John. 1985. "Several Female, Drug-Using Inmates Exposed to AIDS virus." *Nevada Appeal.* October 29. A1,10

Hayes, John. 1985. "Committee Says 'no' to AIDS Testing Funds." *Nevada Appeal.* November 3.

Hayes, John. 1985. "Mandatory AIDS Tests for Prostitutes Sought." *Las Vegas Review Journal.* November 21: 3B.

Hayes, John. 1985. "Board of Health Makes AIDS Prostitute Testing Mandatory." *Nevada Appeal.* November 21.

Hayslett, Jerianne. 1987. "AIDs Death Toll Climbs in Country." *Las Vegas Review Journal.* January 8. 10A

Hayslett, Jerrianne. 1987. "Proposed Prostitutes-AIDS Legislation Draws Mixed Reactions." *Las Vegas Review Journal.* January 21: 6B.

Hayslett, Jerrianne. 1987. "AIDS Study Sheds Positive Light on Legal Prostitution." *Las Vegas Review Journal.* March 28. B 1,6.

Hayslett, Jerrianne. 1987. "Critics Say Nevada Legislators Dodged AIDS Issue." *Las Vegas Review Journal.* June 29.

Heaphy, Brian. 1996. "Medicalization and Identity Formation: Identity and Strategy in the Context of AIDS and HIV." Pp. 139-160 in *Sexual Cultures: Communities, Values, and Intimacy*, edited by J. Weeks and J. Holland. NY: St. Martin's Press.

Heidenry, John. 1997. *What Wild Ecstasy: The Rise and Fall of the Sexual Revolution.* New York: Simon and Schuster.

Henderson, Tony. 1999. *Disorderly Women in the Eighteenth-Century London: Prostitution and Control in the Metropolis 1730-1830.* London: Longman.

Herek, Gregory M. 2004. "AIDS and Stigma." In *Sex Matters: The Sexuality and Society Reader*, edited by M. Stombler, D. M. Baunach, E. O. O'Burgess, D. Donnelly and W. Simonds (Eds). Boston: Pearson.

Hill, Catherine. 1993. "Planning for Prostitution: An Analysis of Thailand's Sex Industry." Pp. 133-144 in *Women's Lives and Public Policy: The International Experience*, edited by M. Turshen and B. Holcomb. Westport, CT. Greenwood Press.

Hill, Larry B (Ed.). 1992. *The State of Public Bureaucracy.* Armonk, NY. M. E. Sharpe, Inc.

Hobson, Barbara M. 1987. *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition.* New York: Basic Books, Inc.

Homsy, Lynn. 1988. Letter to Mr. Dennis Meyers of "Face the State." Attachment information on Russ Reade, the Nevada Brothel Association, and STDs. State of Nevada Health Division Files.

Horton, Meurig. 1997. "It's a Straight World After All: Heterosexualizing the Pandemic." Pp. 254-272 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Howlett, Michael and M. Ramesh. 1995. *Studying Public Policy: Policy Cycles and Policy Subsystems.* Toronto: Oxford University Press.

Howe, Kenneth R. 1988. "Why Mandatory Screening for AIDS is a Very Bad Idea." In *AIDS: Ethics and Public Policy*, edited by C. Pierce and D. Vandeveer. Belmont, CA: Wadsworth Publishing Company.

Huber, Joan and Beth Schneider, eds. 1992. *The Social Context of AIDS.* Newbury Park: Sage Publications.

Hyde, Alan. 1997. *Bodies of Law.* Princeton, NJ: Princeton University Press.

Ignacio, Terri (1989). Memorandum to Dr. Joe Jarvis, State Health Officer. Subject: Reportable STDs amongst Prostitutes Testing for Work Cards. February 10. State of Nevada Health Division Files.

Inciardi, James, Dorothy Lockwood and Anne E. Pottieger. 1993. *Women and Crack Cocaine.* New York: Macmillan Publishing Company.

Irving, Mary. 1998/1999. "From Social Evil to Public Health Menace: The Justifications and Implications of Strict Approaches to Prostitutes in the HIV Epidemic." *Berkeley Journal of Sociology: A Critical Review.* 43: 63-96.

Jackson, Lois A and Alexandra Highcrest. 1996. "Female Prostitutes in North America: What are their Risks of HIV Infection?" Pp. 149-162 in *AIDS as a Gender Issue: Psychosocial Perspectives*, edited by L. Sherr, C. Hankins, and L. Bennett. London: Taylor and Francis.

Jackson, Mark H. 1992. "The Criminalization of HIV." Pp. 239-270 in *AIDS Agenda: Emerging Issues in Civil Rights*, edited by N. D. Hunter and W. B. Rubenstein. New York: The New Press.

Jameson, Fredric. 1991. *Postmodernism, or, the Cultural Logic of Late Capitalism.* Durham, NC: Duke University Press.

Jeffreys, Sheila. 1997. *The Idea of Prostitution.* North Melbourne, Victoria: Spinifex Press Pty Ltd.

Jewell, Dean. 2003. "Letter to the Editor: Legal Hookers Create Social Ills." *Las Vegas Review Journal.* November 2. #E.

Jenkins, Philip. 1998. *Moral Panic: Changing Concepts of the Child Molester in Modern America.* New Haven: Yale University Press.

Jenness, Valerie. 1993. *Making it Work: The Prostitute's Rights Movement in Perspective.* New York: Aldine De Gruyter.

Johnson, John M. 2001. "In Depth Interviewing." Pp. 103-120 in *Handbook of Interview Research*, edited by J. F. Gubrium and J. A. Holstein. Thousand Oaks, CA: Sage Publications.

Jolin, Annette. 1994. "On the Backs of Working Prostitutes: Feminist Theory and Prostitution Policy." *Crime and Delinquency.* 40(1): 69-81.

Jones, Chris. 2003. "Calculated Risque." *Las Vegas Review Journal.* November 30. 1F.

Josephson, Jyl. J. "Gender and Social Policy." Pp. 133-159 in *Gender and American Politics: Women, Men and the Political Process,* edited by S. Tolleson-Rinehart and J. J. Josephson. . Armonk, NY. M. E. Sharpe.

Kandel, Minouche. 1997. Whores in Court: Judicial Processing of Prostitutes in the Boston Municipal Court in 1990. Pp. 381-404 in *Pornography, Sex Work, and Hate Speech*, edited by K. J. Maschke. New York: Garland Publishing, Inc.

Kane, Stephanie C. 1993. "Prostitution and the Military: Planning AIDS Intervention in Belize." *Social Science and Medicine* 36(7): 965-979.

Katz, Jonathan N. 2004. "The Invention of Heterosexuality." Pp. 69-81 in *Race, Class, and Gender in the United States*, Sixth Edition, edited by P. Rothenberg. New York: Worth Publishers.

Kempadoo, Kamala. 1998. "Introduction: Globalizing Sex Worker's Rights." Pp. 1-28 in *Global Sex Workers: Rights, Resistance, and Rebellion*, edited by K. Kempadoo and J. Doezema. New York: Routledge.

Kerbo, Harold. 1996. *Social Stratification and Inequality: Class Conflict in Historical and Comparative Perspective.* New York: McGraw-Hill Companies, Inc.

Kleiman, Mark. 1987. "Prostitution Isn't 'Victimless' With AIDS Here." *Wall Street Journal.* June 1.

Kosich, Dorothy. 1987. "Board of Health to Draft Laws for AIDS Testing of Prostitutes." *Las Vegas Review Journal.* November 19.

Kosich, Dorothy. 1987. "Hookers Face Forced AIDS Testing." *Nevada Appeal.* November 19: A1, 10.

Krane, Elliot. 1982. "Midnight to Dawn with the Metro Vice Squad." *Las Vegas Sun Magazine.* August 8. 5-6

Kreher, Nancy, Wei Yang, and Drew Mather. 1999. *Draft: HIV/AIDS Annual Report. Bureau of Health Planning and Statistics.* Carson City, NV.

Kuo, Lenore. 2002. *Prostitution Policy: Revolutionizing Practice Through a Gendered Perspective.* New York: New York University Press.

Lake, Richard. 2003. "Majority Opposes Legalizing Prostitution in Las Vegas." *Las Vegas Review Journal.* October 30. A1, 10.

Langbell, Ken. 1973. "Escort Service Won't Take it Lying Down." *Las Vegas Sun*, November 11, pp. 13.

Langone, John. 1985. "AIDS: The Latest Scientific Facts." *Discover.* December 27-52.

Las Vegas Metropolitan Police Department Vice/Narcotics Bureau. 2002. "Fax: HIV Positive Prostitutes, July 1988-December 2001." Pp. 6-8.

Lange, Ron. 1988. Memorandum to State Board of Health Members. Subject: Protocols for Epidemiological Follow-Up on Positive STD Results, Brothel Industry. November 1. State of Nevada Health Division Files

La Ross, Jack. 2003. "Letter to the Editor: Legalize it." *Las Vegas Review Journal.* November 4. 6B

Lauman, E. O. and F. U. Pappi 1973. "New Directions in the Study of Community Elites." American Sociological Review. 38: 212-230.

Lawson, Annette L. and Deborah L. Rhode. 1993. The Politics of Pregnancy: Adolescent Sexuality and Public Policy. New Haven: Yale University Press.

Lehmann, Jennifer M. 1994. Durkheim and Women. Lincoln: University of Nebraska Press.

Leonard, Alice. 1995. "Letter to the Editor: An an Amen." Nevada Appeal. May 3. A4,A5.

Leonard, Arthur S. 1992. "Employment Discrimination Against Persons with AIDS." Pp. 331-353 in Homosexuality: Discrimination, Criminology, and the Law, edited by W. R. Dynes and S. Donaldson. New York, NY: Garland Publishing Inc.

Lerner, Eric K. and Mary Ellen Hombs. 1998. AIDS Crisis in America: A Reference Handbook. Second Edition. Santa Barbara, CA. ABC-CLIO.

Lerner, Gerda. 1986. The Creation of Patriarchy. New York: Oxford University Press.

Lever, Janet and Deanne Dolnick. 2000. "Clients and Call Girls: Seeking Sex and Intimacy." Pp. 85-101 in Sex for Sale: Prostitution, Pornography and the Sex Industry, edited by R. Weitzer. New York, NY: Routledge.

Lipson, Debra J. 1997. "State Roles in Health Care Policy: Past as Prologue?" Pp. 176-198 in. Health Politics and Policy, edited by T. J. Litman and L. S. Robins. Albany, NY: Delmar Publishers Inc

Lockett, Gloria. 1994. "CAL-Pep: The Struggle to Survive." Pp. 208-218 in Women Resisting AIDS: Feminist Strategies of Empowerment, edited by B. E. Schneider and N. E. Stoller. Philadelphia: Temple University Press.

Lorber, Judith. 1994. Paradoxes of Gender. New Haven: Yale University Press.

Lovvorn, Amy E., Quinn, Sandra C, and David Jolly. 1997. "HIV Testing of Pregnant Women: A Policy Analysis." Journal of Public Health. 18,(4): 401-432.

Lowe, Catherine S. 1985. State Board of Health Agenda. July 8. Department of Human Resources, State Board of Health Minutes. Box 59060501, Health 005

Lowe, Catherine S. 1985. State Board of Health Minutes. July 8. Department of Human Resources, State Board of Health Minutes. Box 57020302, Health 006

Lowe, Catherine S. 1985. Agenda: State Board of Health Meeting Information Item: HTLV III Testing. September 18. State of Nevada Health Division Files. Box 11, 59060601, Health 005

Lowe, Catherine, S. 1985. State Board of Health Minutes. November 20. Department of Human Resources, State Board of Health Minutes. Box 59060502, Health 003

Lowe, Catherine S. 1985. Request for Attorney General Opinion (HTLV III Testing). July 23. State of Nevada Health Division Files. Box 11, 59060601, Health 005

Lowe, Catherine S. 1985. "Memorandum to Jerry Griepentrog, Director, Department of Human Resources. AG Opinion Regarding HTLV III Antibody Testing." August 15. State of Nevada Health Division Files. Box 11, 59060601, Health 005

Lowi, Theodore J. 1995. "Distribution, Regulation, Redistribution: The Functions of Government." In Public Policy: The Essential Readings, edited by S. Z. Theodoulou and M. A. Cahn. Englewood Cliffs, NJ: Prentice Hall.

Lowry, Thomas. 1994. The Story the Soldiers Wouldn't Tell: Sex in the Civil War. Mechanicsburg, PA Stackpole Books.

Luker, Kristin. 1998. "Sex, Social Hygiene and the Double Edged Sword of Social Reform." Theory and Society. 27: 601-634.

Lukes, Steven 1974. Power: A Radical View. London: Macmillan.

Lupton, Deborah. 1994. Medicine as Culture: Illness, Disease, and the Body in Western Societies. London: Sage Publications.

Lupton, Deborah. 1994. Moral Threats and Dangerous Desires: AIDS and the News Media. London: Taylor and Francis Ltd.

Macy, Robert. 1985. "Legalized Bordellos Hardly a Gamble in Gaming State." *Las Vegas Review Journal.* July 7. B5,6.

Macionis, John J. 2004. Sociology, Tenth Edition. Upper Saddle River, NJ: Pearson Prentice Hall.

Mackey, Thomas C. 1984. Lights Out: A Legal History of Prostitution and Disorderly Houses, and Vice Districts, 1870-1917. New York: Garland Publishing, Inc.

Mahood, Linda. 1990. The Magdalenes: Prostitution in Nineteenth Century. London: Routledge.

Majchrzak, Ann. 1984. Methods for Policy Research. Newbury Park: Sage Publications.

Mandel, Ernst. 1975. Late Capitalism. London: New Left Books.

Manning, Mary. 1987. "January Sees 5 New AIDS Cases in LV Area." *Las Vegas Sun.* February 6. 4B.

Marshall, Barbara L. 1994. Engendering Modernity: Feminism, Social Theory, and Social Change. Boston: Northeastern University Press.

Martin, Emily. 1987. The Woman in the Body: A Cultural Analysis of Reproduction. Boston: Beacon.

Marx, Karl. 1978. "Capital, Volume One." In Tucker (ed) The Marx-Engels Reader. New York: W. W. Norton and Company.

Marx, Karl. 1978. "The German Ideology." In Tucker (ed) The Marx-Engels Reader. New York: W. W. Norton and Company.

Matheis, Lawrence. 1987. "Nevada State Board of Health Minutes: AIDS Policy Review." January 21. Department of Human Resources, State Board of Health Minutes.

Matheis, Lawrence. 1988. "Nevada State Board of Health Minutes: Proposed Revisions to NAC 441; AIDS Related Regulations." January 20. Department of Human Resources, State Board of Health Minutes.

Matheis, Lawrence. 1988. "Nevada State Board of Health Minutes: Report-AIDS Advisory Task Force." May 18. Department of Human Resources, State Board of Health Minutes

Matheis, Lawrence. 1988. "Nevada State Board of Health Minutes: Action Item-STD Testing/Reporting Policies Relating to Laboratory and Brothel Physicians and Protocols for Epidemiological Follow-Up on Positive Sexually Transmitted Disease Results-Brothel Industry." November 22. Department of Human Resources, State Board of Health Minutes

Matheis, Lawrence and the Nevada AIDS Advisory Task Force. 1988. *AIDS in Nevada: Policy Recommendations.* Carson City, NV: Nevada State Health Division.

McClintock, Anne. 1993. "Sex Workers and Sex Work: Introduction." Pp. 1-10 in *Social Text 37* (Winter), edited by A. McClintock. Durham, NC: Duke University Press.

McKay, Corina. 1999. "Is Sex Work Queer?" *Social Alternatives.* 18(3): 48-51.

McKinnon, Catherine. 1989. *Toward a Feminist Theory of the State.* Cambridge, MA: Harvard University Press.

McMillian, Doug. 1985. "Cottontail Ranch Rises from the Ashes." *Nevada State Journal.* October 14. C1,2.

McMillian, Doug. 1985. "AIDS Tests Already in Use." *Nevada State Journal.* October 26.

McMillian, Doug. 1986. "Nevada's Sex for Sale Dilemma." *Nevada State Journal.* November 9. A1, 22.

McMillian, Doug. 1986. "From a 'Miner's Friend' to a Nevada Way of Life." *Reno Gazette Journal.* November 9

McMillian, Doug. 1986. "Prostitutes Pay High Price for Cash, Glamour." *Reno Gazette Journal.* November 10.

McMillian, Doug. 1986. "Prostitutes had Grim Youth, Studies Show." *Reno Gazette Journal,* November 10.

McMillian, Doug. 1986. "Brothel Owners: Girls Live Good Lives." *Reno Gazette Journal,* November 10.

McMillian, Doug. 1986. "Modern Management for Oldest Profession." *Reno Gazette Journal.* November 11.

McMillian, Doug. 1986. "New Wave Owners." *Reno Gazette Journal.* November 11.

McMillian, Doug. 1986. "Do Brothels Tarnish Nevada's Image? The Arguments Roar On." *Reno Gazette Journal.* November 11.

McMillian, Doug. 1986. "Even Small Brothels Carry Big Price tags." *Nevada State Journal.* November 11: A8.

McMillian, Doug. 1986. "Brothel Revenues Don't Show Up in GNP." *Reno Gazette Journal.* November 11.

McMillian, Doug. 1986. "AIDS Brings Fear, Uncertainty to Brothels." *Nevada State Journal.* November 12: A1, 14.

McMillian, Doug. 1986. "AIDS Puts Condoms Back in Style at Some Brothels." *Nevada State Journal.* November 12: A14.

McMillian, Doug 1986. "Brothel Owners Admit Disease has Hurt Business." *Nevada State Journal.* November 12. A14.

McMillian, Doug. 1986. "Though Out of the Spotlight, Other Diseases Still a Concern." *Nevada State Journal.* November 12.

McMillian, Doug. 1986. "Rural Nevada Reluctant to Abolish Brothels." *Reno Gazette Journal.* November 13.

McMillian, Doug. 1986. "Brothels Not Big Moneymakers for Rural Governments." *Reno Gazette Journal.* November 13.

McMillian, Doug. 1986. "Many Brothel Owners Known for Good Deeds." *Reno Gazette Journal.* November 13.

McMillian, Doug. 1986. "Brothels: From Public Nuisances to Licensed Businesses." *Nevada State Journal.* November 15: A1, 6.

McMillian, Doug. 1986. "While Legislators Ducked the Issue, Courts Set Brothel Law." *Nevada State Journal.* November 15.

McMillian, Doug. 1986. "Some Towns Tried to Dictate Prostitute's Civil Rights." *Nevada State Journal.* November 15.

McMillian, Doug. 1986. "Lawmakers: Brothel Issue Likely Topic for '87 Session." *Nevada State Journal.* November 16.

McMillian, Doug. 1986. "Opposition isn't Vocal, but Religious Leaders Say Brothels Wrong. *Reno Gazette Journal.* November 16.

McMillian, Doug. 1986. "Myths and Legal Brothels." *Nevada State Journal.* November 16.

McMillian, Doug. 1987. "Tougher Penalty Sought for Hookers with AIDS." *Reno Gazette Journal.* January 17: A1.

McMillian, Doug. 1987. "Brothels Ward Off AIDS Threat, State Tests Indicate." *Reno Gazette Journal.* November 2: A1.

McMillian, Doug. 1987. "An Effort to Ease Customer's Worries." *Reno Gazette Journal.* November 2.

McMillian, Doug. 1987. "2 Powerful Lobbyists Urge Prostitution Ban." *Reno Gazette Journal.* November 11: C1, 2.

McQuarie, Donald and Patrick McGuire. 1994. "State and Politics: From the King of Prussia to the New World Order: Marxist Theories of State and Power." In *From the Left Bank to the Mainstream: Historical Debates and Contemporary Research in Marxist Sociology,* edited by edited by P. McGuire and D. McQuarie. Dix Hills, NY: General Hall, Inc.

Merek, Mandy. 1997. "Death Camp: Feminism vs. Queer Theory." Pp. 232-234 in *New Sexual Agendas,* edited by L. Segal. NY: New York University Press.

Michael, Robert T. 2001. "Private Sex and Public Policy." Pp. 465-492 in *Sex, Love, and Health in America: Private Choices and Public Polices,* edited by E. O. Laumann and R. T. Michael. Chicago: University of Chicago Press.

Michels, R. 1962. *Political Parties.* New York: Free Press.

Mies, Maria. 1986. *Patriarchy and Accumulation on a World Scale.* New York: Zed Books Ltd.

Miliband, Ralph. 1969. *The State in Capitalist Society.* New York: Basic Books.

Mill, John Stuart. [1870] 2005. "Chapters 2 and 4 from *the Subjection of Women.*" Pp. 80-85 in *Feminist Theory: A Reader. Second Edition,* edited by W. K. Kolmar and F. Bartkowski. NewYork: McGraw Hill.

Mills, C. Wright. 1956. *The Power Elite.* New York: Oxford University Press.

Minx, Gwendolyn. 1998. *Welfare's End.* Ithaca, NY: Cornell University Press.

Misra, Joya and Frances Akins. 1998. "The Welfare State and Women: Structure, Agency, and Diversity." *Social Politics.* Fall: 259-285.

Mohr, Richard D. 1992. "AIDS, Gays, and State Coercion." Pp. 95-110 in *Homosexuality and Medicine, Health and Science,* edited by W. R Dines and S. Donaldson. New York, NY: Garland Publishing Inc.

Monto, Martin A. 2000. "Why Men Seek Out Prostitutes." Pp. 67-84 in *Sex for Sale: Prostitution, Pornography and the Sex Industry,* edited by R. Weitzer. New York: Routledge.

Mooney, Christopher and Mei-Hsien Lee. 1995. "Legislative Morality in the American States: the Case of Pre-Roe Abortion Regulation Reform." *American Journal of Political Science.* 39: 599-627.

Moran, Jeffery P. 2000. *Teaching Sex: The Shaping of Adolescence in the 20th Century.* Cambridge: Cambridge University Press.

Morrison, Jane Ann. 1986. "Sheriff Cracks Down on Vegas Streetwalkers." *Nevada State Journal.* November 16.

Morrison, Jane Ann. 1987. "Brothels Back Hooker-AIDS Bill." *Reno Gazette Journal.* April 24. C1, 2.

Morrison, Jane Ann. 1987. "AIDS Expert Chides Legislature for Inaction on Disease." May 25. A1 and back page.

Morrison, Jane Ann. 1987. "Illegal Hookers Pose Problems for AIDS Task Force." *Reno Gazette Journal.* July 11. C1,2.

Morse, Anita L. 1997. "Pandora's Box: An Essay Review of American Law and Literature on Prostitution." Pp. 99-140 in *Pornography, Sex Work, and Hate Speech,* edited by K. J. Maschke. New York: Garland Publishing, Inc.

Moulton, Edward. 1982. "Should Prostitution Be Legal in Clark County? Pro." *Las Vegas Review Journal.* August 16:7B.

Myers, Laura. 1987. "Inmate AIDS-Testing Bill Introduced." *Reno Gazette Journal.* May 7.

Murray, Stephen O. and Kenneth W. Payne. 1992. "Medical Policy without Scientific Evidence: The Promiscuity Paradigm and AIDS." Pp. 119-160 in *Homosexuality and Medicine, Health and Science*, edited by W. R. Dynes and S. Donaldson. New York, NY: Garland Publishing Inc.

Nachmias, David. 1979. *Public Policy Evaluation: Approaches and Methods.* New York: St. Martin's Press.

Nahmias, Steven. 1989. "A Model of HIV Diffusion from a Single Source." *The Journal of Sex Research.* 26(1):15-25.

Nakamura, R. T. and F. Smallwood. 1980. *The Politics of Policy Implementation.* New York: St. Martin's.

Nash, Kate. 2000. *Contemporary Political Sociology: Globalization, Politics, and Power.* Malden, MA: Blackwell Publishers.

Neave, Marcia. 1994. "Prostitution Laws in Australia-Past History and Current Trends." Pp. 67-99 in *Sex Work, Sex Workers in Australia,* edited by R. Perkins et al. Sydney: University of New South Wales Press.

Neff, Erin. 2003. "Legalized Prostitution: Vegas Brothels Suggested." *Las Vegas Review Journal.* October 24. A1,9.

Nelson, Bryan M. 1985. Health Division Attorney General Opinions. November 7. State of Nevada Health Division Files.

Nelson, Bryan M. 1989. Health Division Attorney General Opinions: AIDS Advisory Committee. September 9. State of Nevada Health Division Files.

Neuman, W. Lawrence. 1994. *Social Research Methods: Qualitative and Quantitative Approaches.* Boston: Allyn and Bacon.

Nevada Administrative Code. 1985.

Nevada Administrative Code. 1986

Nevada Administrative Code. 1987.

Nevada Revised Statutes. 1987.

Nevada State Board of Health. 1986. *Draft: Sexually Transmitted Disease Proposed Regulations.* January 15. Department of Human Resources, State Board of Health Files

Nevada State Health Division. 1987. "Nevada Health: Surgeon General's Report on AIDS." 1(3): 2-3. John DuBois Personal File.

Nevada State Library. 1991. Nevada Newspaper Index. Carson City, NV: Nevada State Library.

Neuendorf, Kimberly A. 2002. *The Content Analysis Guidebook.* Thousand Oaks: CA. Sage Publication, Inc.

Novick, Alvin. 1994. "What are the Responsibilities of HIV-Infected Persons? What are the Reciprocal Responsibilities of Society." *AIDS and Public Policy Journal.* 9(2): 55-58.

Odkin, Susan Moller. 1998. "Gender, the Public, and the Private." Pp. 116-141 in *Feminism and Politics,* edited by A. Phillips. Oxford: Oxford University Press.

Ortner, Sherry B. 1996. *Making Gender: The Politics and Erotics of Culture.* Boston: Beacon Press.

Orum, Anthony M, Feagin, Joe, and Gideon Sjoberg. 1991. "Introduction: The Nature of the Case Study." In *A Case for the Case Study,* J. R. Feagin, A. O. Orum and G. Sjoberg. Chapel Hill: University of North Carolina Press.

Outshoorn, Joyce. 2004. "Comparative Prostitution Politics and the Case for State Feminism." Pp. 265-292 in *The Politics of Prostitution: Women's Movements, Democratic States, and the Globalization of Sex Commerce*, edited by J. Outshoorn. Cambridge: Cambridge University Press.

Overs, Cheryl. 1994. "Sex Work, HIV, and The State: An Interview with Nel Druce." *Feminist Review.* 48:114-121.

Overs, Cheryl. 1997. "Red Lights: A Brief History of Sex Work Activism in the Age of AIDS." Pp. 328-338 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Panem, Sandra. 1988. *The AIDS Bureaucracy.* Cambridge: Harvard University Press.

Paret-Duchatelet, A. J. B. 1857. *De la prostitution dans la ville de Paris consideree sous le rapport de l'hygiene publique, de la morale, et de l'administration.* 2nd edition, 2nd volume, Paris.

Parmet, Wendy E. 1989. "Legal Rights and Communicable Disease: AIDS, the Police Power, and Individual Liberty." *Journal of Health Politics.* 14:4: 741-771.

Pasquet, Trinda. 1985. "State May Force AIDS Testing for Prostitutes." *Nevada State Journal.* November 21:A1.

Pateman, Carole. 1983. "Feminist Critiques of the private/public dichotomy." In Benn and Gaus (eds) *Public and Private in Social Life,* edited by Benn and Gaus. London: Croom Helm.

Pateman, Carole and Elizabeth Gross (Eds.) 1987. *Feminist Challenges: Social and Political Theory.* Boston: Northeastern University Press.

Pateman, Carole. 1988. *The Sexual Contract.* Cambridge: Polity Press.

Pateman, Carole. 1989. *The Disorder of Women, Democracy, Feminism, and Political Theory.* Cambridge: Polity Press.

Patton, Cindy. 1988, "AIDS: Lessons from the Gay Community." *Feminist Review.* 30:22-35.

——. 1990. *Inventing AIDS.* New York: Routledge.

——. 1994. *Last Served? Gendering the HIV Pandemic.* London: Taylor and Francis.

——. 1997. "Queer Peregrinations. " Pp. 235-253 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Perkins, Roberta. 1994. "Female Prostitution. " Pp. 143-173 in *Sex Work, Sex Workers in Australia*, edited by edited by R. Perkins et al. Sydney: University of New South Wales Press.

Perkins Gilman, Charlotte. [1898]2005. "Chapters VII and XIV from *Women and Economics: A Study of the Economic Relation between Men and Women as a Factor in Social Evolution.* " Pp. 110-114 in *Feminist Theory: A Reader. Second Edition*, edited by W. K. Kolmar and F. Bartkowski. New York, NY: McGraw Hill

Peters, B. Guy and Bert A. Rockman ,eds. 1996. *Agenda for Excellence 2: Administering the State.* Chatham, NJ. Chatham House Publishers, Inc.

Phelan, Shane. 1990. "Foucault and Feminism. " *American Journal of Political Science.* 34:421-440.

Pheterson, Gail. (ed.) 1989. *A Vindication of the Rights of Whores.* Seattle: Seal Press.

Pheterson, Gail. 1996. *The Prostitution Prism.* Amsterdam: Amsterdam University Press.

Pivar, David J. 2002. *Purity and Hygiene: Women, Prostitution, and the 'American Plan,' 1900-1930.* Westport, CT: Greenwood Press.

Plant, Martin. 1990. "Sex work, Alcohol, Drugs, and AIDS. " In *AIDS, Drugs, and Prostitution,* edited by M. Plant. London: Tavistock/Routledge.

Poovey, Mary. 1988. *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England.* Chicago: University of Chicago Press.

Pope, Carl E. , Rick Lovell and Steven G. Brandl. 2000. *Voices from the Field: Readings in Criminal Justice Research.* Belmont, CA: Wadsworth.

Porter, Roy. 1996. "Is Foucault Useful for Understanding Eigteenth and Nineteenth Century Sexuality?" Pp. 247-267 in. *Debating Gender, Debating Sexuality,* edited by N. R. Keddie. New York: New York University Press.

Poulantzas, Nico. 1973. *Political Power and Social Classes.* London: NLB

Powers, Penny. 2001. *The Methodology of Discourse Analysis.* Sudbury, MA. Jones and Bartlett Publishers.

Powers, Perris. 1986. "Prostitute Says Psychologists Way Off Base. " *Nevada State Journal.* November 23:C1.

Pringle, Rosemary. 1993. "Absolute Sex? Unpacking the Sexuality/Gender Relationship. " Pp. 76-101 in *Rethinking Sex: Social Theory and Sexuality Research*, edited by R. W. Connell and G. W. Dowsett. Philadelphia, PA: Temple University Press.

Pugh, Dale. 1985. "Skepticism Expressed Over Idea of AIDS Tests for Legal Prostitutes. " *Las Vegas Review Journal.* July 22: IB-3B.

Pugh, Richard. 2002. *Serving Medicine: The Nevada State Medical Association and the Politics of Medicine.* Reno: Greenwood Press.

Rabin, Judith. 1992. "The AIDS Epidemic and Gay Bathhouses: A Constitutional Analysis." Pp. 439-458 in *Homosexuality: Discrimination, Criminology, and the Law,* edited by W. R. Dynes and S. Donaldson. New York,NY: Garland Publishing Inc.

Rader, Art. 1985. "We Shouldn't Tolerate Prostitution." *Nevada Appeal.* May 5.

Ralston, Jon. 1988. "Bid to Ban Brothels Draws Mixed Reviews from Legislators." *Las Vegas Review Journal.* January 3:1B, 3B.

Reamer, Frederick (Ed.) *AIDS and Ethics.* New York: Columbia University Press.

Redfield, Robert et al. 1986. "Female to Male Transmission of HTLV-III" *Journal of the American Medical Association.* 255: 1705-6.

Redman, Peter. 1997. "Heterosexual Masculinities, the "AIDS Carrier" and the Horror Genre." Pp. 98-117 in *Border Patrols: Policing the Boundaries of Heterosexuality,* D. L. Steinberg, D. Epstein, and R. Johnson. London: Cassell.

Reynolds, Helen. 1986. *The Economics of Prostitution.* Springfield, IL: C. C. Thomas.

Rhodes, Tim. 1997. "Risk, Injecting Drug Use and the Myth of an Objective Social Science." Pp. 58-75 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. New York: Serpent's Tail.

Rich, Adrienne. 1993. "Compulsory Heterosexuality and Lesbian Existence." Pp. 227-254 in *The Lesbian and Gay Studies Reader*, edited by H. Abelove, M. A. Barale, and D. M. Halperin. . New York: Routledge.

Richwad, Gary A, Hal Morganstern, David P. Gast, Stefi Barna, Russell L. Reade, Kathleen R. Morrison, Nancy J. Williams, and Karen Yumas. 1990. "Sexually Transmitted Diseases in Prostitutes Working in a Legal Brothel in Nevada USA: A Case Study of the Chicken Ranch Brothel, 1982-1989. Abstract Presentation Number S. C. 715, Presented at the Sixth International Conference on AIDS, June 23, San Francisco, CA.

Riley, Brendan. 1987. "Owners of Brothels Back AIDS Rules." *Las Vegas Review Journal.* May 31.

Riley, Brendan. 1987. "Brothel Owners Back Jail Terms for Hookers." *Nevada Appeal.* May 31: A1.

Riley, Brendan. 1985. "Nevada Board Backs Brothel AIDS Tests." *Nevada State Journal.* October 26: A1.

Riley, Brendan. 1985. "Nevada Panel Rejects Funds for Brothel AIDS Test." *Nevada State Journal.* November 2:A1.

Rist, Ray C. 2000. "Influencing the Policy Process with Qualitative Research." Pp. 1001-1017 in *Handbook of Qualitative Research*, edited by N. Denzin and Y. Lincoln. Thousand Oaks, CA: Sage Publications.

Robins, Leonard and Charles Backstrom. 1997. "The Politics of AIDS." Pp. 419-438 in *Health Politics and Policy*, edited by T. J. Litman and L. S. Robins. Albany, NY: Delmar Publishers Inc.

Rocha, Guy. 1975. "Brothel Prostitution in Nevada: A Unique American Cultural Phenomenon." MA thesis, San Diego State Univesity. Unpublished manuscript.

Roiphe, Katie. 1997. *Last Night in Paradise: Sex and Morals at the Century's End.* Boston: Little, Brown and Company.

Rosen, Ruth. 1994. *The Lost Sisterhood: Prostitution in America, 1900-1918.* Baltimore: John Hopkins University Press.

Rosenberg, MJ and JM Weiner. 1988. "Prostitutes and AIDS: A Health Department Priority?" *American Journal of Public Health.* 78(4): 418-423.

Rubin, Gayle. 1989. "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality." In *Pleasure and Danger: Exploring Female Sexuality,* edited by C. S. Vance. London: Pandora Press.

Rubin, Gayle. 1993. "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality." Pp. 3-44 in *The Lesbian and Gay Studies Reader*, edited by H. Abelove, M. A. Barale, and D. M. Halperin. New York: Routledge.

Sabatier, Paul A. (Ed.). 1999. *Theories of the Policy Process.* Boulder, CO. Westview Press.

Sacks, Valerie. 1996. "Women and AIDS: An Analysis of Media Misrepresentation." *Social Science and Medicine.* 42:1:59-73.

Sainsbury, Diane. 1999. "Gender, Policy Regimes, and Politics." In *Gender and Welfare State Regimes*, edited by Diane Sainsbury. Oxford: Oxford University Press.

Santich, Kate. 1986. "State AIDS Tests Find Virus, Stir Up Controversy." *Reno Gazette Journal.* January 10:A1.

Santich, Kate. 1986. "How Women View Nevada's Legal Brothels." *Nevada State Journal.* November 16:A1, 22.

Santich, Kate. 1987. "State Health Professionals See Expanded AIDS Testing." *Las Vegas Review Journal.* February 8:1A, 21A

Sawicki, Jane. 1991. "Foucault and Feminism: Toward a Politics of Difference." In *Feminist Interpretations and Political Theory*, edited by M. L. Shanley and C. Pateman. University Park: Pennsylvania State University Press.

Schneider, Beth and Valerie Jenness. 1997. "Social Control, Civil Liberties, and Women's Sexuality." Pp. 472-484 in *Feminist Frontier IV*, edited by L. Richardson, V. Taylor, and N. Whittier. New York: The McGraw-Hill Companies.

Schoenbach VJ, SE Landis, DJ Weber, M. Mittal, GG Koch, PH Levine. 1993. "HIV Seroprevalence in Sexually Transmitted Disease Clients in a Low-Prevalence Southern State. Evidence of Endemic Sexual Transmission." *Annals of Epidemiology.* 3(3): 281-288.

Schoenmann, Joe. 2003. "Girls, Girls, Girls. " *Las Vegas Weekly.* July 10-16, 2003. http:// www. lasvegasweekly. com/2003/07_10/news_coverstory. html.

Schumpeter, J. 1943. *Capitalism, Socialism, and Democracy.* London: Unwin Hyman.

Seagraves, Anne. 1994. *Soiled Doves: Prostitution in the Early West.* Hayden, ID: Wesanne Publications.

Seppa Arroyo, Candice. 2003. *Labor Violations and Discrimination in the Clark County Outcall Entertainment Industry.* MA Thesis, Department of Sociology, University of Nevada, Las Vegas.

Sheehan, Jack. 2003. "How Fabulous is Our New Image?" *Las Vegas Life.* Vol 7:1:55-57.

Shetterly, Caryn. 1987. "Brothel AIDS Penalty Bill Stirs New Controversy. " *Las Vegas Sun.* April 24.

Shetterly, Caryn. 1987. "Questions Remain on New AIDS Law. " *Las Vegas Review Journal.* November 29: B1.

Shilts, Randy. 1987. *And the Band Played On.* New York: Saint Martin's Press.

Shrage, Laurie. 1994. *Moral Dilemmas of Feminism: Prostitution, Adultery, and Abortion.* New York: Routledge.

Shrange, Laurie. 1997. "Should Feminists Oppose Prostitution?" Pp. 133-150 in *Sex, Morality, and the Law,* edited by L. Gruen and G. E. Panichas. New York: Routledge.

Singer, Linda. 1993. *Erotic Welfare: Sexual Theory and Politics in the Age of Epidemics.* New York: Routledge.

Sion, Mike. 1995. "Other Jurisdictions Ponder Sanctioning Hookers. " *Reno Gazette Journal.* January 16:1,3B

Sion, Mike. 1995. "Prostitution Isn't Seen as Hindering Image. " *Reno Gazette Journal.* January 16:3B.

Sion, Mike. 1995. "Trade Attracts Wide Variety of Women. " *Reno Gazette Journal.* January 18. 4B.

Skocpol, Theda. 1990. "Bring the State Back In: Strategies of Analysis in Current Research. " In. *Bringing the State Back In,* edited by P. B. Evans, D. Rueschemeyer, and T. Skocpol. Cambridge: Cambridge University Press.

Smart, Carol. 1992. "Disruptive Bodies and Unruly Sex: the Regulation of Reproduction and Sexuality in the Nineteenth Century. " Pp. 7-32 in *Regulating Womanhood: Historical Essays on Marriage, Motherhood, and Sexuality,* edited by C. Smart. New York: Routledge.

Smith, James M. 1996. *AIDS and Society.* Upper Saddle River, NJ: Prentice Hall.

Snell, JG. 1994. "Mandatory HIV Testing and Prostitution: the World's Oldest Profession and the World's Newest Deadly Disease. " *Hastings Law Journal.* 45: 1565-1592.

Snyder, John. 1982. "Should Prostitution be Legal in Clark County? Con. " *Las Vegas Review Journal.* August 16. 7B

Sontag, Susan. 1990. *Illness as a Metaphor and AIDS and its Metaphors.* New York: Anchor Books.

Spanier, David. 1992. *Welcome to the Pleasuredome: Inside Las Vegas.* Reno, NV: University of Nevada Press.

Spargo, Tamsin. 2000. *Foucault and Queer Theory.* New York: Totem Books.

Spongeberg, Mary. 1997. *Feminizing Venereal Disease.* New York: New York University Press.

Squires, Judith. 1999. *Gender in Political Theory.* Malden MA: Blackwell Publishers Inc.

Stake, Robert E. 2000. "Case Studies. " Pp. 435-454 in *Handbook of Qualitative Research,* edited by N. Denzin and Y Lincoln. Thousand Oaks, CA. Sage Publications.

State of Nevada Legislative Counsel Bureau, Research Division. 1987. Nevada Legislature, Sixty-Fourth Session, Summary of Legislation: AB 550 (Chapter 762).

Statutes of Nevada. 1987. Test for Exposure to Human Immunodeficiency Virus Required; Payment of Costs; Notification of Test Results. 2027.

Stein, Gerald J. 2001. *AIDS Update 2001.* Upper Saddle River, NJ: Prentice Hall.

Stein, Theodore J. 2001. *Social Policy and Policymaking by the Branches of Government and the Public at Large.* New York: Columbia University Press.

Steinmetz, George. 1999. "Introduction: Culture and the State. " Pp. 1-50 in. *State/Culture: State Formation after the Cultural Turn,* edited by G. Steinmetz. Ithaca, NY: Cornell University Press.

Sterk, Claire E. 2000. *Tricking and Tripping: Prostitution in the Era of AIDS.* Putnam Valley, NY: Social Change Press.

Stetson, Dorothy McBride (Ed.). 2001. *Abortion Politics, Women's Movements and the Democratic State.* Oxford: Oxford University Press.

Strauss, Anselm and Juliet Corbin. 1990. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques.* Newbury Park: Sage Publications.

Sturdevant, Sandra P. and Brenda Stoltzfus. 1992. *Let the Good Times Roll: Prostitution and the U. S. Military in Asia.* New York: The New Press.

Sullivan, Barbara. 1997. *The Politics of Sex: Prostitution and Pornography in Australia Since 1945.* Cambridge: Cambridge University Press.

Symanski, Richard. 1974. "Prostitution in Nevada. " *Annals of the Association of American Geographers.* 64(3): 357-377.

Taylor, Harriet. [1851]2005. "Enfranchisement of Women. " Pp. 74-79 in *Feminist Theory: A Reader. Second Edition,* edited by W. K. Kolmar and F. Bartkowski. New York: McGraw Hill

Taylor, Frederick W. 1947. *Scientific Management.* New York: Harper and Brothers.

Theodoulou, Stella Z and Rory O'Brien (Eds). 1999. *Methods for Political Inquiry: The Discipline, Philosophy, and Analysis of Politics.* Upper Saddle River, NJ: Prentice Hall Inc.

Theodoulou, Stella Z. 1995. "The Contemporary Language of Public Policy: A Starting Point." In *Public Policy: The Essential Readings*, edited by S. Z. Theodoulou and M. A. Cahn. Englewood Cliffs, NJ: Prentice Hall.

Thompson, Kenneth. 1998. *Moral Panics.* London: Routledge.

Tiefer, Leonore. 1997. "Medicine, Morality, and the Public Management of Sexual Matters." Pp. 103-112 in *New Sexual Agendas*, edited by L. Segal. New York: New York University Press.

Tobin, Alan. 1990. "Police Seek Suspected Prostitutes." *Las Vegas Review Journal.* January 5. 2B

Tong, Rosemarie. 1984. *Women, Sex, and the Law.* Savage, MD: Rowman and Littlefield Publishers, Inc.

——. 1997. "Prostitution." In *Sex, Morality, and the Law*, edited by L. Gruen and G. E. Panichas. New York, NY: Routledge.

Treichler, Paula. 1999. *How to Have a Theory in an Epidemic: Cultural Chronicles of AIDS.* Durham: Duke University Press.

Troung, Tran-dam. 1990. *Sex, Money, and Morality: Prostitution and Tourism in South East Asia.* London: Zed Books Ltd.

Tuana, Nancy and Rosemarie Tong. 1995. *Feminism and Philosophy: Essential Readings in Theory, Reinterpretation, and Application.* Boulder: Westview Press.

Turner, Grady. 2002. "Sodom on the Hudson: Innovation, Reaction, and Spectacle on America's Sexual Frontier" in *NYC Sex: How New York City Transformed Sex in America*, edited by Museum of Sex. New York: Scala Publishers.

Unknown. 1923. "Health Board Favors Redlight Abatement." *Las Vegas Age.* February 3.

Unknown. 1984. "Personnel Changes Made in State Agency." *Las Vegas Review Journal.* September 15: 3B.

Unknown. 1985. "AIDS Test for Prostitutes Proposed" *Las Vegas Review Journal.* July 9: 4B.

Unknown. 1985. "AIDS Test Urged for Nevada Prostitutes." *Las Vegas Review Journal.* October 25: 3B.

Unknown. 1985. "Nevada Officials Planning AIDS Tests for Prostitutes." *Las Vegas Review Journal.* October 26: 8A.

Unknown. 1985. "AIDS Tests at Legal Brothels Necessary." *Las Vegas Review Journal.* November 5.

Unknown. 1985. "AIDS Tests Planned for Legal Brothels." *Las Vegas Review Journal.* November 22.

Unknown. 1985. "Prostitutes Coming 'Out of the Woodwork." *Las Vegas Review Journal.* November 22: 2D

Unknown. 1987. "Legislator Targets Prostitutes Who Test Positive for AIDS." *Las Vegas Review Journal.* January 16: 9B.

Unknown. 1987. "State's Largest Brothel Plans Condom Policy." *Las Vegas Review Journal.* January 20: 8B.

Unknown. 1987. "Mandatory AIDS Testing Blasted." *Las Vegas Review Journal.* February 4.

Unknown. 1987. "Prostitution, Education Affected by AIDS Bills." *Las Vegas Review Journal.* April 9.

Unknown. 1987. "Joyce Maintains Position on Prostitution." *Las Vegas Review Journal.* November 13.

Unknown. 1987. "Legalized Brothels and Nevada's Image." *Las Vegas Review Journal.* November 13.

Unknown. 1984. "Jacka Demotes State Health Boss." *Las Vegas Sun.* September 13. 3B

Unknown. 1987. "ACLU to Fight Nevada AIDS Bill." *Las Vegas Sun.* January 18. 1A, 4A.

Unknown. 1987. "AIDS Cases Increase Dramatically." *Las Vegas Sun.* February 6. 4B.

Unknown. 1988. "Prostitution Illegal in Clark County-Finally." *Las Vegas Sun.* March 2. 5B.

Unknown. 1985. "Bordello Battle Lurking in Assembly." *Nevada Appeal.* April 25:A1.

Unknown. 1985. "Quick Death for Bill to Ban Brothels." *Nevada Appeal.* April 25.

Unknown. 1985. "Prison AIDS Tests Under Way." *Nevada Appeal.* October 16.

Unknown. 1985. "AIDS Tests for Prostitutes Possible." *Nevada Appeal.* October 25:A1, 10.

Unknown. 1987. "AIDS Fight Starts." *Nevada Appeal.* January 19.

Unknown. 1987. "Panel Wants AIDS-Infected Prostitutes to Go to Prison." *Nevada Appeal.* May 18.

Unknown. 1987. "Blood Tests: No AIDS Virus in Prostitutes." *Nevada Appeal.* November 2.

Unknown. 1987. "Lobbyists Say State's 38 Brothels Make for a Bad Image." *Nevada Appeal.* November 9. A8

Unknown. 1996. "AIDS Positive Hooker Arrested." *Nevada Appeal.* November 20. A2

Unknown. 1985. "AIDS Testing for Prostitutes Merits Support." *Nevada State Journal.* October 29.

Unknown. 1985. "Legislators Err Badly in Rejecting AIDS Test." *Nevada State Journal.* November 5.

Unknown. 1986. "State Must Do More to Prevent Brothel Disease." *Nevada State Journal.* November 24.

Unknown. 1974. "Health Officer Wants Churchill County to Legalize Prostitution." *Reno Evening Gazette.* January 10.

Unknown. 1987. "Proposed AIDS Law: Is it Idiotic or Not?" *Reno Gazette Journal.* January 26.

Unknown. 1987. "Study Indicates that Prostitutes No More Likely to Get AIDS than Other Women." *Reno Gazette Journal.* March 27.

Unknown. 1987. "Inner-City Prostitutes Have Higher Risk of Getting AIDS." *Reno Gazette Journal.* June 4.

Unknown. 1987. "Legislator Targets Prostitutes Who Transmit AIDS." *Washington Post.* April 24.

Ussher, Jane M. 1997. *Fantasies of Feminity: Reframing the Boundaries of Sex.* New Brunswick, NJ. Rutgers University Press.

Vogel, Ed. 1978. "COYOTE Founder Raps Las Vegas." *Las Vegas Review Journal.* May 2. 1B.

Vogel, Ed. 1986. "Brothel Prostitutes Facing AIDS Tests." *Las Vegas Review Journal.* March 20: 1B.

Vogel, Ed. 1986. "Prison Inmates Tested for AIDS; Brothel Prostitutes May be Next." *Las Vegas Review Journal.* September 9: 1B.

Vogel, Ed. 1986. "Prostitutes Exposed to AIDS Virus." *Las Vegas Review Journal.* October 14: 1A-4A.

Vogel, Ed. 1986. "Chicken Ranch Owner Lauds Mandatory Tests for AIDS." *Las Vegas Review Journal.* October 17: 4B.

Vogel, Ed. 1986. "Prostitution's Death Unlikely." *Nevada Appeal.* November 7. A1, 8.

Vogel, Ed. 1987. "Jim Joyce Assails Legal Prostitution." *Nevada Appeal.* November 15. D1.

Vogel, Ed. 1988. "Doctors Fear Easier Spread of AIDS Virus." *Nevada Appeal.* February 5. A1, A12.

Vogel, Ed. 2003. "Prostitution Lobbyist Faithful to Cause." *Las Vegas Review Journal.* December 22: 1B, 7B.

Vogel, Ursula. 1998. "The State and the Making of Gender: Some Historical Legacies. Pp. 29-44 in *Gender, Politics, and the State,* edited by V. Randall and G. Waylen. London: Routledge.

Vorenberg, Elizabeth and James. 1977. "Prostitution and Some Facts of Life." *Medical Economics.* April: 145-170.

Walkowitz, Judith. 1980. *Prostitution and Victorian Society: Women, Class, and the State.* Cambridge: Cambridge University Press.

Warr, Deborah J. and Priscilla M. Pyett. 1999. "Difficult Relations: Sex Work, Love, and Intimacy." *Sociology of Health and Illness.* 21(3): 290-309.

Ward, H. , S. Day, and J. Weber. 1999. "Risky Business: Health and Safety in the Sex Industry Over a 9 Year Period." *Sexually Transmitted Infections.* 75(5): 340-343.

Waters, RC. 1991. "Florida's Involuntary AIDS Testing Statutes." *Florida State University Law Review.* 19(2): 369-405.

Watney, Simon. 1987. *Policing Desire: Pornography, AIDS, and the Media.* Minneapolis: University of Minneapolis Press.

Watney, Simon. 1997. "The Political Significance of Statistics in the AIDS Crisis: Epidemology, Representation, and Re-gaying." Pp. 76-100 in *Acting on AIDS: Sex, Drugs, and Politics*, edited by J. Oppenheimer and H. Reckitt. NY: Serpent's Tail.

Waylen, Georgia. 1998. "Gender, Feminism, and the State: An Overview." Pp. 1-17 in. *Gender, Politics, and the State,* edited by V. Randall and G. Waylen. London: Routledge.

Weeks, Jeffrey. 1981. *Sex, Politics, and Society: The Regulation of Sexuality since the 1800.* New York: Longman Inc.

——. 1986. *Sexuality.* Sussex: Ellis Horwood Limited.

——. 1991. *Against Nature: Essays on History, Sexuality, and Identity.* London: Rivers Oram Press.

——. 1997. "Sexual Values Revisited." . " In *New Sexual Agendas,* edited by L. Segal. New York: New York University Press.

Weiss, Clyde. 1985. "LV Lawmaker Pushes Bill to Ban Prostitution." *Las Vegas Review Journal.* April 25.

Weiss, Clyde. 1985. "Prostitution Ban Bill Killed." *Nevada Appeal.* April 25. A1, 10

Wells, Rob. 1987. "AIDS Impact on Nevada 'Unknown'." *Nevada Appeal.* February 5. A1, A10.

Wells, Rob. 1987. "Hookers with AIDS Compared to Killers." *Nevada Appeal.* April 24.

Werdel, AA. 1990. "Mandatory AIDS Testing: The Legal, Ethical, and Practical Issues." *Notre Dame Journal Law Ethics Public Policy.* 5(1): 155-221.

Whalen, M. F. 1988. "Ban Brothels? Girls Say They'll Take it to the Street." *Nevadan Magazine, Las Vegas Review Journal.* July 3.

Wiegand, Steve. 1987. "Testing of Hookers for AIDS Okd by a State Senate Panel." *San Francisco Chronicle.* May 21.

Wilkes, J. Daniel. 1988. Memorandum: Statewide AIDS Advisory Task Force Report. July 20. Department of Human Resources, State Board of Health Minutes, State Board of Health Files.

Wilkes, J. Daniel. 1988. Memorandum: Statewide AIDS Advisory Task Force Report. May 18. Department of Human Resources, State Board of Health Minutes, State Board of Health Files.

Wilton, Tamsin. 1997. *Engendering AIDS: Deconstructing Sex, Text, and Epidemic.* London: Sage.

Winchester, Jessi. 2001. *From Bordello to Ballot Box: A First Hand Account of Legal Prostitution and Political Corruption.* Philadelphia: Bainbridge Books.

Wingard, Laura. 1987. "Legislator Likens Active AIDS-Stricken Prostitutes to Murderers." *Las Vegas Review Journal.* April 24.

Wing, Kenneth R. 1999. *The Law and the Public's Health.* Chicago: Health Administration Press.

Withers, Jean. 1973. *Prostitution: Fact and Fiction.* Seattle: ERA Enterprises.

Wollstonecraft, Mary. [1792] 2005. "Chapters II, VII, and XIII from *A Vindication of the Rights of Women.*" Pp. 64-69 in *Feminist Theory: A Reader.* Second Edition, edited by W. K. Kolmar and F. Bartkowski. NewYork: McGraw Hill

Woodhull, Victoria. [1873] 2005. "The Elixir of Life; or Why Do We Die." Pp 95-98 in *Feminist Theory: A Reader.* Second Edition, edited by W. K. Kolmar and F. Bartkowski. NewYork: McGraw Hill

Work Cover NSW. 2001. *Health and Safety Guidelines for Brothels.* Guide 2001. Work Cover NSW Health and Safety Guide. http://www. workcover. nsw. gov. au/NR/rdonlyres/BFFA4789-E98E-478E-B110-C86A1EA6402E/0/guide_wc_brothels1201. pdf.

Zatz, Noah. D. 1997. "Sex Work/Sex Act: Law, Labor and Desire in Constructions of Prostitution." *Signs: Journal of Women and Culture in Society.* 22(2): 277-308.

Zajdow, Grazyna. 1992. "Sex Work and Regulation: Holding on to an Image-a Sociological Reflection." In *Sex Industry and Public Policy*, edited by S. Gerull and B. Halstead. Canberra: Australian Institute of Criminology.

Ziegler, Sandra and the Nevada AIDS Advisory Task Force. 1989. *AIDS in Nevada: Second Annual Report.* Carson City: Nevada State Health Division

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